

Abstract

In the 20th century, Arbitration became one of the most widely utilized forms of dispute resolution in the field of international commerce. The use of Arbitration provides parties with more flexibility. This thesis examines one of the current trends in international arbitration – interim measures. Their purpose is to be able to react in situations when the proceedings are already pending or even before they actually commenced. They should significantly reduce the risk that the arbitral award may be frustrated or unenforceable. In these situations, it may be justifiable to interfere with parties' relationships.

The thesis is focused particularly on the jurisdiction of an arbitral tribunal to issue interim measures and on the role of national courts in this field. In terms of competence of arbitral tribunals, the legal basis of their jurisdiction and conditions necessary to issue interim measures are highlighted. In the case of the role of national courts, the thesis examines their ancillary function (interim measures issued by national courts) as well as their supervisory function (review of the interim measures issued by arbitral tribunals). The most important aspect is then the enforcement of interim measures. The very latest trend – emergency arbitrator proceedings – is not excluded.

The thesis is based on the comparison of UNCITRAL Model law, Swiss law as well as Czech legislation. The first of this triad includes the most comprehensive and elaborate arrangement. The Swiss law represents the legislation of the traditional arbitration seats. It is not as detailed as in the case of Model law, but interim measures issued by arbitrators are very well known there. The Czech law stands for a legal order, which reserves the power to issue interim measures solely for state courts. However, it may be very interesting to assess the opportunities which are thereby given to the arbitrators and to the parties.

Concerning the structure, the work consists of the following parts. After the overall introduction, explaining the very nature and purpose of this legal concept, a chapter addressing the legal framework is presented. The next part is devoted to the jurisdiction of arbitral tribunals and the material conditions for the issuance of interim measures. A self-standing chapter deals with the competences of national courts in this area. One of the most important parts in terms of each decision taken by arbitrators is the question of its review and enforcement by national authorities. These questions must be taken into account even during the decision making of the arbitral tribunal. Taking into account the development of this topic in recent years (specifically having in mind the opportunity to issue preliminary measures even before the constitution of the tribunal), the emergency arbitrator proceedings and analogical instruments cannot be omitted. The last part summarises the most important conclusions of the thesis.