

Abstract

The object of this master's degree thesis is to present a view of the evidence in civil proceedings. The document concerns the process of evidencing from both theoretical and practical point of view as it provides factual and material information which is crucial for the meritory decision of a court.

The thesis is divided into three main chapters. There is also an introductory part situated in the very beginning of the paper which concerns the main reasons why the author chose this particular topic and describes overall importance for society. Furthermore, the thesis is ammended by a conclusion at the end of the paper. It comprises a subjective evaluation of the current legal basis and proposes possibilities of improvement of the Czech Civil Procedure Code.

The first chapter focuses on the general description of the process of evidencing. It provides a legal definition of the concept of evidencing in connection with an explanation of other basic terms such as the subject of evidence, principles of evidence, a legal concentration etc. The role of the court, its main tasks and the level of maximum permitted initiative in civil proceedings are also taken into account.

The second chapter concentrates on procedural obligations of the parties to litigation. Legislature imposes a certain procedural behaviour on a plaintiff or defendant. There are particularly defined the duty to assert facts to the court and the duty to submit evidence. These concepts are distinguished from each other as a separate legal concepts.

The third chapter deals with the very merit of the thesis. It provides an extensive explanation of the procedural burdens. Especial concern is devoted to two of them: the burden of persuasion and the burden of proof. The emphasis is put on the issue of a burden of proof and its allocation to the parties. Thereafter, the court evaluates whether the party fulfilled its duty to procure evidence or not. The origin of the burdens are also examined.