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Poland

INTERNATIONAL ARBITRATION

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Poland.

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POLAND
INTERNATIONAL ARBITRATION

1. What legislation applies to arbitration in your country? Are there any mandatory laws?

Polish arbitration law is codified in the Code of Civil Procedure ("**CCP**"). It provides a comprehensive framework of arbitration proceedings and regulates i.a.:

i. scope of application of Polish arbitration law (art. 1154 CCP),
ii. arbitrability (art. 1157 CCP),
iii. arbitration agreement (art. 1161-1164(1) CCP),
iv. composition of the arbitral tribunal (1169-1179 CCP),
v. jurisdiction of the arbitral tribunal (art. 1180 CCP)
vi. interim measures (art. 1181 CCP),
vii. arbitral procedure (art. 1183-1193 CCP),
viii. applicable law (art. 1194 CCP),
ix. arbitral award (art. 1195-1204 CCP).

Code of Civil Procedure also regulates the post-arbitration proceedings, namely the proceedings regarding the setting aside of the arbitral award (art. 1205-1211 CCP) and the recognition and enforcement of the award (art. 1212-1217 CCP). Some provisions applicable to arbitration can also be found in other legal acts (e.g., the impact of bankruptcy on arbitration proceedings is regulated by the provisions of bankruptcy law).

In general, Polish arbitration law applies to domestic arbitration (if the place of arbitration is located in Poland) and, to some extent, to foreign arbitration (if the place of arbitration is located outside Poland).

The majority of Polish arbitration law provisions are of a non-mandatory character, and parties may derogate or opt out of them in their agreement. However, some mandatory provisions cannot be deviated from i.a.:

i. provisions regulating arbitrability (art. 1157 CCP),
ii. provisions regulating the formal requirements of the arbitration agreement (art. 1162 et seq. CCP)
iii. principle of equal treatment of the parties (art. 1183 CCP),
iv. provisions regulating the proper notification of the party (art. 1189 CCP),
v. provisions regulating the formal requirements of an arbitral award (art. 1197 CCP),
vi. provisions regulating the post-arbitration proceedings (art. 1205-1217 CCP).

Poland is also a signatory to the New York Convention and the European Convention on International Commercial Arbitration (see answer to Questions 2 and3).

2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Yes, Poland is a signatory to the New York Convention on 10 June 1958. Poland ratified it on 3 October 1961(it entered into force on that date).

Poland has made both reservations, "as mentioned in article I, para. 3" of the New York Convention. This means that Poland will apply the Convention based on reciprocity and only to differences arising out of legal relationships, whether contractual or not, which are considered commercial under the national law of the State making such declaration. It is worth mentioning that the reservations were made upon signing the New York Convention but not repeated upon ratification; however, both are assumed to be applicable.

3. What other arbitration-related treaties and conventions is your country a party to?

Poland is a signatory to the European Convention on International Commercial Arbitration of 21 April 1961.

Poland is also a signatory to over 35 bilateral investment

treaties in force. Poland was a signatory to many more intra-EU BITs; however, they are now terminated.

Importantly, Poland is not a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

Polish arbitration law was amended in 2005 and, since then, to a large extent, implements the provisions of the UNCITRAL Model Law. The amendments of the UNCITRAL Model Law adopted in 2006 have not yet been implemented.

There are some minor differences between Polish arbitration law and UNCITRAL Model Law when it comes to the prerequisites of setting aside of an award or refusal to recognize or enforce it in Poland. Polish arbitration law in art. 1206 § 2 sec. 3 and in art. 1214 § 3 sec. 3 CCP expressly regulates that an award may be set aside or refused recognition/enforcement, if it deprives a consumer of the protection granted to him by applicable mandatory provisions (see answer Question 33 and 37). The court shall take these grounds for challenging the award into consideration ex officio.

5. Are there any impending plans to reform the arbitration laws in your country?

No, there are no impending plans to reform the arbitration laws in Poland. However, in 2023, two important amendments to Polish arbitration law were implemented: (i.) admissibility of resolution of disputes stemming from a family foundation in arbitration and (ii.) so-called conversion of pending litigation proceedings to arbitration.

First, in 2023, the lawmakers introduced a new vehicle of estate planning – a family foundation. Under the new act, it is possible to incorporate an arbitration clause into the statute of the family foundation. This would allow for the resolution of family foundation-related disputes in arbitration. The provision was included as a reference to existing provisions for resolving corporate disputes in arbitration. This enabled reliance on already available solutions, i.a., the notion of an extension of the binding effect of the arbitration agreement onto third parties.

Second, in a newly adopted art. 11611 CCP, the lawmakers implemented special rules for submitting pending state court disputes to arbitration. On the basis of the said provision, parties are entitled to transfer their pending cases from state courts to arbitration simply by concluding an arbitration agreement after the claim had already been brought and withdrawing the case from the state court on preferential terms, e.g., refund of ¾ of the court fee and interruption of the limitation period. The mechanism is available to the parties until the state court issues the final award.

