

**Rules of the Court of Arbitration
of Krajowy Depozyt Papierów Wartościowych S.A. (KDPW)**

Valid as of 1 July 2018

I. General provisions

1. Jurisdiction and organisation of the Court of Arbitration of Krajowy Depozyt
Papierów Wartościowych S.A. (KDPW)

§ 1

1. The Court of Arbitration of Krajowy Depozyt Papierów Wartościowych S.A. (KDPW) has jurisdiction to examine civil law disputes concerning property rights:

a) between Krajowy Depozyt Papierów Wartościowych S.A., hereinafter “Depository”, and participants of the Depository, and between participants of the Depository where the dispute concerns the scope of activities of the Depository;

b) between a joint stock company which is a subsidiary of the Depository, to which the Depository has outsourced activities within the scope set out in Article 48 subpara. 1 points 1-6 or Article 48 subpara. 2 of the Act on Trading in Financial Instruments of 29 July 2005, and participants of such company, and between its participants where the dispute concerns its activities within this scope.

2. The term “Court of Arbitration” used in the provisions below shall be understood to mean the Court of Arbitration of Krajowy Depozyt Papierów Wartościowych S.A..

§ 2

1. The Court of Arbitration shall have its seat in Warsaw.

2. The Court of Arbitration shall use a round seal with its name and seat.

2. Judges of the Court of Arbitration

§ 3

Five to ten judges of the Court of Arbitration shall be elected by the General Meeting for a term of 3 years. The mandate of the judges of the Court of Arbitration shall expire on the date of an ordinary General Meeting.

§ 4

1. The President and the Deputy President of the Court of Arbitration shall be elected and dismissed from among the judges of the Court of Arbitration by the General Meeting.
2. The responsibilities of the President of the Court of Arbitration shall include the activities reserved in these Rules.
3. If the President of the Court of Arbitration is temporarily unable to perform the activities referred to in subpara. 2, the responsibilities of the President shall be exercised by the Deputy President.

§ 5

1. A judge of the Court of Arbitration may only be a natural person having full capacity for legal action, full entitlement to public and civic rights, higher education and adequate expertise related to the activity of the Depository necessary to guarantee impartial and fair resolution of the disputes referred to in § 1.
2. A judge of the Court of Arbitration cannot be a judge of a state court.

§ 6

1. A judge of the Court of Arbitration shall be independent.
2. A judge of the Court of Arbitration shall perform his or her function impartially according to his or her best knowledge.
3. A judge of the Court of Arbitration may not represent either party.
4. A judge of the Court of Arbitration shall keep confidential all information acquired in relation to the dispute.

II. Procedure

1. Opening the procedure

§ 7

1. The procedure shall be opened by means of filing a complaint with the Court of Arbitration.
2. In addition to the complaint and enclosures to the complaint, copies of the complaint and enclosures shall be filed in a number equal to the number of defendants.

3. The requirement set out in subpara. 2 shall apply to all other written submissions.

§ 8

The complaint shall include:

- a) the names of the parties and their seats;
- b) the detailed claims and their grounds;
- c) indication of evidence;
- d) designation of the value of the dispute;
- e) the first and last name of the judge of the Court of Arbitration appointed by the plaintiff unless the case concerns claims referred to in § 12a subpara. 1.

§ 9

1. The filed complaint shall be examined by the President of the Court of Arbitration to determine admissibility of the procedure.
2. The President of the Court of Arbitration shall reject the complaint if the President concludes that the Court of Arbitration has no jurisdiction.
3. If the complaint is found not to meet the formal requirements referred to in § 8, the President of the Court of Arbitration shall call on the plaintiff to repair the defects within 7 days.

