

SUMMARY

Various problems which relate to the obligation of assertion and obligation of evidence and corresponding burden of assertion and burden of evidence and activity of a court connected with them are the topic of my diploma thesis. The first part concentrates on the definitions of basic terms, which appear in the field of evidence, for example the evidence as a complex process, the subject of evidence, means of evidence and also key terms as burden of assertion and burden of evidence.

The next part of the thesis is focused on the description of the institute, which was introduced to the legal system in 2009 and the aim of which is to make civil procedure faster and more effective. This institute is the concentration of the procedure, principle of which is to bring about the state of termination of facts and evidence, which means that parties of the civil procedure are allowed to present facts important for the decision of the court and evidence connected with them only until a certain moment, if they present them later, they will not be relevant for the court. In the present, the parties are obligated to fulfill these obligations until the end of the preliminary procedure happens, respectively until the end of the first procedure in front of the court happens or when the parties are given an additional period, they are allowed to present the facts and evidence until the end of this period. The institute of so-called “qualified appeal” is connected with the concentration of the legal civil procedure. The court has the opportunity to use this institute to gain a written statement of a defendant under the conditions specified in the law and in case that the defendant fails to write such statement in time, the law describes serious consequence for the defendant, which is a recognition judgment. The preliminary procedure is described in details and also exceptions of the legal procedure concentration are mentioned in this part.

The topic of an instructing obligation of the court is closely related to the procedure concentration. With regard to the serious consequences of the concentration of the procedure for the parties, it is necessary that the parties are informed properly, in time and for several times. The present legal system imposes a duty on the court to inform the parties about their procedural rights and responsibilities and the court is also obliged under specific conditions to state its legal point of view of the case in terms of important facts and evidence, which means that the court is obligated to inform the parties about their substantive rights and responsibilities. This obligation has been stated in the law since the year 2000 and various cases in which the court has the obligation to provide the parties with the necessary

instructions are described in this part. There is a possibility that the court fails to give proper information to the parties and these cases and consequences are specified at the end.

The last part of the thesis describes appellate procedure, its principles and the range and conditions under which it is admissible to state new facts and evidence in the appellate procedure. Besides, this part concentrates on the way the court is allowed or is obligated to complete or repeat evidence.

There is some space in each part to mention the judicature concerning relevant topics, presentation of various opinions expressed by authors of expert publications and also some law gaps including suggestions of their possible solutions.