

Alternative Settlements of Business Disputes

Dr. Rok Lampe, Associate Professor
GEA College of Entrepreneurship
Ljubljana, Slovenia

Abstract

Commercial disputes represent an inevitable business risk of economic operators, so they must take commercial disputes into consideration already at the time of their conclusion of transactions or commercial contracts. They must develop an efficient system of commercial dispute settlement where they can select judicial or out-of-court procedures or alternative commercial dispute settlements. Two types of out-of-court dispute settlements are known: alternative dispute settlement outside court and alternative dispute settlement joined to the court. The subject of this production thesis is the out-of-court or alternative forms of commercial dispute settlement in the sense of procedures which are separated from the regular court proceedings, no matter whether they are performed out-of-court or in court. Although there is a special type of regular court proceedings for commercial dispute settlements, alternative forms are more suitable. This is the way of solving commercial disputes without the decision of the court and they can be voluntary or obligatory. Arbitration is due to its characteristics closer to judgment procedures. Among the alternative forms of dispute resolutions are mediation, conciliation, settlement conference, summary jury trial, early neutral evaluation, obligatory non-binding arbitration, rent-a-judge, Michigan mediation, mini trial, neutral listener, alternative on-line dispute resolution, and others. In this production thesis, the comparison of several forms of alternative commercial dispute resolutions is presented with their advantages and disadvantages in theory and practice, together with the presentation of two concrete commercial disputes. Alternative methods are defined as a primary form of commercial dispute settlement. The evaluation is that the most suitable method for commercial dispute settlements is the method of dispute settlement mediation-arbitration. Economic operators should be encouraged to use alternative commercial dispute resolutions, so that mutually satisfactory solution is going to become a value in the economy. The solution is in the obligatory use of alternative commercial dispute resolution and in the correct approach of economic operators.