

## **THE PERSPECTIVES OF MEDIATION IN CIVIL MATTERS**

Mediation belongs to the methods of alternative dispute resolution (ADR), which constitute an alternative to the classical legal proceeding. It could be defined as a procedure of finding a solution of a dispute with the help of a third neutral and impartial person – so called mediator. In opposite to the legal proceeding in front of a court, the solution is not authoritatively decided by the mediator, but the parties themselves decide their dispute. Mediation is based on voluntariness. It means that the parties should agree on the procedure of mediation as well as on the personality of the mediator. The role of the mediator consists in encouraging the communication between the parties and in showing them, that their conflict has many ways how it could be solved.

Mediation is an actual topic in discussions on international, European as well as on national level. The European Union maintains the development of alternative dispute resolutions. A Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters obligates the member states to transform the regulation on mediation in cross-border disputes into their legal order. In my opinion mediation should be regulated by law also in national cases without the cross-border aspect.

The thesis is based on a comparison of the legal regulation of mediation in Germany, Austria and Slovakia. The historical development brought about, that the Czech legal system is based on Roman law and has other common elements with these countries. That is the reason, why I think that the Austrian, German or Slovakian regulation could be inspiration for the Czech one.

The aim of this thesis is to show that mediation is an important part of the legal system, as it comprises many legal aspects. The Czech Ministry of Justice prepares a proposal of law on mediation in non-criminal matters. I tried to assess the proposal and draw the attention to its pro and cons.

In consideration of all pros and cons of the institute of mediation, I am convinced it plays an important role in modern legal system.

Mediation

Alternative Dispute Resolution