

ABSTRACT

Arbitration and mediation belong to the popular methods used for the international commercial disputes. In the diploma thesis, the author mainly describes the combinations of the processes, focusing on the med-arb with one neutral.

Med-arb is considered by the academics to be a controversial method. Since the topic is examined in the context of international commercial disputes, the author analyses not only the Czech law but also foreign jurisdiction and rules of the international organisations. She also refers to recently published researches, such as the International Arbitration Survey 2018 safeguarded by Queen Mary University or the reports of the Herbert Smith Freehills, Pricewaterhouse Coopers and International Mediation Institute.

In the first chapters of the thesis, the author describes the individual ADR methods and their combination. The second and third chapter focuses on positives and negatives connected with the method. The effectivity of the process, flexibility, possible loss of impartiality of med-arbiter and conflict of interest are discussed. Following this information, the author presents in the fourth chapter how to work with med-arb in order to eliminate the negative aspects. She gives the attention to the demands on the mediator and arbitrator which the med-arbitrator has to combine. She raises the problematic of the suitable disputes for this method. Furthermore, she talks about the issue of an informed consent. In the last chapter of the thesis, the author anatomises different approaches of the international organisation and foreign jurisdictions to med-arb. She also provides an analysis of the feasibility of the med-arb in Czech legal area, while the ICC Rules are applied.

The author is identified with the idea of adaptive dispute resolution method. The ADR techniques serve as a portfolio which can be used by parties and their legal counsels for the creation of an individualised process which would suit the specific situation the most.