Streszczenie pracy doktorskiej Urszuli Comi pt.: „Zabezpieczenie roszczeń w międzynarodowym arbitrażu handlowym na gruncie polskiego i angielskiego *lex arbitrii*".

Summary

Interim measures – temporary decisions that may serve, for example, to preserve the status quo during proceedings in a dispute, secure assets that are subject of the dispute or that would be necessary to enforce the final judgment – must be granted and enforced quickly, even without notifying the opposing party, in order to be effective. State courts have the power to provide ex parte interim measure which is immediately enforceable. Arbitration courts, on the other hand, are like guards who have to borrow swords and ask for permission every time before they bring order. Their competences are severely limited which may make arbitration proceedings less effective than proceedings before a state court. Still, some parties choose arbitration, usually because of confidentiality guarantees and a relatively short duration of the proceedings. However, their freedom of choice is severely limited in terms of obtaining interim measures in respect of the subject-matter of the dispute. Usually arbitration courts, including these in Poland and England, do not have the power to issue interim relief ex parte as well as in relation to third parties (including freezing assets of the respondent). Moreover, arbitral tribunals need the support of state courts to make their rulings enforceable and thus effective. When it comes to conservatory measures, these restrictions are crucial. Due to the requirement to notify the other party and then to obtain an enforcement clause, obtaining an interim measure from an arbitration tribunal is lengthy which makes such a measure ineffective or even pointless. The respondent party has a plenty of time to dispose of its assets and thus prevent future enforcement.

Moreover, differences between national laws can make it very difficult and time-consuming to enforce an interim measure abroad. This may be the case where the place of execution is located in a different state than the seat of arbitration. In many countries, such as France, there is no clear legal basis for recognizing or enforcing a foreign arbitration order such as conservatory measures. In this situation, state courts are faced with the difficult task of interpreting the law in such a way as to do not prevent the functioning of arbitration. In Poland the law allows for the recognition and enforcement of foreign arbitration conservatory measures, while in England this matter is not expressly regulated. Regulations in both countries, however, leave some ambiguities and difficulties.

Additional difficulties may arise if the relevant interim measure is in a form unknown in the

state of enforcement. In such a situation, the German law provides for the possibility of adapting such a measure to national law. However, the scope of this adjustment remains controversial. There are no similar provisions in Polish and English law.

This dissertation focuses on interim measures in respect of the subject-matter of the dispute in arbitration under Polish and English law. These jurisdictions represent two different legal systems: continental and common law. Moreover, the Polish law is mainly based on the UNCITRAL Model Law of 1985, while English regulations are completely different which makes them interesting for comparison.

The aim of the dissertation is to develop the classification of regulations in Polish and English law, a comparative analysis of these solutions and to present a proposal on how to change them to make them more effective while maintaining procedural guarantees for both parties of arbitral proceedings. These proposals are oriented in particular to the Polish law, but most of them may find appropriate application also in other legal systems, including England and Wales.

This dissertation also includes comparative legal remarks regarding other jurisdictions. It is necessary to present this problem in a broader context, especially since it is common to many European countries, not only in Poland and England. This problem has an international dimension also due to the fact that particular difficulties arise in the international arbitration.

The research methods used are predominantly the dogmatic and the comparative method. The dogmatic method is necessary for the analysis of legal acts, jurisprudence and doctrine based on the principles of logic. Due to the international dimension of the research problem, it was also necessary to use the comparative method.