

## **Abstract**

### **Significance of family mediation in the resolution of legal conflicts in a family**

The purpose of my thesis is to analyse the issue of family mediation. Family mediation which is a form of Alternative Dispute Resolution (ADR) could be defined as a structured process in which family members agree to appoint a neutral third party (the mediator) who assists them to find a mutually satisfactory solution to their problem based on their own decisions. The mediator must be impartial, their role is to encourage communication between the parties but has no authority to make any substantial suggestions or decisions with regard to the parties' issues. The mediation process is voluntary and confidential.

One of the reasons why I chose this topic is my belief that family mediation can be in many cases a more suitable way to solve family conflicts than litigation. In many foreign countries (especially western European countries, the USA and Canada) mediation has a long history and is used frequently to solve conflicts that relate to separation, divorce, custody, financial questions in family etc. In the Czech Republic, however, family mediation has not been developed very well and I find this situation unfavorable. Recently there has been lots of discussion concerning the draft law on mediation. It could bring some positive changes if passed.

The thesis is composed of five chapters. The first chapter looks at family, the relationships between the family members and the specific nature of family conflicts. The second chapter deals with mediation in general. I focus on the individual stages of the mediation process; I specify the main principles of mediation and the role of the mediator. The third chapter deals specifically with family mediation, and I explain for which particular conflicts this method is appropriate. In the fourth chapter I focus on the most important international documents that address family mediation, especially on the Recommendation No. R (98) 1 of the Committee of Ministers of the Council of Europe to member states on family mediation and then on the Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. The fifth chapter pertains to family mediation in the Czech Republic. I shortly describe its history and then take a closer look at the present legal provisions that relate to family mediation. I also discuss some other instruments that can be used to solve family disputes in an "amicable" manner. After that I concentrate on the draft law on mediation that is now being debated within the Parliament of the Czech Republic. I conclude that the current legislation in the Czech Republic is not satisfactory and I make considerations *de lege ferenda*.