

Mediation in the Czech Republic

Abstract

This thesis follows mediation as one of the methods of alternative dispute resolutions in the Czech Republic. The adoption of Act No. 202/2012 Coll., on Mediation and Change of Some Laws, which set the conditions for the performance of mediation in noncriminal matters, represents an important milestone in the development of mediation in the territory of the Czech Republic. This thesis is focused on the mediation process; its main aim is to define the phases through which the mediation passes and also the rights and duties of the mediator, their characteristics and their theoretical basis.

This thesis is structured into an introduction, four chapters and a conclusion. The first chapter introduces the concepts of mediation and the parties of the conflict, the development of mediation abroad and in the Czech Republic, also defines the types of mediation and the areas of its application, with an emphasis on family mediation. This chapter is also devoted to the relationship between mediation and court proceedings. The end of the opening chapter offers a list of the advantages and the disadvantages of using mediation for settling conflicts, comparing mediation with court proceedings in some aspects and justifying why mediation can be a more attractive alternative for dispute resolution than the judicial solution. The next chapter analyses the fundamental principles which mediation is based upon. The third chapter discusses the person of the mediator, including his personal and qualifying prerequisites, rights and duties as well as the basic methods and techniques of his work. In this chapter, attention is also paid to the performance of the mediator and also the organization of mediation in the Czech Republic, focusing on the competence of the Ministry of Justice of the Czech Republic and the Czech Bar Association. At the same time, it presents the problematic aspects of this dualistic concept of competence.

The main part of this thesis, the fourth chapter, is focused on concrete mediation phases and the role of the mediator and the parties of the conflict in those phases. The pre-mediation phase, the following initiation of the mediation and its consequences are discussed. Further, it discusses the conclusion of a mediation agreement as one of the possibilities of ending the mediation and other reasons for ending mediation.

This thesis may serve potential interested persons in mediation who are not yet sufficiently familiar with the process of mediation, its effects, the relation to court proceedings and the benefits that mediation brings.