

Abstract

The thesis is focused on the topic of the Financial Arbitrator as an alternative dispute resolution body dealing with the disputes between financial institutions and their clients as well as the proceeding before it. Act No 229/2002 Coll., on financial arbitrator, as a special law adopted based on the requirements of the Directive 97/5/EC on Cross-Border Credit Transfers incorporated into the Czech legal system with effect from 2003 an institution, which is not by its nature and proceeding based on specific rules comparable to any other public authority in Czech republic. The aim of this thesis is to analyse the law identifying a status of the financial arbitrator including the process before it and on the basis of that facts subsequently assess, whether the adopted legislation enables to fulfil the requirements of the directives and if it genuine happens.

The content of the thesis is divided into 5 parts, where the first one introduces the institution of the financial arbitrator as for the reasons of its establishing and intended purposes to serve as a stepping stone for further considerations and at the same time seeks to define the status of the institution as it has been given by the legislators. This part is also focused on the building blocks enabling a proper functioning of any institution, namely the financial and human resources, including a short historical introduction.

The main passages constitute the second, third and fourth part dealing firstly with the rights or powers and obligations of the financial arbitrator and subsequently their realization particularly in the light of the proceeding. The second part is structured on a decision-making power regarding the subjective rights and obligations and the public ones afterwards. Secondly, the importance of focusing on this subdivision including a detailed description and proposals for the solution of the problems connected with a judicial review of financial arbitrator's decision-making practice is explained. In the light of the focus of the thesis, it includes also the chapter considering another national authority, which are, as well as the financial arbitrator is, competent to decide on the disputes resulting from insurance and also a delimitation of differences in their scope and proceedings. The conclusion of this chapter includes a description of the problems connected with the diversity of alternative dispute resolution bodies in the same field and possible measures. The third part is a polar opposite of the second part in both of the content and using a description mainly. It briefly dealt with three fields of obligations of the financial arbitrator.

The fourth part analyses the proceeding before the financial arbitrator, from its beginning until the end focusing on the specificities distinguishing this process from not only other

extrajudicial procedures, but also from the judicial trials. Regarding the derogations from generally applicable procedural principles, it is an intention of this part to, based on the knowledge acquired from the previous parts, define a purpose of different principles' existence and in the case of its unjustified existence to propose the amendment of legislation, which would be more in line with the nature of this proceeding.

While the rest of the thesis deals with the particular aspects of the financial arbitrator and the proceeding before it one by one, the fifth part summarizes the comprehensive and essential problems and proposes the solutions *de lege ferenda*. It uses the conclusions of the previous parts in order to suggest the way enabling a general change of what does not allow to fulfil the purposes of its existence the most.