



August 2012

Mediation Act

On 1 September 2012, **Act No. 202/2012 Coll., the Mediation Act**, becomes effective. By this act, in Czech law the mediation is introduced, i.e. **a voluntary out-of-court method for resolving conflicts** between parties mediated by a neutral mediator, who supports communication between the parties in dispute in order to assist them to reach an amicable resolution of their dispute by conclusion of so called mediation agreement acceptable to both parties.

The advantage of the mediation is that it saves time and costs, creates space for future cooperation of the parties in dispute and keeps the confidential information only among the involved parties. A dispute can be solved by the mediation in **commercial** as well as in **civil and family matters**.

As a mediator can newly act only a person registered on the list of mediators kept by the Ministry of Justice. Integrity, legal capacity, university degree and passing of the special mediator exam are the prerequisites for entry on the list.

The mediation commences by conclusion of the contract on performance of mediation. Such contract has to contain identification of the parties and the mediator, identification of the issues or matters in dispute, the length of the mediation and the amount of the remuneration of mediator for performed mediation.

A very **important consequence of commencement of the mediation is the suspension of the time of negative prescription and lapse of right** – from the conclusion of the contract on performance of mediation to termination of the mediation, the periods of negative prescription do not run and the parties therefore do not have to be afraid of losing the opportunity to bring their claims to the ordinary courts.

In case that both parties reach a mutually acceptable agreement on resolution of the dispute, a so called **mediation agreement** between the parties in dispute is concluded. The mediation agreement itself is not an enforceable execution title; however, it is possible to conclude it in the form of an enforceable notarial deed or in the form of a settlement approved by the court.

If the parties do not use the opportunity to resolve their dispute via mediation and one of the parties files a lawsuit with the ordinary court, the **court may**, if the court finds it purposeful and appropriate, **order the parties to attend a first meeting with a registered mediator in the scope of 3 hours** and suspend the proceedings, however for 3 months at the longest. The costs of the meeting with the mediator are borne by the parties equally. At the proposal of one party and with the consent of both parties, the court can anytime suspend also already pending proceedings for the purpose of performance of mediation.