

Abstract

The subject-matter of the present rigorous thesis is the legal regulation of mediation in the Czech law. The thesis focuses on the legal regulation of mediation in non-criminal cases. It is based on an analysis of the effective legal regulation and its comparison with foreign legislation on mediation on the territory of the Slovak Republic. It concludes that mediation in non-criminal cases can be performed even outside the mode of basic rules contained in Act No. 202/2012 Sb. (Coll.), on mediation and alterations to some acts (Mediation Act). Furthermore, it ascertains that the mediation process is generally regulated, mediation seeks solution to a dispute between any parties, specific requirements are imposed on the mediator, the undertaking of mediation is not a trade, the undertaking of mediation is subject to supervision, the initiation of the mediation process suspends limitation and lapse periods and that the use of mediation is encouraged.

On the basis of the analysis of effective legislation on mediation and its comparison with foreign legislation, several recommendations to alter the legislation were made, a recommendation that family mediation should be performed by specialized, registered mediators, a recommendation to omit the condition of lack of conviction for negligent crime as a pre-requisite for registration in the list of mediators, a recommendation to harmonize exams for mediators, to regulate the initiation of mediation in case of the correspondence method of mediation agreement conclusion, to extend the regulation of service to all documents sent by and between the registered mediator and parties to the dispute, to determine the enforcement of agreements resulting from mediation concluded before registered mediator, who is an attorney-at-law, to extend the obligation of secrecy to any person participating in the mediation process, and after Act No. 89/2012 Sb. (Coll.), Civil Code, becomes effective, to regulate the suspension of limitation and lapse periods directly in the Mediation Act, to enshrine further education of registered mediators in the stipulated scope, to regulate generally the activity of mediation centers and to determine the options of negotiating mediation clauses and the influence of withdrawal from agreement or invalidity of agreement on them if they are included in such agreement.