

Abstract

This Dissertation is focused on issues concerning the position of an expert in international arbitration proceedings and in international investment disputes. Unlike proceedings conducted before general courts of law, arbitration proceedings have a number of advantages, and therefore they are used very often to resolve disputes in this area, and arbitration proceedings are used almost exclusively with regard to resolution of disputes relating to international investments. The aim of the Dissertation was an analysis of dispute resolution in arbitration proceedings from the expert's point of view and the expert's position in this procedure. It is without any doubt that experts can help arbitrators to reach a qualified resolution of disputes in a significant way.

At first, the Dissertation deals with general and historical issues, such as comparison of methods of dispute solution where an international element appears, in both arbitration and judicial proceedings, and it lists the advantages of arbitration proceedings as well. After specification of the term "expert", the Dissertation provides a view into the expert's profession history in the territory of our country and into its legal regulation. With regard to our membership in the European Union it is, of course, necessary for the Dissertation to provide a view of legal regulation of the expert's profession in legislation of the European Union. In this context it is stated that at present this area is not unified by any regulations, but through appropriate directives which are dealt with in the Dissertation in a detailed way.

This is followed by an analysis of the expert's profession for the area of arbitration proceedings; beginning with the Czech legal regulations and legal regimes used in selected 24 countries, up to arbitration rules of international organisations (especially UNCITRAL) and selected arbitration tribunals. In this regard it is understandable that attention is paid also to the Rules of Procedure of the Arbitration Court at the Economic Chamber of the Czech Republic and Agrarian Chamber of the Czech Republic. If individual regimes are compared, it is possible to see that the arbitrator's position regulation is different at both the national and international levels.

Chapter Ten then deals with the expert's position in arbitration proceedings, beginning with their appointment and requirements determined for performance of the expert's function, scope of the expert's task and evidence value of the expert's opinion.

It is then up to arbitrators to decide in what way they will work with evidence, whether they require a written expert's opinion only or if they require also examination of the expert regarding

questions of the parties concerned.

The last Chapter is fully focused on the issues of experts in international investment disputes. The analysis of dispute solution regimes in 79 bilateral treaties on protection and support of investments is followed by an analysis of the existing situation in the European Union, when cancellation of these treaties may lead even to a situation when foreign investors could only exercise their claims from the investment at a court of the country where the investment in question has been implemented. The conclusion of that Chapter is focused on valuation of claims of foreign investors.

From the expert's point of view it is necessary to draw attention to the diversity of legal regulations and documents governing the expert's position and activity in the examined areas and the need of certain minimum unification, at both international and European levels.