

Arbitrability of the dispute in the slovak law

Positive definition of the arbitrability is set up in the Section 1, subsections 1 and 2 of slovak APA (244/2002 Coll.), which provides. that subject matter of the arbitration proceeding under aforementioned Act could be disputes with property element arising out of civil and commercial relationships, sub conditio that subject matter of dispute may be settled by judicial settlement under Section 99 of Code of Civil procedure. Negative definition of arbitrability is specified in subsection 3 of above mentioned act, as follows:

- a) disputes on the real estate property rights, its change or cessation, and real burdens and easements
- b) disputes on personal legal status ,
- c) concerning enforcement of decisions,
- d) arising during the insolvency proceeding (concursum creditorum) and restructuralization proceeding (forced settlement).

Limitation of arbitrability to the disputes which can be settled by judicial settlement, caused controversy over another group of disputes - disputes concerning validity of acts of will. Prevailing practice of lower courts is ruling for non-arbitrability of decisions of that kind. **Validity of the act (e.g. contractual) is subsequently considered in arbitration particularly as prejudicial question.**

Slovak APA set up no limits to arbitrability of the disputes arising before commencement of insolvency or restructuralization proceeding, despite this silence of the APA, judiciary prefers interpretation, that provisions of Insolvency and restructuralization Act set up barrier to the pending arbitration, because the commencement of insolvency proceeding causes stay of judicial "and other" proceeding, including enforcement.