Case ref. I C 223/22



**JUDGMENT**

**ON BEHALF OF THE REPUBLIC OF POLAND**

Date 24 March 2022

District Court in Łódź, I Civil Department,

composed of: District Court Judge Anna Wasiak—chair

District Court Judge Bartłomiej Dziedzic (acting)

District Court Judge Jan Sobieraj (acting)

after the hearing on 24 March 2022 in Łódź,

at the hearing,

of the case brought by **Horace Munk**

against: **The Star Maker Insurance**

for annulment of the contract and payment:

1. dismisses the claim in its entirety
2. does not charge the claimant with the costs of the proceedings.

The District Court found the plea of *res judicata* raised by the defendant to be unfounded due to the failure to establish the enforceability of the arbitration award in separate proceedings.

It further held that the choice of English law for the arbitration clause could not lead to depriving the consumer of the protection afforded to him by the provisions of Polish law implementing Council Directive 93/13/EEC of 05.04.1993 on unfair terms in consumer contracts pursuant to Article 30(1) of the Private International Law and, on this basis, considered the arbitration clause as an illicit contractual term not binding on the consumer.

The Court, taking into account the content of Article 6 of the Act on Counteracting Unfair Market Practices (implementing Directive 2005/29/EC of the European Parliament and of the Council), recognised the action of The Star Maker Insurance as an unfair market practice consisting in a misleading omission by omitting important information necessary for the average consumer to take a decision concerning a contract. However, it did not award the compensation requested by the consumer on the grounds that one of the prerequisites for liability for damages—a causal link between the defendant’s conduct and the damage suffered by the consumer—had not been demonstrated.

The Court did not consider the data processed by the Defendant to be sensitive health data and did not see any breach of the processing of personal data in the Defendant’s actions (the Claimant, however, did not claim damages under GDPR).