

**Author:** Magdalena Bławat

**Title:** Wykładnia i konwersja niewykonalnego zapisu na sąd polubowny. Uwagi na tle stanowiska Sądu Najwyższego / Interpretation and conversion of an unenforceable arbitration clause. Remarks on the background of the position of the Polish Supreme Court

**Source:** Kwartalnik Prawa Prywatnego („Quarterly of Private Law”)

**Year:** 2017, vol. XXVI, number 2, pages: 463-492

**Keywords:** interpretation, conversion, construction, implication, unenforceability, invalidity, arbitration clause

**Discipline:** Law (Private Law)

**Language:** Polish

**Document type:** Article

**Publication order reference:** University of Warsaw

**Abstract:**

The article focuses on the issues of interpretation and conversion (Latin: *conversio*, German: *Konversion*, *Umdeutung*) of the unenforceable arbitration clause in accordance with the directives laid down in article 65 of Polish Civil Code. The startpoint for further deliberations is the thesis of the Polish Supreme Court's verdict in case no. II CSK 263/08, according to which interpretation of a declaration of will serves only to clarify the terms used by parties rather than to supplement the declaration of will or to change the meaning of the terms and phrases used. In mentioned verdict the Polish Supreme Court also stated that if the arbitration clause has proved to be unenforceable, for example due to a faulty indication of arbitrator, it is not admissible to convert such a clause into another arbitration agreement. The first thesis of Polish Supreme Court is unquestionable, although its further justification and application by the Supreme Court raises some critical remarks, widely described in the article. According to the Author, this statement was used by the Supreme Court in too radical way. The second thesis has not been supported by further arguments. The aim of the article is also to provide further justification for the second thesis of the Polish Supreme Court.