6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

Two permanent arbitration courts in Poland are leading the way: (i.) Court of Arbitration at the Polish Chamber of Commerce, and (ii.) Lewiatan Court of Arbitration. Both are seated in Warsaw.

The arbitration rules of the Court of Arbitration at the Polish Chamber of Commerce were last amended on 1 April 2022. Then, the provisions concerning the obligation to pay the registration fee and filing the first submission were implemented.

The arbitration rules of Lewiatan Court of Arbitration were last amended on 1 July 2023. Then, the arbitration rules were supplemented with provisions on arbitration in so-called creative market cases, and a separate list of arbitrators specializing in this subject matter was created. The rules were also supplemented with a special preferential rate of arbitration fee in cases that were transferred (converted) from state court to arbitration (see answer to Question 5). The Lewiatan Court of Arbitration also notified that considerable work was underway on further improvements to the arbitration rules, however, without specifying the fields covered.

Poland also has at least ten other permanent arbitration courts, most of which operate as bodies of regional chambers of commerce; however, the two arbitration courts are the most popular.

7. Is there a specialist arbitration court in your country?

Aside from the two most significant arbitration courts in Poland (see answer to Question 6), there are also a few specialist permanent arbitration courts that aim at resolving disputes of a given category/industry, e.g., Internet Domains Arbitration Court, Construction Arbitration Court, Court of Arbitration at the Polish Bank Association, Court of Arbitration at General Counsel to

the Republic of Poland.

8. What are the validity requirements for an arbitration agreement under the laws of your country?

Under Polish law, the obligatory elements of a valid arbitration agreement are: (i.) submission of a dispute to arbitration and (ii.) designation of the subject matter of the dispute or the legal relationship out of which the dispute has arisen or may arise (art. 1161 CCP). The subject matter covered by the arbitration agreement should be defined in an unequivocal and specific manner that makes it possible to identify precisely the scope of the arbitration agreement in question.

Under an express rule provided for in Polish law, so-called asymmetrical arbitration agreements (which entitle only one party to bring an action before the arbitral tribunal) are ineffective, as they breach the principle of equality of the parties.

Additionally, an arbitration agreement needs to be made in writing; however, it suffices if it is included in letters or exchanged between the parties or statements made by means of remote communication, which enable their content to be recorded.

Polish law provides for the following additional requirements that pertain to arbitration agreements relating to (i.) employment disputes, (ii.) consumer disputes, and (iii.) corporate disputes.

• An arbitration agreement relating to an employment dispute may be concluded only after the dispute has already arisen and needs to be made in writing (cannot be concluded via exchange of communications).

• Arbitration agreements in consumer disputes also may be concluded only after the dispute has already arisen and needs to be made in writing. In addition, the arbitration agreement must expressly indicate that parties are aware of the effects of an arbitration agreement, in particular, the legal effect of an arbitral award or a settlement reached before the tribunal on a par with a judgment or a settlement reached before a state court once they have been recognized / enforced by the court. If the arbitration agreement does not contain such an indication, it shall be null and void.

• An arbitration clause regarding corporate disputes may be implemented in a statute or articles of association of a company / partnership. Then, it is binding on the company, its shareholders, corporate bodies, and their members. In cases concerning the annulment of a resolution of a shareholders' general meeting of a limited liability company or the general meeting of a joint stock company, the arbitration clause must also provide for an obligation to announce the commencement of the proceedings not later than one month from the date of its commencement. If the arbitration agreement does not contain such an indication, it shall be ineffective.

9. Are arbitration clauses considered separable from the main contract?

Polish arbitration law observes the doctrine of separability. It is reflected i.a. in art. 1180 CCP, which expressly states that invalidity or termination of the underlying (main) contract, in which the arbitration clause is included, does not in itself mean that the arbitration clause is invalid or terminated. Case law and legal scholars also recognize that the doctrine applies under Polish law.

10. Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?

The validation principle is not expressly codified in Polish arbitration law; however, it is observed in the Polish Supreme Court case law. The Court stands on a position that given that the arbitration clause is an expression of parties' autonomy of will, its interpretation should also comply with the principle of favor validates (validation principle), aiming – within the limits of permissible interpretation – to maintain the effectiveness and validity of parties' declarations. This line of interpretation is repeated in several judgements of the Supreme Court.

Moreover, the validation principle is also partially recognized in Polish Private International Law ("**PPIL**"). Under art. 39(1) and (2) PPIL, the law chosen by the parties governs an arbitration agreement, and in the absence of such a choice, it is governed by the law of the state where the agreed place of arbitration is located. If no such agreement has been made, the arbitration agreement shall be governed by the law applicable to the legal relationship to which the dispute relates; however, it shall be sufficient that the arbitration agreement is effective under the law of the state where the proceedings are pending or the arbitral tribunal has rendered its award.

11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?

Polish arbitration law does not provide for a specific set of rules on multi-party or multi-contract arbitration. They can be found in the arbitration rules of major Polish permanent arbitration courts (see answer to Question 6).

