

Evidence in administrative proceedings

Abstract

This diploma thesis deals with the taking of evidence in administrative proceedings, the aim of which is to refute or confirm a decisive fact. Administrative proceedings do not constitute a unified process; they are a diverse range of different types of proceedings rolled into one, in which the taking of evidence may be regulated in different ways. As a rule, general and special administrative proceedings are distinguished. The taking of evidence is considered to be an essential part of the administrative proceedings, but not obligatory one. In some types of proceedings, the taking of evidence is, in principle, excluded, while in others it may play an essential part. The diploma thesis is structured into five parts. The first part of the thesis defines the basic concepts appearing in the process of taking of evidence, as well as the historical development of anchoring the process of taking of evidence in the legal regulations of the Czech Republic since 1928. The next part deals with the principles that apply to the taking of evidence, be it the basic principles of action of administrative bodies or the principles of administrative proceedings themselves. The third part of the thesis deals with general administrative proceedings as regulated by Act No. 500/2004 Coll, Code of Administrative Procedure, as amended, while highlighting certain deviations in the taking of evidence based on special provisions applicable to certain proceedings, as found in Part Three, Title Four of the Code of

Administrative Procedure. The fourth part deals with the taking of evidence where a decision of a first- or second-degree administrative body is cancelled within the administrative proceedings concerned. It is essential for the administrative body that the legal opinion expressed in the judgment of the administrative court is binding on it, also in terms of the taking of evidence conducted by the court, which the administrative body has to consider prior to taking a new decision. This part also briefly discusses the exceptions to the binding character of the legal opinion of the administrative court on the administrative body and the formal binding force of the case-law. The last part of the thesis deals with special administrative proceedings, i.e. administrative infractions proceedings, not long ago subjected to a new legal regulation. In the context of these proceedings, deviations from the general administrative proceedings are also apparent in the process of taking evidence, which is mainly due to the specific nature of this type of proceedings.