

Conference  
of the International Arbitration and Mediation  
Institute “Ius et Lex”  
on the subject of  
*Ethics, independence and impartiality in arbitration  
proceedings. Reality or fiction?*  
– foreword by the Commissioner for Civil Rights  
Protection,  
Dr Janusz Kochanowski

Ladies and Gentlemen,

I am delighted that, as the Commissioner for Civil Rights Protection, I can be the patron of such an important meeting as today’s conference.

The International Arbitration and Mediation Institute “Ius et Lex” and Clifford Chance have for the second time gathered together here in Warsaw an exceptional group of experts from many countries in order to discuss key issues connected with international arbitration. Today’s conference is the continuation of actions commenced last year and the beginning of a certain tradition, which I hope will enrich Polish and international economic life.

As the patron and on behalf of the hosts, I would like to welcome most sincerely all the participants of this conference, among whom there are so many outstanding specialists, theoreticians and practitioners and people of enormous prestige.

I would also like to welcome most warmly here in Poland our guests from abroad. Your presence here strengthens us in the conviction that today, in the age of globalisation, each important problem should be considered together, in an international forum – by meeting, discussing and seeking the best solutions. Thank you for being with us here today!

Ladies and Gentlemen,

I said a year ago that there are many common features in the activities of arbitration courts and those of the Commissioner for Civil Rights Protection. I also emphasised that these two institutions do not constitute under any circumstances competition for the courts. On the contrary, they are their significant and uncommonly useful and successful complement. They allow the rights of the individual and of economic subjects to be protected more effectively and they also shorten and facilitate the process of settling disputes or reaching agreements. My experiences to date fully confirm this.

Today we are considering the issue of ethics, independence and impartiality in arbitration proceedings. We are, therefore, talking in essence about the fundamental problems faced by courts and also about the problems which I encounter as Commissioner for Civil Rights Protection. Even if the Commissioner does not issue binding decisions as do the courts, he does formulate recommendations concerning legal solutions and lodges motions before the Constitutional Tribunal and he has to be guided

by exactly the same ethical principles and has to maintain the same independence and impartiality.

What does the concept of professional ethics mean in our times? Many scientific dissertations have been written on this subject. More will be said about this by today's distinguished speakers.

It is, however, above all a certain canon of fundamental values, among which the most important is the individual sense of responsibility. By itself, the law is not able to regulate fully the economic and professional relations. It is precisely here, where the force of the provisions themselves does not reach, that the particular role of ethics begins and that the internal code takes over and tells us how to behave in often ambiguous situations.

I am not questioning in any way legal codes and regulatory framework as these are absolutely core. But it cannot be underestimated that the legal codes only operate effectively due to the fundamental ethical behaviour. That is why it is so important to decide who can be an arbitrator and what qualifications and attributes should such a person have.

Irrespective of the method of appointment, the arbitrator must remember that he or she is not the spokesperson for either side. The arbitrator should behave in a manner that is balanced and impartial both towards the parties and to all other participants in the proceedings. Furthermore, a person appointed to the post of arbitrator should only take on this function if he or she is absolutely convinced that the

function will be fulfilled in an honest way and independent of external pressures and conflicts.

There can be no doubt that questions of ethics, together with independence and impartiality, have a crucial significance for the development of the institution of economic arbitration. It is here after all that almost everything is based on trust and authority.

Ladies and Gentleman, Honoured Guests,

The significance and role of arbitration is constantly increasing on the international arena.

And it is for this reason that it is vital to develop arbitration courts and institutions of the highest standard with the highest codes of ethics ensuring that the impartiality and ethical standards are maintained at all times. How to do this in practice however isn't easy? I am sure that we will learn a great deal more about this during the course of today.

I wish you fruitful discussions and I thank you for your kind attention.

\*\*\*\*\*

English translation © Tadeusz Z. Wolański

\*\*\*\*\*

\*\*\*\*\*