The only express provision in multi-party that refers to multi-party arbitration is art. 1169 § 21 CCP, which states that if an action is brought by or against two or more persons, they shall appoint an arbitrator unanimously unless the arbitration clause provides otherwise.

12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?

In general, an arbitration agreement is binding only upon its parties, and non-signatories may be bound by it as an exception.

First of all, the arbitration agreement incorporated into a statute or articles of association of a company / partnership will also be binding on the company, its shareholders and corporate bodies, and their members by virtue of law (art. 1163 § 1 CCP).

Secondly, case law and legal scholars stand on a position that arbitration agreements may also be binding on third parties in the case of assignment of rights, general succession, subrogation, and, in some cases, acquisition of an enterprise (with respect to disputes involving liabilities connected with the operation of the enterprise).

Third, the arbitration rules of leading Polish permanent arbitration courts provide for a joinder of additional parties to arbitration proceedings (see answer to Question 26). If other prerequisites of such a joinder are met, non-signatories could participate in arbitral proceedings.

13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

Polish arbitration law provides for a rather broad catalogue of arbitrable disputes. On the basis of art. 1157 CCP, unless a specific provision provides otherwise, the parties may submit to arbitration: (i.) disputes over property rights, except for cases of alimony, and (ii.) disputes over non-property rights, if they can be the subject of a settlement. Therefore, virtually any commercial dispute is arbitrable under Polish arbitration law.

The above-cited provision was amended in 2019. Before the amendment, the criteria of “capacity of being subject to a settlement” was attributed also to disputes over property rights. The amendment that limited this criterion only to disputes over non-property rights was introduced as a result of the position presented in case law and literature.

14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

No, there was no recent case law on the issue of choice of law applicable to an arbitration agreement. Polish private international law contains a separate provision regulating the issue (see answer to Question 10).

15. How is the law applicable to the substance determined? Is there a specific set of choice of law rules in your country?

Conflict-of-law rules in Poland are established in Private International Law. Under art. 28(1) PPIL, the law applicable to the contractual obligation is determined on the basis of the Rome I Regulation. On the basis of art. 3(1) of Rome I Regulation, the law applicable to the substance is the law chosen by the parties. Only in the absence of such a choice of law by the parties, specific rules provided for in Rome I Regulation would apply, e.g., the sales agreement shall be governed by the law applicable to the seller’s place of business (art. 4(1)(a) Rome I Regulation).

16. In your country, are there any restrictions in the appointment of arbitrators?

Polish arbitration law provides that any natural person with full legal capacity may serve as an arbitrator regardless of their citizenship. The only exception is that a state judge may not be an arbitrator; however, this does not apply to retired judges (art. 1170 § 1 and 2 CCP).

17. Are there any default requirements as to the selection of a tribunal?

Yes, Polish arbitration law provides for the following default procedure of selection of a tribunal:

a. Parties may choose the number of arbitrators. Without such a choice, the tribunal shall be composed of three arbitrators (art. 1169 § 2 CCP).

b. Parties may choose the procedure of appointment of arbitrators. In the absence of such a choice (art. 1171 CCP):

- if the case is to be heard by an arbitral tribunal composed of an odd number of arbitrators, each party shall appoint an equal number of arbitrators, and the arbitrators shall then appoint a presiding arbitrator; if a party fails to appoint an arbitrator(s) within one month from the date of receipt of the other party's request to do so, or if the arbitrators appointed by the parties fail to appoint the presiding arbitrator within one month from the date of their appointment, the arbitrator(s) or the presiding arbitrator shall be appointed by the court at the request of any of the parties,
- if the case is to be heard by an arbitral tribunal consisting of an even number of arbitrators, each party shall appoint an equal number of arbitrators, and the arbitrators shall elect a presiding arbitrator from among themselves; if a party fails to appoint an arbitrator(s) within one month from the date of receipt of the other party's request to do so, or if the arbitrators appointed by the parties fail to elect a presiding arbitrator within one month from the date of their appointment, the arbitrator(s) or the presiding arbitrator shall be appointed by the court at the request of any of the parties,
- if the case is to be heard by a sole arbitrator, and within one month from the date on which one of the parties requested the joint appointment of an arbitrator, the parties have failed to do so; the court shall appoint the arbitrator at the request of any of the parties.

18. Can the local courts intervene in the selection of arbitrators? If so, how?

Yes. If parties fail to appoint the arbitrator(s), they can request the court to do so (see answer to Question 17).

When appointing the arbitrator(s) in such a scenario, the courts shall consider the qualifications that the arbitrator should have according to the parties' agreement and other circumstances that ensure that an independent and impartial person is appointed as arbitrator. Moreover, in a dispute between parties domiciled in different countries, the court should consider the need to appoint a person not affiliated with any of those countries (art. 1173 CCP).

19. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

Polish arbitration law permits challenging an arbitrator and regulates the procedure of such a challenge. Polish law also observes that parties may agree on a different procedure (art. 1176 § 1 CCP).

