

Alternative resolution of labour disputes

Abstract

This thesis discusses the issue of alternative dispute resolution methods in terms of suitability of their use in the context of individual labour disputes. Alternative dispute resolution methods typically represent a fast, informal, and less costly alternative to court litigation. In the field of individual labour law, they are expected to help maintain the employment relationships between employers and employees, which are characterized by their longevity.

The thesis provides a structured analysis of the applicability of alternative dispute resolution methods to disputes arising from individual employment relationships. Subsequently, the thesis focuses in more detail on mediation, which is regulated in act No. 202/2012 Coll., on mediation. The existing Czech legal framework is critically analysed and compared with foreign legislation and practice. Based on the findings acquired through legal and comparative analysis, new legislative measures and non-legislative tools are proposed. These include in particular proposals for the improvement of the expertise of registered mediators and its guarantees, for the extension of the legal duty of confidentiality, for adoption of new motivational and informational tools, and for the implementation of non-legislative activities aimed at promoting mediation as a suitable out-of-court alternative of resolving individual employment disputes.

The thesis is divided into six chapters. The first chapter describes the theoretical basis of the topic; it deals with the specificities of labour law, defines the legal concept of labour disputes and classifies them. The second chapter focuses more narrowly on the scope of individual employment disputes. Furthermore, it deals with the possibilities of their prevention and solution. The third chapter proceeds, thanks to the previously acquired knowledge, with a selection and closer analysis of those alternative dispute resolution methods that are most suitable for use in individual labour disputes.

The main focus then shifts to mediation, which is the sole topic of the fourth chapter. The fifth chapter reviews the experience with the use of alternative dispute resolution methods (once again with the focus on mediation) in foreign countries (France, Italy, Poland and the United Kingdom of Great Britain and Northern Ireland). Finally, the sixth and last chapter critically assesses the current Czech legislative framework for mediation and the knowledge obtained from foreign experiences with alternative dispute resolution methods is utilised as an illustrative source of possible legislative changes as well as non-legislative tools to increase the appeal and effectiveness of resolving individual labour disputes through mediation.

Key words:

alternative dispute resolution, individual labour disputes, mediation