

## **Abstract**

### **The title of the work: Burden of Proof in Civil Procedure**

The present diploma thesis deals with one of the few subjects, which are topical today, as in the past, in spite of all legislative changes - the burden of proof in the civil procedure.

The burden of proof, which is the subject of this work, plays in the process of evidence an irreplaceable role, yet it is still a very underrated topic, which is not, in particular in legal theory, given appropriate attention. Legal theory is not too unified with regard to the burden of proof, the views of different authors on this institute differ. This is a very large, somewhat unclear issue. There are many theories regarding the functioning of the burden of proof and its distribution among the parties.

The thesis does not claim to give an exhausting interpretation of this institute, as it is a very extensive issue, and its comprehensive processing would require at least the publication of a book, perhaps several books, but should outline the institute of the burden of proof and its function in the civil procedure.

The burden of proof is not clearly defined in the legislation and the theory of burden of proof is very complicated and inconsistent, that is probably why there is a relatively extensive case-law of the courts, which increasingly emphasizes that the burden of proof is not imposed on the plaintiff, but also on the defendant, in a civil dispute. The defendant cannot, according to the case-law, restrict himself merely to denying the claimant's claim without supporting this with arguments rebutting or denying the counterparty's claims and offering evidence for them.

The burden of proof does not constitute, in the civil procedure, one whole, which is shared between the parties. On the contrary, the burden of proof is always related to a particular fact to be proved in the proceedings and imposed on the party to whom such fact is a benefit. If the burdened party meets the burden of proof, that is to say, the party proves facts imposed on him by the burden of proof, the final decision is issued in his favour. If the party does not meet the burden of proof, the negative consequences of such a situation, such as the loss of the process, follow.