- An arbitrator may be excluded only if there are circumstances that give rise to justified doubts as to their impartiality or independence and also if they do not have the qualifications specified in the parties' agreement. The exclusion of an arbitrator whom a party has appointed or participated in the appointment of may be sought by the party only for reasons of which it became aware after the arbitrator's appointment (art. 1174 § 2 CCP).
- Unless otherwise agreed by the parties, the party requesting the exclusion of an arbitrator shall, within two weeks from the date on which it became aware of the arbitrator's appointment or from the date on which it became aware of the circumstances that give rise to justified doubts as to their impartiality or independence, notify all arbitrators appointed to decide the case and the opposing party in writing. The notice, which should be sent simultaneously to all of them, should indicate the circumstances justifying the request for exclusion (art. 1176 § 3 CCP).
- If, within one month from the date on which a party has submitted to the arbitral tribunal a request for the exclusion of an arbitrator, the arbitrator is not excluded, the party requesting the exclusion may, within a further two weeks, apply to the court for the exclusion of the arbitrator (art. 1176 § 2 CCP).
- If, within two weeks from the date on which notice of the demand for the arbitrator's exclusion is served on the arbitrator pursuant to the provision of § 3, the arbitrator himself does not resign or is not removed by

consensual written declarations of the parties, the party demanding exclusion may, within a further two weeks, apply to the court for the exclusion of the arbitrator (art. 1176 § 4 CCP).

The filing of a request to the court shall not affect the course of the arbitral proceedings unless the arbitral tribunal decides to stay the proceedings pending the resolution of the request by the court.

20. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators

The authors are not aware of any recent developments concerning the duty of independence and impartiality of the arbitrators in Poland. Polish law observes international standards in that regard.

21. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

Polish arbitration law observes the rule of completion of the composition of the arbitral tribunal in cases of truncated tribunals. Under art. 1176 § 1 CCP, if the mandate of an arbitrator expires, a new (substitute) arbitrator shall be appointed in the manner provided for the appointment of an arbitrator.

Therefore, unless the parties have agreed otherwise, either directly in the arbitration agreement or a subsequent agreement or indirectly through choosing in their arbitration agreement the applicable arbitration rules, which regulate the matter differently, the principle is that if the arbitrator's mandate expires, the arbitral tribunal needs to be supplemented, i.e., via a substitute appointment.

Parties may also appoint a substitute arbitrator in the event of the death, resignation, or removal (expiry of appointment) of the arbitrator appointed by them (art. 1171 § 3 CCP).

Notwithstanding the above, Polish scholars favor accepting the admissibility of a truncated tribunal and the permissibility to continue with the proceedings by a truncated tribunal. It is indicated that expressed regulation of this matter in Polish arbitration law would be desirable.

22. Are arbitrators immune from liability?

In general, the arbitrator's contractual liability towards the parties or non-performance or improper performance of a contract (*receptum arbitrii*) is regulated in general provisions of Polish contract law, namely art. 471 of the Civil Code ("**CC**"). Therefore, if an arbitrator does not perform the contract or performs it improperly, they may be liable for the damage incurred by the parties. On that note, however, one should bear in mind that the arbitral tribunal may conduct the proceedings in such manner as it considers appropriate, subject to the provisions of CCP (art. 1184 § 2 CCP).

Moreover, the arbitration rules of two major Polish permanent arbitration courts provide for an exclusion of the arbitrator's liability unless the damage was caused intentionally.

Aside from that, art. 1175 CCP provides a separate basis for the arbitrator's liability for damage in cases of the arbitrator's resignation if made without valid reasons.

23. Is the principle of competence-competence recognized in your country?

Yes, Polish arbitration law recognizes the principle of competence-competence.

It is incorporated into art. 1180 § 1 CCP, according to which the arbitral tribunal may rule on its jurisdiction, including the existence, validity, or effectiveness of an arbitration agreement.

24. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?

The issue of a party commencing litigation in apparent breach of an arbitration agreement is regulated in art. 1165 CCP.

Under this provision, if a case is brought before the court concerning a dispute covered by an arbitration agreement, the court shall reject the action if the defendant invokes an arbitration agreement before defending on the merits of the case unless the court finds that an arbitration agreement is invalid, ineffective, unenforceable or has expired, or if the arbitration court declares its lack of jurisdiction.

25. What happens when a respondent fails

to participate in the arbitration? Can the local courts compel participation?

Respondent's failure to participate in the arbitration does not prevent the conduct of those proceedings.

Under art. 1190 § 2 CCP, if the respondent fails to submit a statement of defense, the arbitral tribunal shall proceed with the proceedings. The absence of a statement of defense shall not be considered as an admission of the facts asserted in the statement of claim.

The local courts cannot compel the respondent's participation in the arbitration.

26. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

Polish arbitration law does not regulate the issue of third parties' participation or their joinder in the arbitration proceedings. Therefore, This issue may be a subject of the parties' agreement or regulated in the chosen arbitral rules.

27. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

Both the state courts and arbitral tribunals may grant interim measures. State courts may grant interim measures before or after the commencement of arbitration proceedings, therefore also pending the tribunal's constitution (art. 1166 § 1 CCP). Polish courts are empowered to grant interim measures when the seat of arbitration is located outside of Poland as well (art. 1166 § 2 CCP).

