

# Does the Polish Arbitration Law Finally Move toward International Standards?

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The Ministry of Economy of the Republic of Poland prepared and published a draft act ("the Draft Law") (a draft law on promoting amicable dispute resolution methods, available in Polish [here](#) ). The Draft Law proposes amendments to the Polish Arbitration Law (part five of the Polish Code of Civil Procedure ("CCP"), Official Journal of Laws of the Republic of Poland, No 43, item 296, as amended) ("the Polish Arbitration Law"). The Polish Arbitration Law in its current form is an adoption of the UNCITRAL Model Law which was introduced in 2005 (adopted on 28 July 2005, in force as of 17 October 2005, Official Journal of Laws of the Republic of Poland, No 178, item 1478). Since 2005 to date, the Polish Parliament introduced only a few minor amendments to the Polish Arbitration Law, none of which were of great relevance.

Discussions regarding potential amendments to the Polish Arbitration Law continued for a while and culminated in 2014. The Draft Law is an obvious consequence of discussions concerning the condition of the Polish Arbitration Law.

The Draft Law proposes the following amendments:

## **Shortening the procedure for challenging an arbitration award to one instance**

Currently, an action to set aside an arbitration award should be filed with the

district or regional court depending on the amount of dispute (the borderline is PLN 75.000) (art. 1207 § 2 CCP in connection with art. 17 CCP). The decision of the court of first instance may be appealed (art. 1207 § 2 CCP in connection with art. 367 § 1 CCP). In certain cases, it is possible to file a cassation appeal with the Supreme Court of the Republic of Poland (art. 1207 § 2 CCP in connection with art. 398 CCP).

The Draft Law introduces only one instance of judicial proceedings to set aside arbitration award. A party will be able to seek to set aside an arbitral award before the court of appeal and there will be no appeal to the decision of this court. In certain cases, it will be possible to file a cassation appeal with the Supreme Court of the Republic of Poland.

### **Shortening the deadline for filing application to set aside an arbitration award to two-month**

Currently, the deadline to file an application to set aside an arbitral award is three months from the date the award was serviced on the party (art. 1208 § 1 CCP).

The Draft Law provides for a two-month deadline to file an application to set aside an arbitral award.

### **There will be no appeal against the decision of the court to enforce or recognize domestic and foreign arbitral awards**

As a preliminary remark, it is necessary to explain that under the Polish Arbitration Law recognition or enforcement does not occur automatically. An arbitral award must be subjected to the declaration of recognition or enforceability procedure by the state court (art. 1212 CCP). Moreover, the Polish Arbitration Law provides for two different procedures regarding recognition or enforcement of domestic and international arbitral awards (art. 1214 CCP and art. 1215 CCP). Arbitral award is international, when it is not rendered in Poland, thus, adopting the territorial principle (see art. I (1) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 10 June 1958.) Currently, it is possible to appeal against the decision of the court to enforce or recognize domestic and foreign arbitral awards to the court of second instance or file a cassation appeal with the Supreme Court of the Republic of Poland (art. 1214 § 2 CCP and art. 1215 § 3 CCP).

The Draft Law provides that there will be no appeal against the decision of the

court to enforce or recognize domestic and foreign arbitral awards. However, in the case of a domestic arbitral award, it will be possible to file a cassation appeal with the Supreme Court of the Republic of Poland (only if there was no cassation filed during the setting-aside proceedings). In case of foreign arbitral awards, the competent court for hearing the motions to recognize and enforce awards will be the court of appeal.

### **Declaration of bankruptcy will not render an arbitration clause null and void and arbitration proceedings can be continued**

Currently, once a bankruptcy is declared by the court, arbitration clauses concluded by the debtor are null and void and pending arbitration proceedings are discontinued (art. 142 and art. 147 of the Bankruptcy and Recovery Law, Official Journal of Laws of the Republic of Poland, No 60, item 535, as amended).

The Draft Law states that arbitration clauses concluded by the debtor remain in force and pending arbitration proceedings can be continued. If arbitration is not commenced before the declaration of bankruptcy, there is still a possibility to commence arbitration proceedings. However, the liquidator can renounce the arbitration clause, following consent of the court, if the arbitration triggers the liquidation of the bankruptcy estate.

### **Concluding remarks**

It will take some time to know whether the Draft Law will be approved. The amendments made by the Draft Law, in any case, reflect internationally recognized standards and, if implemented, can promote Poland as an “arbitration-friendly” jurisdiction.

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