

Summary, klíčová slova

1. The Role of Arbitrator in International Commercial Arbitration

The thriving growth of arbitration in recent years gave rise to many studies on commercial arbitration dealing among others with arbitrator's legal and moral obligations and the standards the arbitrator has to meet. The aim of this thesis is to analyze and describe the arbitrator in the environment of international commercial arbitration.

Arbitration is in many ways similar to litigation however one of the more obvious differences between litigation and arbitration is that in arbitration one may choose his own judge - the arbitrator. Indeed, the right to an impartial and independent judge also exists in arbitration. The mere fact, that the parties agree to settle their disputes outside the national courts does not deprive them of the protections universally recognized as a fundamental human right – the right to fair trial.

The thesis consists of six chapters concernig the position of arbitrator. It commences with the introduction on basic requirements laid upon the arbitrator in commercial arbitration supplemented with subchapter investigating the comparison of arbitrator and judge of national court. Since arbitrator fulfills the same task as a judge, it seems natural that he should follow the same code of behaviour as a judge. This is however tricky, because unlike judge, the arbitrator is engaged in occupations before, during and after serving as an arbitrator.

Next chapter concentrates on specific requirements laid upon the arbitrator either by law or agreement of parties and furthermore deals with the crucial requirements of impartiality and independence. Eventhough arbitration is a private form of adjudication, it is important that the final outcome of the proceedings be result of an impartial process. It is generally accepted and proven, that parties accept outcome of arbitration even if it runs against them, if they have the confidence that the award is a result of a fair trial conducted by impartial and independent arbitrator. Therefore the requirements of impartiality and independence are of crucial importance.

In connection with this, it is important that the parties pay enough attention to the choice of arbitrators. We have to bear in mind that the choice will not be unilateral, the parties must agree to the manner in which the tribunal is constituted. If parties fail to agree on this, they can rely either on rules defined by private institution or on law governing the proceedings. Different ways of appointment of arbitrators are dealt with in chapter 5.

Chapter 6 deals in detail with cases where the requirements set by the rule of fair trial are not met and therefore the arbitrator deciding case has to be removed. If a trust of parties is compromised either by action or inaction of arbitrators, the parties usually have the right to start a so called challenging procedure in order to remove arbitrator(s). The challenging procedure disrupts an ongoing arbitration because the focus of the parties and arbitrators is shifted from the object of dispute onto the tribunal itself. Therefore different ways of disqualification of arbitrator are discussed.

The purpose of this thesis was a comparison of approaches adopted in different legal rules and laws regarding the arbitrator. Since the NY agreement is one of the most successful international agreement in the history and the UNCITRAL Model Law is widely followed as a guideline for drafting new arbitration laws all around the world, the regulations of arbitral proceedings are highly unified. The main purpose of all regulations is to adhere to the standard of fair trial and offer private alternative for settling disputes. Ways to come to this end might slightly differ however, the required result is similar.

2. *Klíčová slova*

Rozhodčí řízení, rozhodce, nezávislost a nestrannost

Arbitration, arbitrator, independence and impartiality.