

Abstract

The purpose of this thesis is to present the main features of out-of-court dispute resolution (alternative dispute resolution) with mediation in civil and commercial issues under Directive No. 2008/52/EC, Act No. 202/2012 Coll., on Mediation and Change Some Laws („Mediation Act“), and Spanish Act No. 5/2012 on Mediation in Civil and Commercial Matters. The thesis purpose is definition of ADR and types of ADR, mediation and its relationship with international law and legislation in the Czech Republic and Spain.

The thesis is divided into five basic chapters. The first chapter explains the term ADR and its advantages and disadvantages, its methods, such as mediation, arbitration, early neutral evaluation, conciliation, minitrial, expert determination and ombudsman. The thesis also explains some hybrid methods of ADR, such as med-arb and arb-med.

The second chapter is devoted to the mediation. It refers to the term, the history and the development, the major principles, the forms, the person of mediator, his role, the appointment, the choice, the obligations of impartiality, the independence and the duty of confidentiality, as well as the role of the lawyer in mediation, the ethics in mediation, the costs of mediation and the process of mediation from the point of view of the particular phases.

In the third chapter there is described the mediation with international element. There are explained terms such as the residence, permanent residence and the seat. The chapter deals with the issue of law in the international issues and institutional mediation.

The fourth chapter is devoted to the law revision of mediation in the Czech Republic from the point of view of its historical development and the current state executed by the mediation law. This chapter also contains the description of European legislation of the mediation, it is represented by the Directive of EP and Council no. 2008/52/ES and the report about its fulfillment in member countries of EU.

In the last chapter, the fifth chapter it is clarified and analyzed the revision of the mediation in Spanish kingdom. In the last part of this chapter is also included comparison of spanish legislation of the mediation with Czech law of this issue.