§ 10

1. If the complaint fulfils the formal requirements, the President of the Court of Arbitration shall call on the plaintiff to pay the fee referred to in § 46 within 7 days.
2. Upon the payment of the fee, the President of the Court of Arbitration shall:
 - a) deliver a copy of the complaint to the defendant and call on the defendant to submit a defence within 7 days and, in a case other than referred to in § 12a subpara. 1, also appoint a judge of the Court of Arbitration;
 - b) appoint the chair of the bench from among the judges of the Court of Arbitration having a degree in law.
3. Failure to submit a defence within the time limit shall not stay the procedure.
4. If the fee is not paid within the time limit, the case shall be considered not to have been opened. If the fee is paid at a later date, the case shall be considered opened at the date of payment.

§ 11

If the defendant fails to appoint a judge of the Court of Arbitration in a case other than referred to in § 12a subpara. 1 within the set time limit, the judge shall be appointed by the President of the Court of Arbitration.

§ 12

If the plaintiff or the defendant in a case other than referred to in § 12a subpara. 1 is more than one entity, they shall appoint one judge of the Court of Arbitration.

§ 12a

1. Cases concerning monetary claims where the value of the dispute including late interest is no more than PLN 50,000, except for cases concerning redressing damages, may be heard by a single judge.
2. In cases referred to in subpara. 1, the President of the Court of Arbitration shall appoint a judge to examine the case from among the judges of the Court of Arbitration having a degree in law.

§ 13

1. A judge of the Court of Arbitration shall be excluded from the examination of a dispute if a circumstance excluding the judge by force of law occurs pursuant to the provisions of the Code of Civil Procedure.
2. Irrespective of the circumstances referred to in subpara. 1, a judge of the Court of Arbitration may be excluded by own request or by request of a party where the judge and a party are in such relationship that could arouse doubts about the impartiality of the judge.

§ 14

1. A party may, within 7 days of being informed of appointment of a judge of the Court of Arbitration, request exclusion of the judge if reasonable circumstances of exclusion occur.
2. A written request to exclude a judge shall be delivered by the President of the Court of Arbitration to the party which has appointed the judge, calling on it to reply and to appoint another judge of the Court of Arbitration if the request is accepted.

§ 15

1. The plaintiff may withdraw the complaint until the hearing is closed or, in the case of simplified procedures, until the decision is issued.
2. If the complaint is withdrawn before it is delivered to the defendant, the President of the Court of Arbitration shall order to return 80% of the paid fee.
3. If the complaint is withdrawn before the hearing opens or, in the case of simplified procedures, before the decision is issued, the President of the Court of Arbitration shall order to return 70% of the paid fee.
4. If the complaint is withdrawn after the hearing opens, the bench shall order to return 20% of the paid fee.

§ 16

The decisions referred to in § 15 shall specify whether and to what extent one party shall reimburse the costs incurred by the other party.

§ 17

1. The procedure may be suspended by request of both parties or by request of the plaintiff no later than the setting of the date of a hearing or, in the case of simplified procedures, until the decision is issued.
2. If the procedure is not continued by request of both parties or by request of the plaintiff within 3 months, it shall be discontinued.
3. The provisions of § 16 shall apply accordingly.

§ 18

1. The defendant may file a cross-complaint until the opening of the hearing or, in the case of simplified procedures, until the decision is issued if the Court of Arbitration has jurisdiction to examine it.
2. The provisions concerning the complaint shall apply accordingly to a cross-complaint.
3. The cross-complaint shall be examined by the bench appointed for the original complaint.

§ 19

1. Before the hearing is closed or, in the case of simplified procedures, until the decision is issued, a party to the procedure may be joined by a third party if it has a legal interest in the case being resolved in favour of the party (auxiliary intervention).
2. The intervening party shall make a written notification of joining the case and specify therein the reasons for joining and the party joined, and pay a fee at 50% of the fee referred to in § 46.

§ 20

1. Each party may oppose the joining by an intervening party.
2. The President of the Court of Arbitration and, after the hearing is opened, the bench shall overrule the opposition if the intervening party presents reasonable evidence of its legal interest in joining the case.
3. The intervening party shall receive copies of all written submissions and may present declarations and explanations.

§ 21

A party or an intervening party may appoint an attorney at each stage of the procedure.