Under general provisions of CCP, the available measures differ depending on whether they are intended to protect a monetary or non-monetary claim. The court may grant the following interim measures in aid of a monetary claim (art. 747 CCP), i.a.:

- attachment of movable property, remuneration, receivables from a bank account, or other receivables or other property rights;
- encumbrance of the real estate by imposition of a forced mortgage;
- prohibition to dispose of or encumber real estate.

The court may grant the following interim measures in aid of a non-monetary claim, i.a.:

- regulate the rights and obligations of the parties for the duration of the proceedings,
- prohibition to dispose of the objects or rights involved in the proceedings.

The catalogue of available interim measures in aid of monetary claims is restrictive (i.e., the court cannot grant a different measure than those enumerated in Art. 747 CCP). Conversely, the catalogue of available interim measures in aid of non-monetary claims is not exhaustive, and the court is empowered to grant any other interim measure it sees fit (however, not an anti-suit and/or anti-arbitration injunctions – see the answer to Question 28).

In turn, unless otherwise agreed by the parties, the arbitral tribunal, at the request of the party who provided prima facie evidence of the claim, may decide to apply such interim measure as it deems appropriate in view of the subject matter of the dispute. When issuing such a decision, the arbitral court may make its enforcement conditional on providing appropriate security (art. 1181 § 1 CCP). The arbitral tribunal's order shall be enforceable once declared enforceable by the court (see answer to Question 41).

28. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

No, anti-suit and/or anti-arbitration injunctions are not available or enforceable in Poland. That is the position presented in case law. E.g. on 22 November 2016, the Krakow Court of Appeals in its decision (I ACz 1997/16) confirmed that Polish courts cannot prohibit a party from initiating or continuing arbitration, as there is no basis for stopping arbitration in the Code of Civil Procedure.

29. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?

Polish arbitration law empowers the arbitral tribunal to conduct the proceedings as they see fit, including the mode and procedure of taking evidence, unless

otherwise agreed by the parties. An arbitral tribunal may take evidence in the form of documents, witnesses, site inspection, and other necessary evidence.

An arbitral tribunal may not use coercive measures and thus cannot compel witnesses to participate.
The situation is different when it comes to local courts – these can compel witnesses to participate or take any other evidence that the tribunal cannot take upon the request of the arbitral tribunal. Then, the parties and arbitrators may attend the evidentiary hearing, with the right to ask questions. This also applies to arbitration seated abroad.

30. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

Counsels and arbitrators, if they are members of bar associations, are bound by ethical codes established by the relevant bar authorities for attorneys at law (*adwokat*) and legal counsels (*radca prawny*). Both bar associations adopted codes of ethical behaviors that set specific ethical rules for these professions:

- Code of Ethics and Dignity of the Attorneys at Law (Code of Ethics of Attorneys at Law) (*Zbiór Zasad Etyki Adwokackiej i Godności Zawodu (Kodeks Etyki Adwokackiej)*),
- Code of Ethics of Legal Counsels (*Kodeks Etyki Radcy Prawnego*).

Additionally, Polish legal professionals are bound by the Code of Conduct for European Lawyers (CCBE) and, in the international framework, may be guided by guidelines adopted by the International Bar Association, e.g., IBA International Principles on Conduct for the Legal Profession.

Notwithstanding the above, Polish counsels and arbitrators may also be bound by a specific set of ethical codes established by permanent arbitration courts. Two most popular permanent arbitration courts in Poland, e.g., the Court of Arbitration at the Polish Chamber of Commerce and the Lewiatan Court of Arbitration, adopted such codes of ethics for arbitrators.

Interestingly, the ethics code adopted by the Lewiatan Court of Arbitration is rather specific and provides for not only a broad obligation of disclosure of circumstances giving rise to justifiable doubts as to arbitrator's impartiality and independence but also the obligation for the arbitrator to keep their "composure, patience, moderation, and respect" towards the parties, and to draft "the recitals of the award (...) in an orderly and detailed manner".

31. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

No, Polish arbitration law does not expressly regulate the issue of confidentiality of arbitration proceedings. This, however, does not mean that arbitration proceedings are not confidential. Confidentiality of arbitral proceedings is a core principle of arbitration and is recognized and observed in Poland.

Additionally, confidentiality of arbitration proceedings may be regulated in the arbitration rules chosen by the parties or by the parties themselves in their arbitration agreement. Two most popular permanent arbitration courts in Poland, in their arbitration rules, provide for a confidentiality obligation:

- § 8 of Rules of Court of Arbitration at the Polish Chamber of Commerce: "Unless otherwise provided by the parties, the arbitrators and the Court of Arbitration and its staff and the members of its authorities are required to maintain the confidentiality of all information concerning the proceeding.".
- § 4(1) of Rules of Lewiatan Court of Arbitration: "Lewiatan Court of Arbitration and Polish Confederation Lewiatan, including the governing bodies and employees thereof as well as the arbitrators, the parties and all other arbitration participants are obliged to keep confidential the very fact of the arbitration being conducted, the award, the orders and all documents filed or disclosed in the arbitration, as well as all information which they obtained in connection with the arbitration, unless the parties decide otherwise, disclosure of information is a statutory duty or serves to protect or pursue rights, in particular to recognize, enforce or bring an action to set aside the award in proceedings before a state court.".

