

## **Gathering of evidence in misdemeanor proceedings**

### **Abstract**

This thesis discusses gathering evidence to issue a decision in a misdemeanor proceeding. It describes this agenda of administrative authorities across the public administration in a broad context. The thesis is divided into five chapters. The first chapter summarises the basic principles of the work of administrative authorities and the principles that govern the process of gathering evidence. The second chapter focuses on the interpretation of different types of evidence. It is important to note that there are not only the evidence that are directly listed in the Administrative Code and the Misdemeanors Proceedings Code thereon (i.e. evidence by deed, questioning of the accused, witness testimony, inspection, and expert opinion), but also other types of evidence that are common in misdemeanor proceedings but are not directly regulated by the Administrative Code. Therefore, the thesis focuses on the use of the inspection report as a basis for a decision, evidence using CCTV footage or publicly available sources from the Internet, or the use of documents from criminal proceedings in misdemeanor proceedings and other institutes. The third chapter deals with the procedure prior to the initiation of regular proceedings. It is not uncommon in misdemeanor proceedings for the administrative authority to gather all the evidence before the proceedings are initiated, especially when it is decided by the order (as a form of decision). The fourth chapter briefly discusses the right of a defendant to comment on the evidence. The last chapter is devoted to one specific area, namely the gathering of evidence by the Authority for the Protection of Competition. The Competition Act provides the Authority with several effective investigative tools, including the power to request business records from a competitor or the possibility to conduct an unannounced on-site investigation at the competitor's business premises (so called "dawn raids"). The 2023 amendment to the Competition Act added to these tools the possibility to use wiretaps and surveillance records obtained by law enforcement agencies. This is a very powerful institution which, given the relatively short time since its enactment, has not yet been significantly clarified by the practice and case law.

Keywords: misdemeanor, misdemeanor proceedings, evidence, basis for the decision