§ 22

1. Documents or official decisions of the Court of Arbitration, as well as submissions to the Court of Arbitration shall be made in person with confirmation of delivery by the addressee or by a person authorised by the addressee to receive correspondence, or shall be sent using registered mail or by courier.
2. Documents or official decisions shall be deemed to have been delivered when their receipt has been confirmed by the addressee or by a person authorised by the addressee to receive correspondence, or have been delivered to the head office of the addressee, or habitual residence or to the address indicated by the addressee.
3. In instances where the addressee is an enterprise recorded in the relevant court register, or other public register, the documents or official decisions shall be delivered to the address indicated in the register, unless the party has provided another delivery address.
4. If none of the locations described in the previous subparagraphs can be determined, the documents or official decisions shall be deemed to have been delivered after having been sent to the last known head office or last known ordinary residence of the addressee.
5. In instances where the party has indicated an authorised proxy, or authorised proxy to receive deliveries, the documents and official decisions addressed to that party shall be delivered to the authorised proxy. In instances where the party has indicated several authorised proxies, only one authorised proxy shall receive the delivery. The party may indicate the authorised proxy that is to receive the documents or official decisions.
6. The parties and their representatives shall be obliged to inform the Court of Arbitration of each change of address. In the event that this obligation is not met, the document or official decision sent in the manner described in subpara. 1 to the last known address shall be deemed delivered.
7. The document or official decision shall be deemed delivered on the date of receipt by the addressee, while in instances where the addressee has refused to accept the delivery of the document or official decision - on the date of the refusal. In instances where the addressee has not collected the document or official decision sent using registered mail or by courier, the document or official decision shall be deemed delivered on the last date on which the delivery could have been collected by the addressee.
8. Article 132 § 1 of the Code of Civil Procedure shall not apply.

2. Hearing

§ 23

1. The date of a hearing shall be set by a judge of the Court of Arbitration.
2. After the date of the hearing is set, the President of the Court of Arbitration shall deliver all written submissions and documents related to the procedure to the chair of the bench.

3. Hearings shall be held at the seat of the Depository unless the President of the Court of Arbitration decides otherwise *ex officio* or by request of parties.

4. The Secretary to the Court of Arbitration shall notify the date and place of a hearing.

5. The procedure shall not be stayed in the absence of parties properly notified of the date of the hearing.

§ 24

Prior to opening the hearing, the chair of the bench shall take all action necessary to complete it in one sitting.

§ 25

1. Hearings before the Court of Arbitration shall be closed to the public.

2. With the consent of the chair of the bench, only the following persons may listen to the hearing:

a) a representative of the Warsaw Stock Exchange;

b) a representative of the Polish Financial Supervision Authority;

c) a representative of the Depository;

and in the absence of opposition of the parties also:

d) a representative of the Chamber of Brokerage Houses;

e) a representative of the Custodian Bank Council of the Polish Bank Association;

f) a representative of the Association of Listed Companies;

g) a representative of the Chamber of Commerce of Pension Fund Companies;

h) a representative of the Chamber of Fund and Asset Management.

3. Two trusted representatives appointed by each party as well as members of the KDPW Supervisory Board and the KDPW Management Board may also listen to the hearing.

§ 26

1. The hearing shall be chaired by the chair of the bench, who shall also act as rapporteur and draw up the grounds of decisions.

2. The chair of the bench shall enable the parties to present what they believe is relevant to the defence of their rights.

§ 27

1. The bench shall decide about requests of parties concerning evidence and may admit evidence not requested by parties if the bench considers it necessary to clarify the case.

2. In particular, the court may call on parties to present documents as evidence, make inspections, interrogate witnesses and parties and take their oaths.

3. Witnesses who have not yet testified shall not be present during the interrogation of other witnesses.

4. Before interrogating a witness, the chairman of the bench shall warn the witness about criminal liability for perjury.

§ 28

The bench may request those things which the bench cannot do itself, including without limitation the use of coercion, to be done by the district court in whose district such thing is to be done.

