

Code Of Civil Procedure. Act of 17 November 1964, Journal of Laws No. 43 item 296 (as corrected and amended) - Poland

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Part One. Proceedings for Consideration of the Case - Book Three. **Arbitral Tribunal ➡**

Introductory Provisions ➡

- **Article 695**

The provisions of this Book apply to an arbitral tribunal established to settle a given dispute as well as to a permanent court of arbitration.

- **Article 696**

Whenever in this Book a “court” is referred to, it means the court which would be competent to settle the dispute if the parties would have not submitted it to arbitration; whenever a “district court” is referred to, it means a district court of general competence.

Title I. Arbitration Agreement ➡

- **Article 697**

1. Within the scope of their capacity by their own action to undertake obligations, parties may submit to an arbitral tribunal disputes concerning patrimonial rights, with the exception of disputes concerning alimonies and disputes resulting from labour relations.
2. As long as the parties are bound by such an agreement, the court cannot be requested to settle the dispute.
3. Cases in which units of socialized economy may conclude agreements to submit disputes to an arbitral tribunal shall be determined by a regulation of the Council of Ministers.
4. Notwithstanding the cases determined in accordance with the preceding paragraph, units of socialized economy may conclude agreements to submit to an arbitral tribunal disputes with parties having their residence or seat abroad.

- **Article 698**

1. An agreement to submit a dispute to an arbitral tribunal (arbitration agreement)(1) should be made in writing and signed by both parties.

2. The arbitration agreement should determine in detail the object of the dispute or the legal relationship out of which the dispute resulted or may result. The agreement may also indicate the arbitrators and the president,(2) the number of arbitrators and the way of appointing them and the president.

Title II. Arbitrators ➡

• Article 699

1. Any natural person having full capacity, entitled to full public rights and honourable rights of a citizen, may be an arbitrator.
2. A state judge may not be arbitrator.

• Article 700

1. If the arbitrators were not appointed in the arbitration agreement or in an additional agreement and they are to be appointed by the parties, the party who has appointed his arbitrator(s) shall give notice thereof to his counterpart summoning him to appoint his arbitrator(s) and to give notice of his choice within one week after receiving the summons. Summoning is to be made through a notary public or by a registered letter.
2. If, pursuant to the arbitration agreement, the appointment of arbitrators is to be made by a third person, each party may summon this person to do so. In this case, the appointment of arbitrators by the third person should take place within one week after receiving the summons. The summoning of a third person is to be made in the way provided for in the preceding paragraph.
3. The appointed arbitrators shall choose the president provided that the arbitration agreement does not stipulate otherwise.

• Article 701

1. If the opposite party, after having been summoned, fails to appoint his arbitrator in time or if the arbitrators have not agreed upon the choice of the president, the district court, upon the motion of a party, shall appoint the president unless the arbitration agreement stipulates otherwise.
2. The above provision applies accordingly in the case when the arbitrator or president was to be appointed by a third person, or when their appointment proved impossible due to other causes.
3. The court's decision in the matter of the appointment of an arbitrator or president may be made in camera. Complaint about such decision is admissible.(3)

• Article 702

1. In the absence of agreement to the contrary, the arbitration agreement ceases to be operative when an arbitrator or president appointed together by the parties in the arbitration agreement or in an additional agreement avoids the fulfillment of his duty or when the fulfillment of this duty becomes impossible for other causes, and the appointment of an arbitrator or president in the way provided for in the preceding Articles cannot take place.
2. If an arbitrator or president who was not appointed in the way determined in the preceding paragraph fails to fulfill his duty and the interested party fails - upon the motion of the other party - to appoint a new arbitrator, or the arbitrators fail to choose a new president, the district court, upon the motion of a party, shall appoint the arbitrator or president. Complaint about such decision is admissible.

• Article 703

1. A party may challenge an arbitrator or president for the same reasons which justify the exclusion of a judge. Such a demand should be notified within one week of being informed of the appointment of an arbitrator, and, in any case, before the arbitral tribunal begins to consider the case, unless the party shall

show that it is probable that the reasons for the challenge emerged, or came to his knowledge only later.

2. The court may decide in camera upon the challenge of an arbitrator or president. If, however, the court orders a hearing, it shall summon the persons in respect of whom the challenge was notified.

• **Article 704**

1. Arbitrators are entitled to remuneration for their functions and to the reimbursement of expenses borne in connection with performing these functions. If an agreement with the parties as to the remuneration was not reached, the district court shall in camera determine the remuneration of arbitrators corresponding with the work, and the expenses to be reimbursed. Complaint about such decision is admissible.
2. The parties are jointly and severally liable for the payment of the remuneration and reimbursement of the arbitrators' expenses.

