

# **The consequences of breaching the rules on evidence for the effectiveness of the evidence**

## **Abstract**

This diploma thesis deals with the issue of ineffectiveness of evidence in connection with the violation of rules on evidence. One of the two main goals of this work was to acquaint the reader with the issue, especially with the help of analysis of current legislation, the views of leading experts in criminal science and also a rich case law of the courts. The second main goal was to propose *a de lege ferenda* solution that could contribute to solving the most pressing problems of the current legislation.

The diploma thesis is divided into six parts, including the introduction and conclusion. The first chapter provides the reader with a theoretical basis for easier understanding of this issue. It explains the basic terminology occurring in the field of evidence and the basic sources of law that will accompany the reader throughout the thesis are introduced. There is also a detailed explanation of the basic principles of criminal proceedings concerning the evidence as whole. In addition, at the end of this chapter, the stages of criminal proceedings are mentioned with a brief description of their specifics with a regard to the evidence in these specific sections.

The second chapter is devoted to the concepts of admissibility, legality and effectiveness of evidence. The criteria of illegality created by Repík are mentioned along with a case law dealing with the absolute ineffectiveness of evidence in criminal proceedings.

The third chapter partially introduces the reader to the judicial practice in the United States, as the entire chapter is devoted to the doctrine of the fruits of a poisonous tree. The basic thesis of this doctrine is the inadmissibility of evidence in criminal proceedings if the information about its existence was obtained illegally. Even in this chapter the view of Czech criminal law doctrine and the case law of the Czech general courts is not forgotten. Neither the findings of the Constitutional Court will go unnoticed here.

In the fourth chapter, the author provides a partial view of the European Court of Human Rights on the effectiveness of evidence in criminal proceedings, with a regard to the general prohibition of torture and the right to a fair trial. A total of five decisions are described here: Gäfgen v. Germany, Jalloh v. Germany, Prade v. Germany, Ibrahim and others v. The United Kingdom, and the youngest decision Ćwik v. Poland.

In the final chapter, the fundamental shortcomings of the Czech legislation are described and the author proposes a solution *de lege ferenda*, that is made with a regard to the planned recodification of the criminal process.

**Keywords:** ineffectiveness of evidence, evidence in criminal proceedings, doctrine of the fruit of a poisonous tree