§ 29

1. After the bench has concluded that the case has been clarified sufficiently to be resolved, the chair of the bench shall close the hearing.

2. Before giving the decision, the bench may declare a closed hearing open if it considers it necessary.

§ 30

1. Minutes shall be drawn up from the hearing and signed by the chair of the bench and the minute-taker.

2. By request of the Secretary to the Court of Arbitration, the Management Board of the Depository shall appoint a minute-taker.

2¹. Simplified procedures

§ 30¹

1. Simplified procedures may apply in cases concerning monetary claims where the value of the dispute is no more than PLN 1,000 except for cases concerning redressing damages.

2. Simplified procedures may apply only at the request of the plaintiff made in the complaint unless the defendant requires a hearing in the defence.

3. Procedures shall no longer follow the simplified procedure if a party requires a hearing before the decision is issued or a cross-complaint is filed, an intervention is requested, or evidence is put forth based on examination, a witness testimony or a hearing of the parties, depending on the date of receipt of the relevant declaration by the Court of Arbitration. In that case, the chair of the bench shall immediately set the date of the hearing, call the plaintiff to pay the outstanding fee on the complaint, and

may require an additional advance payment to cover the expenses referred to in § 45 subpara. 1.

§ 30²

1. Simplified procedures shall only be based on the complaint, the defence, if any, as well as further written submissions and attached documents and print-outs without a hearing.
2. In justified cases, the chair of the bench may allow the parties to present additional evidence within a time limit which shall be no longer than 14 days.
3. The decision and its grounds in simplified procedures shall be issued by the bench within 30 days of the submission of the defence to the Court of Arbitration.
4. The time limit referred to in subpara. 3 may be extended by another 30 days at a justified request of the chair of the bench presented to the President of the Court of Arbitration.
5. If the time limit defined in subpara. 3 or 4, respectively, is exceeded, the chair of the bench shall immediately report to the President of the Court of Arbitration with written information concerning the reasons for the time limit being exceeded and notify the President of the Court of Arbitration of the expected date of the decision.
6. Decisions of the Court of Arbitration issued in simplified procedures shall be taken at an *in camera* meeting.
7. Decisions of the Court of Arbitration issued in simplified procedures and their grounds shall be delivered to the parties.

3. Decision

§ 31

1. The conference and the vote on the decision shall take place *in camera*.
2. The decision shall be passed by the absolute majority of votes.
3. A judge who disagrees with the majority in the vote may register a dissenting vote in the signing of the sentence and shall provide its grounds in writing.
4. The minute-taker may be present during the conference.

§ 32

The decision of the Court of Arbitration shall be given in writing within 14 days of the closing date of the hearing.

§ 33

1. The decision of the Court of Arbitration shall include:
 - a) the basis of the jurisdiction of the Court of Arbitration;
 - b) the place and date of the decision;
 - c) the names of the parties and the judges of the Court of Arbitration;
 - d) the decision as to the claims of the parties;
 - e) the grounds of the decision;
 - f) the decision as to the cost of the procedure, as described in § 43;
 - g) the signatures of all members of the bench.

2. The provisions of Article 98 and Articles 99 – 104 of the Code of Civil Procedure shall apply accordingly to the decision as to the cost of the procedure.

3. If any member of the bench refuses to sign or cannot sign the decision, this shall be noted in the decision. Decisions signed by two members of the bench shall be legally valid.

§ 34

The original and all copies of the decision shall be signed by the members of the bench and by the President of the Court of Arbitration and stamped with the seal of the Court of Arbitration.

§ 35

1. If the President of the Court of Arbitration finds any formal irregularities or gaps in the decision before signing it, the President shall deliver the decision to the chair of the bench in order to eliminate the irregularities or gaps.

2. Reservations of the President of the Court of Arbitration cannot concern the decision as to the substance of the case.

§ 36

The Court of Arbitration shall deliver a copy of the decision to each party.