Title III. Proceedings Before the Arbitral Tribunal →

• **Article 705**

1. Until the commencement of the proceedings, the parties may determine themselves the order of proceedings to be applied at the consideration of the case.
2. If the parties have failed to do so, the arbitral tribunal shall apply the order of proceedings which it deems appropriate. The arbitral tribunal is not bound by provisions of the civil procedure. However, the arbitral tribunal may not fail to examine thoroughly the circumstances as necessary for the decision of the case.

• **Article 706**

1. An arbitral tribunal may hear parties, witnesses and experts and take an oath from them, but it cannot apply means of constraint.
2. For the performance of a function which cannot be undertaken by itself, the arbitral tribunal shall apply to the district court in the district where this function is to be performed.

• **Article 707**

1. An arbitral award is made by an absolute majority of votes, save when the arbitration agreement calls for unanimity. If the majority cannot be obtained, the president's vote prevails.
2. If at the making of the award the required unanimity or majority of votes cannot be obtained as to the decision of the whole or a part of the object of the dispute, the arbitration agreement ceases to be operative in this respect.

• **Article 708**

1. An arbitral award should contain:
 1. reference to the arbitration agreement,
 2. place and date of its delivery,
 3. indication of the parties and arbitrators,
 4. judgment as to the claims of the parties,
 5. reasons by which the arbitral tribunal was guided at the making of the award,
 6. signatures of all the arbitrators.
2. If any of the arbitrators refused to sign or could not sign the award, notice thereof is to be made on the award. An award signed by the majority of arbitrators has legal force.

- **Article 709**

The arbitral tribunal shall serve upon both parties, against receipt or mail receipt note, a copy of the award signed in the same way as the original.

- **Article 710**

1. After the serving upon the parties of copies of the award, the arbitral tribunal shall file with the court the records of the case together with the original of the award, proof of serving of copies thereof and other documents.
2. Permanent arbitration courts may retain the records and should deliver the records to the court upon demand.

- **Article 711**

1. Appeal from an arbitral award is not admissible.
2. An arbitral award as well as a settlement agreement concluded before an arbitral tribunal have legal force equal to a judgment of a state court or a settlement agreement concluded before such court, after ascertainment by the state court of the enforceability thereof.
3. The decision as to the enforceability of an arbitral award and of a settlement agreement is made in camera. The court shall refuse to issue such a decision if from the filed records of the arbitral tribunal it appears that the award or the settlement agreement by its contents offends the legality or the principles of social co-existence in the Polish People's Republic.
4. Complaint about the decision as to the enforceability is admissible.

Title IV. Action for Setting Aside of an Arbitral Award ➡

- **Article 712**

1. A party may request that an arbitral award be set aside if:
 1. there was no arbitration agreement or the arbitration agreement was invalid or became inoperative,
 2. the party was deprived of the possibility to defend his rights before the arbitral tribunal,
 3. the order of arbitral proceedings, as determined by the parties, or by statutory provisions - in particular, provisions relating to the composition of the tribunal, voting, exclusion of an arbitrator and the award - was not observed,
 4. the judgment as to the claims of the parties is unintelligible, contains contradictions, or offends the legality or the principles of social co-existence in the Polish People's Republic,
 5. there exist grounds for the re-opening of the proceedings according to the provisions of this Code.
2. If the decision exceeds the scope of the arbitration agreement, a party may request setting aside of that part of the award which exceeds the arbitration agreement. However, the exceeding of the scope of the arbitration agreement cannot justify the request to set aside the award if the party who took part in the proceedings failed to object to the consideration of claims exceeding the scope of the arbitration agreement.

- **Article 713**

1. An action for the setting aside of an arbitral award should be brought to the court within one month from the serving of the award.
2. When an action is based on grounds for re-opening of the proceedings, the time limit is calculated in accordance with the provisions on re-opening.
3. The court may in camera suspend the execution of an arbitral award, but may

also make the suspension dependent on the deposit of a security. Complaint about such decision of this court is admissible.

- **Article 714**

The court is bound by the grounds of the action for the setting aside of an award of an arbitral tribunal; nevertheless, it shall ex officio consider whether the award does not offend the legality or the principles of social co-existence in the Polish People's Republic.

- **Article 715**

The proceedings resulting from an action for the setting aside of an arbitral award are conducted in accordance with the provisions on the proceedings in the first instance.