

Breach of evidence rules and its consequences for the effectiveness of evidence

Abstract

The aim of this diploma thesis is to provide a complex overview of the issue of the legality of evidence in the Czech criminal proceedings. The consideration of the legality of the evidence is viewed as a criterion for evaluation of the evidence. As a result of such criteria, there is a legal consequence - the effectiveness of the evidence, that can be absolute and relative. The diploma thesis consists of 8 chapters, including the introduction and conclusion. The first three chapters are general in nature, and they aim to provide an overview of the rules of evidence and point out mistakes of the lawmakers and inadequacy of the case law in these procedural aspects. I first introduce the terminology. The following chapter is devoted to basic principles that are applied in the rules of evidence. I consider them to be very important as these must be followed in order for the evidence process to be considered lawful. Chapter 4 deals with the introduction of individual phases of the criminal proceedings.

Next 2 chapters (chapter 5 and 6) are the core of the thesis as they analyze the legality of the evidence and the criteria used to determine such legality. Next, the effectiveness and nullity is analyzed also in the context of absolute and relative. I focus mainly on the absolute nullity, where I discuss the particular forms of evidence and grave failure to comply with the legal procedure that is subject to the Czech case law, which rules an absolute nullity of the evidence.

The final chapter of my diploma thesis is devoted to a short description of the situation in the USA, the homeland of the doctrine “Fruit of the poisonous tree”, which is also discussed in the thesis. The conclusion of the thesis describes my views on the provisions *de lege lata* and *de lege ferenda*, where I offer my insights and ideas on how to improve the current legislature and make up for the inadequacy of the current case law.