§ 37

The decision of the Court of Arbitration shall be final and cannot be appealed against.

§ 38

The decision of the Court of Arbitration or settlement before the Court of Arbitration shall have the same legal effect as a decision of a state court or settlement before a state court after a state court declares them enforceable.

§ 39

The President of the Court of Arbitration may approve publication of the decision in whole or in part but without the names of the parties.

§ 40

1. If a party fails to execute a decision voluntarily, the President of the Court of Arbitration may, by request of the other party, order such fact to be made known by means of publishing it in the *Cedula* of the Warsaw Stock Exchange or otherwise.
2. The President of the Court of Arbitration shall notify the other party of a received request.
3. The President may examine a request upon the lapse of two weeks of the notice referred to in subpara. 2.

§ 41

1. The case dossier and the original decision, the evidence of delivery of its copies and other documents shall be kept on file by the Court of Arbitration for 20 years after closing, and may be destroyed thereafter.
2. The parties may receive copies of the case dossier on their own expense.

§ 42

The relevant provisions of the civil procedure shall apply accordingly in matters of procedure before the Court of Arbitration not regulated by these Rules.

4. Cost of procedure

§ 43

1. The Depository shall charge fees and reimbursement of expenses for a procedure before the Court of Arbitration.
2. Expenses shall cover in particular remuneration of the members of the bench and the reimbursement of expenses incurred by them in connection with the performance of their activities, as well as the remuneration and reimbursement of expenses incurred by experts.

§ 44

For the purpose of calculation of the fees, one complaint filed against more than one defendant shall be considered as separate complaints unless the defendants have joint and several liability.

§ 45

1. The chair of the bench may order the payment of an advance to cover expenses, described in § 43 subpara. 2.

2. The amount of the advance payment shall be determined depending on the expected cost of the procedure.

3. The part of the advance payment to cover expenses for the remuneration of the members of the bench and reimbursement of expenses incurred by them in connection with the performance of their activities shall be charged in equal parts from the parties. The remaining part of the advance shall be paid by the party responsible for the action related to the expense.

4. If an action is ordered *ex officio*, the chair of the bench shall name the party obligated to pay the advance.

§ 46

1. The fee for a procedure before the Court of Arbitration shall be 5% of the value of the dispute but no less than PLN 500.

1¹. In the case of simplified procedures, the fee shall be fixed at PLN 200.

2. Fees shall be used to pay the cost of the Depository related to the activity of the Court of Arbitration.

§ 47

1. When specially justified, the President of the Court of Arbitration may waive a fee referred to in § 46.

2. In cases referred to in subpara. 1, the bench shall state in the decision closing the procedure whether the parties shall pay the fees and in what parts.

III Final provisions

§ 48

1. The administrative support of the Court of Arbitration and the management of the files of the Court of Arbitration shall be provided by the Depository.

2. The KDPW Management Board shall appoint a Secretary to the Court of Arbitration and shall ensure the participation of a minute-taker in hearings.

§ 49

1. The members of the bench shall receive remuneration for examining the case. The remuneration of the chair of the bench for examining the case shall amount to:

- 1) PLN 500 if the value of the dispute is less than PLN 7,000;
- 2) PLN 750 if the value of the dispute is from PLN 7,000 to PLN 12,000;

3) PLN 1,000 if the value of the dispute is more than PLN 12,000.

The remuneration for the remaining members of the bench shall amount to 75% of the remuneration of the chair of the bench.

2. When specially justified by extreme complexity of the case, the President of the Court of Arbitration may increase the remuneration of the members of the bench by no more than 150%.

3. The President of the Court of Arbitration shall receive a monthly remuneration of PLN 1,000, however, in instances described in § 4 subpara. 3, only the Deputy President shall be entitled to the remuneration during the time spent performing the responsibilities of the President of the Court of Arbitration, on a pro-rata basis while performing those responsibilities.

4. The remuneration described in subpara. 3 shall not be entitled to be paid for any month in which there are no proceedings before the Court of Arbitration.

§ 50

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