32. How are the costs of arbitration proceedings estimated and allocated?

Polish arbitration law does not expressly regulate the issue of cost allocation.

Polish civil procedure law, however, follows the general principle based on the outcome of the case, i.e., the losing party is obliged to reimburse the winning party for

any costs incurred in connection with the proceedings proportionally to the outcome of the case.

Polish arbitral tribunals tend to follow this general principle and award the costs on the basis of a statement of costs submitted by the parties. There is no automatism there, however, and arbitral tribunals might consider some specific circumstances to deviate from the cost allocation principle based on the case outcome.

This power of the arbitral tribunal is expressly granted to it in the arbitration rules of the two most popular permanent arbitration courts in Poland:

- § 51(2) § 8 of Rules of Court of Arbitration at the Polish Chamber of Commerce: “When resolving the costs of legal representation, the Arbitral Tribunal shall take into account the reasonable amount of the attorney’s fee, considering in particular the result of the proceeding, the work input of the attorney, the nature of the case, and other relevant circumstances. ”.
- § 48(1) of Rules of Lewiatan Court of Arbitration: “The arbitral tribunal may, at the request of a party, award the costs of legal representation and other costs incurred by the party in the award or in other ruling which brings the arbitration to an end. In making a decision, the arbitral tribunal should bear in mind (i) the outcome of the arbitration and (ii) other relevant circumstances.”.

33. Can pre- and post-award interest be included on the principal claim and costs incurred?

Question answered above.

34. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?

Arbitral awards may be enforced or recognized in Poland after being recognized or declared enforceable by a competent court. In order to obtain such recognition or enforcement, one has to file a request for recognition or enforcement of an arbitral award to a competent court. The procedure is regulated in art. 1212-1217 CCP.

- The proceedings for recognition or enforcement of an arbitral award are initiated upon the party’s request.
- The party must enclose the original or a certified copy of an arbitral award (or the settlement reached before it), as well as the original or a certified copy of the arbitration agreement. Depending on a practice adopted by a given local court, some courts require a party to submit two original or certified copies of an arbitral award.
- If the award (or the settlement reached before it) or the arbitration clause are not drafted in Polish, the party is obliged to enclose a certified translation of them into Polish.

The court may refuse enforcement or recognition of an arbitral award in enumerated situations provided for in CCP. The grounds generally follow the ones indicated in the New York Convention and vary depending on whether the arbitral award was issued in Poland or abroad. The court may refuse enforcement or recognition of an arbitral award issued in Poland (art. 1214 CCP) if:

a. a dispute cannot be submitted to arbitration;
b. recognition or enforcement of the arbitral award (or the settlement reached before it) would be contrary to the fundamental principles of the legal order of Poland (public policy clause);
c. the arbitral award (or the settlement reached before it) deprives the consumer of the protection granted to them by the mandatory provisions of the law applicable to the contract to which the consumer is a party and, where the law applicable to that contract is the law chosen by the parties, the protection granted to the consumer by the mandatory provisions of the law which would have been applicable in the absence of the choice of law.

The court may refuse enforcement or recognition of an arbitral award issued abroad on the basis of the New York Convention (if applicable), and if Polish arbitration law is applicable, then irrespective of the above grounds, the court shall, at the request of a party, refuse to recognize or declare enforceable an arbitral award issued abroad (art. 1215 CCP), if:

a. there was no arbitration clause, the arbitration clause is invalid, ineffective, or has ceased to have effect under the law applicable to it;
b. the party was not duly notified of the appointment of the arbitrator, of the proceedings before the arbitral tribunal, or

was otherwise deprived of an opportunity to defend its rights before the arbitral tribunal;
c. the award of the arbitral tribunal concerns a dispute not covered by the arbitration clause or goes beyond the scope of such a clause; however, if the decision on matters covered by the arbitration clause is separable from the decision on matters not covered by the arbitration clause or beyond its scope, the refusal to recognize or declare enforceable the award of the arbitration court may only concern matters not covered by the arbitration clause or beyond its scope;
d. the composition of the arbitral tribunal or the proceedings before it were not in conformity with the agreement of the parties or, in the absence of an agreement on the matter, were not in conformity with the law of the country where the arbitral tribunal proceedings were held;
e. the award of the arbitral tribunal has not yet become binding on the parties or has been set aside, or its enforcement has been stayed by the court of the state in which or under the law of which the award was made.

Moreover, Polish arbitration law provides that the arbitral award must:

- be made in writing,
- be signed by the arbitrators,
- be reasoned,
- indicate the arbitration clause on the basis of which the award was made, identify the parties and the arbitrators, and specify the date and place of the award.

Failure to meet these criteria may justify the refusal to enforce or recognize it in Poland.

35. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

The timeframe for the proceedings on recognition or enforcement of an award primarily depends on the circumstances of the case, in particular, if the other party challenges the award. However, if the case is straightforward, the proceedings should not take more than a few months.

Under Polish law, the proceedings are adversarial. The other party is served with a copy of the party's request and has an opportunity to present its position (art. 1213^1 § 2 CCP). Therefore, conducting the proceedings on an *ex parte* basis is not permissible.

It is worth adding that if a motion for the setting aside of an arbitral award has been brought, the court may adjourn the examination of the motion for recognition or enforcement. This applies to setting aside proceedings commenced both in Poland and abroad.

36. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

Yes. If the award was issued in Poland, Polish arbitration law provides for limited grounds for the refusal of recognition or enforcement compared to foreign awards (see answer to Question 33).

37. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts

Remedies available under Polish law are generally consistent with remedies available in other jurisdictions, i.e., claims for performance (e.g., payment, specific performance), for shaping a legal relationship, and declaratory reliefs.

However, any remedy awarded in an arbitral award would be subject to the court's examination in post-arbitration proceedings via the public policy clause. If a given remedy would be found contrary to the fundamental principles of the legal order of Poland, the court would then set aside such award or refuse its enforcement/recognition. For example, the Supreme Court stands on the position that punitive damages are a remedy, which is contrary to the fundamental principles of the legal order of Poland and thus may not be enforced in Poland (cf. Supreme Court's decision of 11 October 2013, I CSK 697/12).

38. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

Arbitral awards are not appealable to local courts under Polish law. However, parties may agree otherwise and establish two-instance arbitral proceedings. Such a possibility may also be granted in arbitration rules (e.g., rules of the Lewiatan Arbitration Court in Appendix 5).

Polish arbitration law provides, however, the possibility to challenge (set aside) an arbitral award. The procedure and grounds for such a challenge are generally consistent with those provided in the New York Convention.

- The proceedings for setting aside of an arbitral award are initiated upon the party's request and may relate to an arbitral award issued in Poland.
- The request for setting aside shall be filed within two months from the date of service of the award (or if a party has requested that the award be supplemented, corrected, or interpreted, within two months from the date of service by the arbitral tribunal's decision on the request).

Polish arbitration law provides for the following grounds for setting aside of an arbitral award that are taken into consideration by the court ex officio:

a. a dispute cannot be submitted to arbitration;
b. recognition or enforcement of the arbitral award (or the settlement reached before it) would be contrary to the fundamental principles of the legal order of Poland (public policy clause);
c. the arbitral award (or the settlement reached before it) deprives the consumer of the protection granted to them by the mandatory provisions of the law applicable to the contract to which the consumer is a party and, where the law applicable to that contract is the law chosen by the parties, the protection granted to the consumer by the mandatory provisions of the law which would have been applicable in the absence of the choice of law.

The following grounds are taken into consideration by the court upon the party's requests:

a. there was no arbitration clause, the arbitration clause is invalid, ineffective, or has ceased to have effect under the law applicable to it;
b. the party was not duly notified of the appointment of the arbitrator, of the proceedings before the arbitral tribunal, or was otherwise deprived of an opportunity to defend its rights before the arbitral tribunal;
c. the award of the arbitral tribunal concerns a dispute not covered by the arbitration clause or goes beyond the scope of such a clause; however, if the decision on matters covered by the arbitration clause is separable from the decision on matters not covered by the arbitration clause or beyond its scope, the refusal to recognise or declare enforceable the award of the arbitration court may only concern matters not covered by the arbitration clause or beyond its scope;
d. the composition of the arbitral tribunal or the proceedings before it were not in conformity with the agreement of the parties or, in the absence of an agreement on the matter, were not in conformity with the law of the country where the arbitral tribunal proceedings were held;
e. the award was obtained by means of a criminal offence or was based on a forged or falsified document;
f. a final judgment has been rendered in the same case between the same parties.

Polish court may also refuse the enforcement or recognition of such award (see answer to Question 33).

39. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?

No, as the provisions regulating the setting aside proceedings are mandatory, parties cannot waive the right to challenge an award by agreement before the dispute arises. That is the majority view expressed by legal scholars.

It is, however, worth mentioning that under Polish law, if a party aware of a procedure violation does not promptly object, then it cannot rely on such violation before the arbitral tribunal or in a request to set aside the award (art. 1193 CCP). It is then understood that this party has waived the right to raise such objections and is time-barred from raising them in further stages of proceedings.

Polish law does not provide for an appeal against the award (see answer to Question 37).

40. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

In general, the award only binds the parties to the arbitral proceedings.

However, after it is enforced or recognized by a Polish

court, the arbitral award has the same legal effect as a court judgement (art. 1212 CCP). Thus, the provisions on the binding effects of court judgements shall apply to such arbitral awards accordingly. On this basis, an arbitral award, once it is enforced or recognized in Poland, shall be binding not only on the parties and the court which rendered it but also on other courts and other state authorities and public administration bodies, and in cases provided for by law, also on other persons (art. 365(1) CCP).

