Summary

The diploma thesis deals with domestic arbitration proceedings in the Czech Republic. The topic has been chosen by the author because the arbitration could have a big potential as it is a mechanism which is well adaptable to individual needs of parties. During last few years it has became evident that the arbitration is being abused by some subjects and the substantive law protection of some subject is circumvented by arbitration. Thus, the reputation of arbitration has been damaged. The aim of the thesis is to examine eventual limits of application of domestic arbitration, the possibilities of abusing it and law tools aiming to protect against the abusing.

In the introduction the author's opinion is introduced stating why the domestic arbitration is different from international arbitration. The author notes that the traditional mechanism of domestic dispute resolution is court proceedings. The same could not be said about international dispute resolution. Furthermore, the author argues that in international relations there is applied wider autonomy of will of the parties than in domestic relations. Also the bodies acting in international arbitration have significantly better reputation and credibility. There are also not differences between various law orders in domestic relations and the consumer disputes are often in stake.

The thesis shows other mechanisms for resolution of domestic disputes and it is concluded that there is a lack of such mechanisms in the Czech Republic. Consequently such disputes are being resolved by arbitration in the Czech Republic that are being resolved by other mechanisms in other countries. The thesis also deals with the history of domestic arbitration and shows the change of case law in last years. In this regards the abusing of arbitration proceedings connected with existence of so called arbitrational centres and with consumer disputes is mentioned.

In the core part of the thesis it is dealt with particular aspects of arbitration that could be connected with abusing it. The author discussed those aspects with regards to the legislative change which is effective from April 1, 2012. Firstly a new requirement to conclude the pre-dispute arbitration agreement on a separate list of paper and essentials of such agreement are discussed. Then a requirement on arbitrators to be educated in law is

examined. Author considers such requirement to be unconceptual. Following a mechanism aiming to protect against deciding of biased arbitrator is examined. Author considers the mechanism to be ineffectual. Author also points to the problem of unlimited possibility for arbitrators not to accept the role of arbitrator. Author then deals with the issue whether arbitrators in consumer disputes could only decide the disputes in accordance with substantive law. Author answers in negative and points out that considerations other than substantive law are also applicable. Consequently the possibility of material revision of arbitral award by court is examined. Author considers such revision generally undesirable but legitimate with regards to the abusing of arbitration. Also the consequences of striking down the arbitral award are examined as they seem to be unclear. At last but not least this part deals with the possibility to eliminate arbitrators from the list of arbitrators administered by Justice Department as a consequence of misapplication of consumer law. According to the author such possibility *de lege lata* exists and the author considers such possibility as crucial for positive future development of domestic arbitration not only regarding consumer disputes. Apart from the above mentioned some other problems are examined such as criminal liability and protection of arbitrators, costs of arbitration and differences between status of permanent arbitration tribunals and arbitrational centres.

Next part provides an excurse into English arbitration and dispute resolution law. Author considers arbitration in England to be operating without problems. This is mainly because existence of other effective mechanisms for dispute resolution which are more suitable for some types of disputes than arbitration is.

The last part provides author's considerations *de lege ferenda* about domestic arbitration in the Czech Republic. Author highlights mainly necessity of better information disclosure in order to enable informed choice. Author proposes particular changes whose purpose is better protection of rights in arbitration. Such changes according to author create limits of applicability of domestic arbitration. Examining of such limits has been stated as one of the main goals of the thesis. Author in this part highlights that future domestic arbitration law should depend on extend of abusing it. If it would appear that domestic arbitration would be abused, even stricter limitation of arbitration would be desirable. Contrary, if it would be proven that the abusing has came to the end it would be desirable to examine some mechanisms aiming to protection in order to subordinate the arbitration to wider autonomy of will which is its core principle.

At the end author concludes that there are some problems concerning domestic arbitration in the Czech Republic. According to author, such problems are result of mutual law for domestic and international arbitration, of lack of other effective dispute resolution mechanisms and of abusing of wide autonomy of will applied by some parties. With regards to these problems it is, according to author, now impossible to apply almost absolute autonomy of will in domestic arbitration as opposed to international arbitration. Some limits of applicability of domestic arbitration are thus acceptable and desirable. Author ends with wording his wish that law and practice of domestic arbitration in the Czech Republic would become so credible that it will be possible to re-subordinate domestic arbitration to wider autonomy of will. If it would happen, the arbitration would preserve one of its biggest advantages which is the adaptability to individual needs of parties.