

Resolution of consumer disputes from insurance with focus on comparison of judicial and selected alternative dispute resolution methods

Abstract

The diploma thesis focuses on comparing judicial and alternative dispute resolution methods of resolving consumer disputes from insurance. Financial arbitration and the proceeding held by Office of the Ombudsman of the Czech Insurance Association were selected as alternative dispute resolution methods.

The author characterizes these institutions and the court as the guarantor of the constitutionally guaranteed right to judicial protection. Furthermore, the work analyzes judicial and selected alternative dispute resolution methods in insurance disputes, with the consumer on one side, and on the other side, the insurance company or insurance intermediary. The individual proceedings before the selected institutions and the court are primarily analyzed from the perspective of the participants, especially consumers.

The work is divided into four chapters, structured as follows:

The first chapter defines key terms such as insurance, insurance contract and its parties, as well as other persons and entities involved in the contractual relationship, entrepreneur, consumers, and consumer disputes related to insurance. The chapter concludes with a brief typology of consumer disputes from insurance.

The second chapter introduces the framework for resolving insurance disputes. The most relevant provisions of the constitution are analyzed, and the mentioned institutions are outlined within the legal system and dispute resolution system.

The third chapter presents, analyzes, and briefly compares the principles of proceedings followed by selected institutions in the dispute resolution process. Emphasis is placed on the similarities between court and financial arbitration proceedings and their differences from the principles of alternative dispute resolution followed by the Office of the Ombudsman of the Czech Insurance Association.

The fourth chapter is crucial to the work and is divided into six subchapters examining and comparing selected aspects of resolving consumer disputes from insurance through judicial and extrajudicial means. This chapter predominantly employs the method of analyzing applicable legal regulations, relevant case law, and other sources related to the selected aspects of dispute resolution, followed by a synthesis of findings. Attention is given to aspects that may

be crucial for consumers when deciding whether to resolve a dispute judicially or extrajudicially.

The first subchapter compares possible ways to initiate dispute resolution, with a closer look at the proposal, its requirements, possible methods of submission, and its effects.

The second subchapter addresses the issue of participation, particularly examining access to selected institutions for resolving consumer disputes from insurance.

The third subchapter focuses on aspects throughout the dispute resolution process, namely legal aid, the speed of dispute resolution, and the language in which dispute resolution occurs.

The fourth subchapter examines the course of the compared methods of resolving consumer disputes from insurance, with an emphasis on the form and nature of proceedings and the effort to guide parties toward an amicable resolution.

The fifth subchapter focuses on establishing the facts within the selected methods of dispute resolution, especially concerning the responsibility of parties to prove their claims and associated procedural obligations. Emphasis is also placed on the differences in the nature and role of evidence in proceedings before the court and financial arbitrator on one side and the information provided for proceedings before the Office of the Ombudsman of the Czech Insurance Association on the other.

The last sixth subchapter focuses on concluding disputes with a description and comparison of various forms of decisions, emphasizing aspects of their binding nature.

Key words: consumer, disputes, insurance