Additionally, the award would be binding on third parties or non-signatories ex lege if rendered in the case of annulment of a resolution of a shareholders' general meeting of a limited liability company or the general meeting of a joint stock company. In such a scenario, the award is binding between the company and all the shareholders and between the company and the members of the company's bodies.

Moreover, as a rule, only the parties (and their legal successor) can file a request for the setting aside of the award or for its enforcement or recognition. On the basis of separate provisions, the prosecutor and ombudsman are also empowered to do so. Thus, in general, a third party is not allowed to challenge the recognition of an award.

41. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

The authors are unaware of any recent court decisions considering third party funding concerning arbitration proceedings in Poland.

42. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?

Polish arbitration law does not expressly regulate the issue of emergency arbitrators or the available reliefs granted by them. The issue may be subject to the parties' agreement or regulated in the chosen arbitration rules (e.g., rules of Lewiatan Court of Arbitration Appendix II).

There is also no express regulation regarding the enforcement of emergency arbitrators' decisions. It is argued that the provisions regarding interim measures granted by an arbitral tribunal should be applicable. If so, the decisions made by emergency arbitrators would not be readily enforceable but would require the declaration of their enforcement by the court (art. 1181 § 3 CCP). The issue is not, however, finally decided upon in Poland.

43. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

Polish arbitration law does not expressly regulate the issue of simplified or expedited procedures. Certain regulations can be, however, found in the arbitration rules of the two most popular permanent arbitration courts in Poland.

- The Lewiatan Arbitration Court's Rules provide an expedited procedure for claims not exceeding 50.000 PLN (ca. 10.500 EUR). In such proceedings, the case is resolved by a sole arbitrator, and the award shall be issued within three months.
- Rules of the Court of Arbitration at the Polish Chamber of Commerce also provide for an expedited procedure for claims not exceeding 80.000 PLN (ca. 18.000 EUR). Then, the case is resolved by a sole arbitrator unless otherwise agreed by the parties, all service is being done electronically, and the award shall be issued within six months.

The authors do not possess sufficient data to state how frequently the parties use the expedited procedures.

44. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

Polish permanent courts of arbitration as well as the Polish arbitration community undertake various activities in order to promote diversity in the choice of arbitrators and counsel, e.g., via conferences or webinars. However, no specific legal measures have been initiated by Polish lawmakers in this regard.

45. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

Under Polish law, if an arbitral award has been set aside in another jurisdiction, then the court may refuse its enforcement or recognition in Poland upon the party's request on the basis of art. 1215 § 2 (5) CCP (see answer to Question 33).

The authors are now aware of any recent court decisions in which the award would set aside an award that has been enforced in another jurisdiction or vice versa.

46. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

There are no recent public court decisions pertaining to the issue of corruption in arbitration.

As to the standard for proving of corruption, there is no specific evidentiary standard for doing so. The general presumption of innocence will be applicable, and it will the party accused of corruption will bear the burden of proof.

It is worth mentioning that if an arbitral award was obtained by means of a criminal offence, it might be set aside (see the answer to Question 37).

47. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

As a response to the COVID-19 pandemic, Polish permanent arbitration courts introduced several new regulations; however, at the same, it has to be highlighted that the existing regulations were quite flexible already. The amendments included mainly fine-tuning the existing regulations towards the electronic service of documents and virtual hearings (both of which were possible beforehand under broad flexibility granted to the parties under general arbitration rules). Arbitral institutions provided additional technical support, which remains present today.

48. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

Most effectiveness-promoting regulations happened due to the COVID-19 pandemic (see answer to Question 46). Regardless of that, arbitral institutions work on their arbitral rules on a rolling basis, including the use of technology and cost-effective conduct of arbitration; there were no recent developments regarding virtual hearings.

It is worth adding that the Court of Arbitration at the Polish Chamber of Commerce addresses the Seoul Protocol on Video Conferencing in International Arbitration on their website, which may indicate that this document may serve as a guideline in proceedings conducted before this court.

49. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

There are no recent developments in Polish court decisions pertaining to the issue of climate change and/or human rights. However, there are ongoing disputes regarding these issues before local courts and not arbitral tribunals.

50. Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

There are no recent decisions considering the impact of sanctions on international arbitration proceedings. In the Polish context, legal data relating to the issues of sanctions law is quite scarce. That said, it could be reasonably argued that the sanctions regime could be considered part of public policy. The character of sanctions imposed in Poland (i.e., mandatory rules related to securing core values of the Polish legal order) speaks heavily for this interpretation.

However, it needs to be noted that, as of now, there is no publicly available case law on the issue.

51. Has your country implemented any rules or regulations regarding the use of

artificial intelligence, generative artificial intelligence or large language models in the context of international arbitration?

No, no specific rules or regulations are implemented regarding AI in the context of international arbitration.

Poland, however, falls under the general EU Framework pertaining to AI; hence, one has to take into consideration the general framework already applicable to AI (in particular, regulations related to data security and IP law). That said, there is no regulation focused just on the context of international arbitration.

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