

ABSTRACT

The diploma thesis on Arbitration procedure within international business transactions focuses on the place of arbitration procedure and its relation to the national system of law. The first chapter is concerned with the dispute resolutions within international business transactions. The thesis characterises the alternative dispute resolutions and defines the term of arbitration procedure within international business transactions. The basic characteristics thereof are specified and the theories which attempt to explain nature of arbitration are described – contractual, jurisdictional, mixed and autonomy theory.

The term of the place of arbitration is defined in the second chapter as the real place situated in the territory of a particular state. This place is distinguished from the arbitration seat and from other terms which used to be confused with the place of arbitration. The arbitration seat is deemed to represent legal domicile of the arbitration. The system of law of the seat determines the legal regime of arbitration procedure. The thesis further describes two main theories dealing with the relation between the place of arbitration and the national system of law – seat theory and delocalization theory. The relation between the place of arbitration and the national system of law is also compared with respect to the theories of the nature of arbitration.

The legal framework for the regulation of arbitration procedure within international business transactions is constituted by international agreements, national systems of law and arbitration rules of arbitration courts. One of the chapters examines these legal documents and the regulations of the place of arbitration herein. The thesis mainly concerns with the regulation in the New York Convention and UNCITRAL Model law. The Czech system of law represents the systems of law. It is consequently analyses in details. The Arbitration Rules of the Arbitration Court of International Chamber in Paris and Arbitration Court of the Czech Chamber of Commerce and the Agricultural Chamber of the Czech Republic are also analysed.

The final chapter explains the difference between domestic, foreign, national and international arbitration. The place of arbitration is introduced as one of the most important element which is used for differentiation. Finally, the thesis answers whether the parties to the dispute arising from business transactions are under the Czech law allowed to influence the system of law applicable to the arbitration procedure by the choice of the place of arbitration.