

INSTITUTIONAL ARBITRATION

Summary

As diverse the disputes arising in everyday life are, so different are the methods developed over the time to settle them, ranging from methods of alternative dispute resolution to arbitration and court proceedings. In recent years an increasing number of disputes resolved in arbitration and the fact that arbitration is being used to settle not only international and property disputes, gave rise to many studies on arbitration dealing among others with institutional arbitration.

The purpose of my thesis is to analyse arbitration, concentrating on arbitration offered by arbitration institutions in contrast to ad hoc arbitration and arbitration before so called “arbitration centres”, as the number of them keeps growing in the Czech Republic and in many cases they confusingly appeal to a laic person to represent a permanent arbitration institution.

The thesis is divided into five chapters, each of them dealing with different aspects of arbitration. Arbitration is being defined as a legal technique for the resolution of disputes outside the courts, wherein the parties to a dispute refer it to one or more persons (the arbitrators, or arbitral tribunal), by whose decision (the award) they agree to be bound. It is a settlement technique in which a third party reviews the case and imposes a decision that is legally binding for both sides.

My thesis commences with chapter discussing the methods of alternative dispute resolution, as negotiations, mediation and conciliation, mini-trial, expertise, med/arb and medaloo. They constitute, based on an opinion of the most Czech authors, an alternative not only to court proceedings, but to arbitration proceedings, too. The most substantial differences between ADR and arbitration rest in the role that the third impartial person plays, in the extent of regulation formality of particular method of dispute resolution and in the binding force of decision.

The next chapter is subdivided into four parts. As the tradition of arbitration is dated back to the ancient Rome, the first part illustrates the history and development of arbitration. Despite the fact, based on the opinions of number of authorities, that arbitration is elder than the civil court proceedings, its prime occurred during the last

century and a bitter paradox is, that both devastating world wars were significant stimulations to its development. In the post-war era first international arbitration centres were founded, many important multilateral agreements on arbitration were concluded, among others also the New York convention that, as one of the most successful international agreement in history, constitutes the cornerstone of present international arbitration. Part two refers to four different theories (contractual, judicial, mixed and autonomous theory) on the legal nature of arbitration. In the third part there are highlighted the advantages of arbitration in comparison to court proceedings and in the last part of this chapter different forms of arbitration are described (institutional vs. ad hoc; permanent arbitration centres with general sphere of authority vs. those institutions with specific scope of authority; obligatory vs. compulsory arbitration).

Chapter No. 3 provides an outline of relevant national legislation, supplemented with international and EU legal regulations.

As the title of my thesis suggests, it is focused on proceedings held before arbitration institutions and that is why, one whole chapter of the thesis addresses the three Czech arbitration institutions together with the world's oldest and most widely known international arbitration centres.

In the last chapter of my thesis, a detailed analysis of arbitration proceedings based on comparison of proceedings before the most important Czech arbitration institution, the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic, and one of the world most prestigious arbitration courts, the International Arbitration Court of the Economic Chamber of Austria, is provided.

Klíčová slova

arbitration	rozhodčí řízení
institution, institutional	instituce, institucionální
arbitration court	rozhodčí soud