

ABSTRACT

MEDIATION AS A MEAN OF INTERNATIONAL COMMERCIAL DISPUTE RESOLUTION

This dissertation deals with the phenomenon of discrepancies between commonly shared perceptions about international mediation and its real and practical situation. The aim of this dissertation is not to analyze the legal provisions on mediation in individual national jurisdictions or to analyze individual provisions of the private international law, which potentially apply to issues of cross-border mediation. The intention is to point to current trends and current issues in the field of international mediation. We especially want to conduct generally accepted theoretical concepts of mediation in an international context critical view by comparing it to empirical data proving the actual state of mediation as a method of resolving international business disputes.

The first part of this dissertation summarizes the basic theoretical background related to mediation, which serves as a basis for the construction of generally recognized premises in this field. These premises relate to the context of international commerce. Therefore, it deals with the mediation principles, models and important aspects that are relevant to international commercial disputes with an international element.

In the second part, the dissertation tries to point out the current trends and issues of international mediation. It confronts theoretical assertions, such as the assumption of a high degree of success in mediation, or the belief in the high proportion of voluntary fulfillment of agreements resulting from mediation with currently available empirical data. The main source of this data is presented by the most significant research done so far in the field of national mediation and, last but not least, the evidence gathered for UNCITRAL negotiations on the forthcoming new international convention on the recognition and enforcement of international mediation agreements.

It notes the phenomenon of so-called dispute irony, which is characterized by an increase in court proceedings, which are subject to some of the aspects of mediation, in some jurisdictions.

The work also seeks to cope with allegations about the alleged international arbitration crisis, which, according to some authors, marks the onset of mediation as a new preferred way of dealing with international business disputes.

In conclusion, it deals with the issue of the so-called cultural card, ie the relationship between international mediation and the current regional transformation of international trade.

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In conclusion, it deals with the issue of the so-called cultural card, i.e. the relationship between international mediation and the current regional transformation of international trade.

KEYWORDS

International mediation - international trade - agreements resulting from mediation - irony of disputes - MED-ARB - voluntary fulfillment of mediation agreements - cultural card -

UNCITRAL