

Abstract

Legal Regulation of Mediation and International Arbitration Procedure in the Czech Republic and Argentina

The purpose of my thesis is to describe the legal regulations of mediation and international arbitration in the Czech Republic and Argentina, find the differences between these regulations, compare them and draw recommendations for the future development of these institutes in both countries.

The thesis begins with an introduction, where I outline the reasons that led me to choose the topic and write this thesis, the method used as well as the outcome that I intend to reach. Following the introduction, the thesis is divided into eight chapters.

The first chapter provides the reader with a general overview of basic concepts of mediation and arbitration. The chapter begins with an attempt to systematically class these two institutes. Subsequently, a characteristics of mediation as an ADR method and arbitration including the description of the four main theoretical concepts, is outlined. These concepts are not only crucial for understanding arbitration, but also, as the text shows further on, for legislative activity in this field. The last part of the chapter contains the advantages and disadvantages of arbitration, which explain the popularity of (international) arbitration.

The second chapter describes the legal regulation of mediation in the Czech Republic, including the development that led to the adoption of the new act on mediation. The chapter contains a description of the most important institutes described in the new act, while unaccepted propositions for the wording of the act were also included as they provide insight into why the act was accepted in its current form including the possible imperfections.

The third chapter is dedicated to the regulation of mediation in Argentina with a brief introduction to argentine constitutional law and the incompetence of the federal Congress in procedural law matter that it lays down. Further, the chapter deals with obligatory pre-trial mediation and some interesting provincial regulations.

The next chapter deals with the legal regulation of international arbitration in the Czech Republic. It opens with a brief description of development of arbitration on the territory of what today is our state and subsequently is divided into sub-chapters dealing with specific elements of international arbitration under Czech law.

Throughout the text, reference is made to relevant and interesting jurisprudence of both Czech and international courts, European law and international agreements. Where required, note is made of the changes brought by the new act on international private law. The following chapter on legal regulation in Argentina copies the structure of the preceding chapter and includes references to Argentine jurisprudence and relevant regional and international agreements.

The sixth chapter focuses on international legal regulations. The first sub-chapter enumerates some of the most well-known and most-respected foreign arbitration courts. The second one is focused solely on the development within MERCOSUR, the regional economic and political union that Argentina is a part of, describing dispute resolution between member states, member states and private persons, protection of investments and cooperation in procedural matters.

The pen-ultimate chapter is dedicated to investment protection, a topic that is shared by both countries and offers an introduction to bilateral investment treaties in general, then specifically with regard to the Czech Republic and Argentina and the investment disputes that have ensued, providing examples for both countries.

The final concluding chapter includes a comparison of the countries' respective legal regulations of mediation and international arbitration and offers suggestions *de lege ferenda*, where the author sees space to ameliorate the current legal regulation.