

Legally Philosophical Aspects of Searching for Truth in Civil Procedure

DIPLOMA THESIS

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Abstract

The aim of this thesis is to discuss certain legally philosophical aspects of fact-finders in civil procedure. In a simplified way, this work is focused on exploring the possibility of determining the value of truthfulness of *quaestio facti* when applying law.

The six chapters of the work include three basic themes. The first one examines the reflection of the philosophical concepts of truth in the process of determining the facts of a case, the second one clarifies the nature of the ideological aims of fact-finders in the form of principles of formal and substantive legal truth and the third topic deals with the nature of a judge's beliefs in the truthfulness of factual claims and the role of probability in the judge's belief

At first I briefly present the phenomenon of truth in a wider philosophical context so that I can then proceed to outline the selected theories of truth. After explaining the basic essence of the legal procedural principles which have the greatest impact on the process of finding the facts, I pass, in another part of the thesis, to the very analysis of these principles through the prism of selected theories of truth. The reflection of the philosophical concepts of truthfulness on the principles of formal and substantive legal truth in the fourth chapter is followed by the fifth chapter outlining the influence of the cohesive theory of truth on the institutes of civil proceedings, which are considered as manifestations of the principle of formal legal truth.

Since the judge's subjective beliefs are crucial to establishing the truth of the factual affirmations, I deal with the nature of the judge's conviction in the last, sixth chapter. Within the judge's beliefs, the question of the probability

role in assessing the veracity of the parties' factual acts and at the same time the degree of necessary conviction of the judge in the standard of proof are highlighted. The question of the probability and nature of the judge's internal conviction is important for the whole issue of fact-findings as such.

In conclusion, I try to synthesize the existing knowledge of the required level of standard of proof. On the basis of the analysis of the two main concepts of standard of proof, I come to the conclusion of merging the positive aspects of the two proposed theories in order to determine the optimal, yet achievable degree of the judge's conviction necessary for reaching a proof successfully.

Key Words: legal philosophy, truth, civil procedure