

**UNIwersytet Jagielloński  
Wydział Prawa i Administracji  
Katedra Prawa Gospodarczego Prywatnego**

**L'arbitrabilité des litiges de droit privé – perspective comparatiste**

**pl. Zdarność arbitrażowa sporów prywatnoprawnych – studium prawnoporównawcze**

**ang. Arbitrability of private law disputes – comparative perspective**

Rozprawa doktorska przygotowana pod opieką

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**Kraków 14 maja 2018**

**Streszczenie w języku angielskim**

**Key words:** arbitrability, commercial arbitration, normative criteria, Polish and French arbitration law, comparative perspective

### **Summary (eng)**

The aim of this dissertation is to present a description and justification of the Polish law doctrine postulating the revision of the regulation of arbitrability.

The arbitrability criterion adopted in Poland, based on the ability of settlement, seems to be not efficient enough due to the double ambiguity of the art . 1157 k.p.c. - an ambiguous construction of the provision and lack of clarity of the arbitrability rule. Taking into account the private nature of arbitration, the criterion based on the free disposition of rights, taken from the Romanistic legal family, seems more appropriate. The best guarantee of the large scope of arbitrability disputes could be, however, achieved by admitting an illimited arbitrability of pecuniary rights, as done by German laws.

Due to the characteristics of the legal doctrine of the European countries, comparative legal analysis of the Romanistic legal family is focused mainly on French, Belgian, Italian and Swiss law. Analysis of German legal family refers mainly to German law (due to its impact on the current regulation of arbitration law in Poland). In this group also the Polish regulations has been analysed. The analysis of arbitrability regulation in the Common Law system covers English and American law. The present study is based on the historical criterion, the criterion of the theory of arbitration, the criterion of unity in the regulation of arbitration and the criterion of arbitrability.

The comprehensive analysis and comparison of the already revised legislative solutions of the European legislations - representatives of the most important European legal traditions - in the context of the arbitration regulatory model allows confirming and clarifying of the *de lege lata* and *de lege ferenda* postulates concerning the Polish regulation of arbitrability. The aim of this work is not only to enlarge the scope of the doctrine aiming to increase the certainty of legal relations under Polish law, but also to contribute to the development of a coherent and functional arbitration system in European legislations, in accordance with the principle that arbitration is a "private procedure with public consequences".