

Abstract

This thesis is dedicated to mediation as an alternative dispute resolution method and as a possibility to prevent long lasting court disputes which occur more than necessary. The aim of this thesis is to point out the advantages of mediation and the possibilities of its wider implementation in Czech Republic, while comparing with the Australian system, where mediation is widely used. The thesis is separated into six parts.

The first part is focused on a brief introduction of some ADR methods, in particular renegotiation, mediation, pre-arbitration settlement methods, arbitration and hybrid ADR methods. Furthermore, this part focuses on the history of mediation around the world and in the Czech Republic. The end of the first part focuses on a detail analysis of various forms of mediation based on several criteria of division.

The second part compares mediation to court proceedings from three different points of view. These are the ability of each method to fulfil the aims and needs of the parties, the aspects of the dispute and of the parties which affect the suitability of each method and lastly the ability of each method to eliminate the barriers to an effective resolution of the dispute.

In the third part the author focuses on the role of the mediator, the organisation of mediation in the Czech Republic and the psychological aspect of a mediator's work.

The fourth part consists of an analysis of the mediation process and its individual phases.

The fifth part focuses on mediation on the European and international level, in particular on the directive of the European Parliament and Council 2008/52/EC on certain aspects of mediation in civil and commercial matters and further on the mediation rules of selected international institutions.

The last part is dedicated to the development of mediation in Australia, where mediation is used on a much larger scale than in Czech Republic. Further, this part focuses on current Australian rules of accreditation for mediators and conditions for exercising mediation with the aim to compare this system with the Czech one. In the end of this thesis the author considers the possible influences on the development of mediation in the Czech Republic.