

Summary

As a topic of my thesis I chose one of the fundamental topics of the civil procedure, because in the evidence in civil proceedings the court gets the grounds for a fair decision in the matter. Although it may seem classical, the topic is still very important because of modern trends and frequent amendments of the Civil Procedure Code. The issues related to evidence procedure are not only interesting, but also essential for practice, because the final judgment relies upon various pleadings of the parties and activity of the court. Due to its extent and significance, the topic cannot be fully covered by one thesis, and thus during elaboration of the thesis I divided it in two sections. The first section examines the general problems connected with evidence in civil proceedings and the second section deals with selected issues of evidence in civil proceedings, respective burdens and phases of the evidence procedure.

In the first section I tried to define the term evidence and the subject of the evidence by finding what does and what does not belong therein. This section also addresses identical statements of the parties.

Further I focused on institutes that facilitate the evidence in civil proceedings. Among these I examined legal fictions which allow to bring in a decision even where some statements cannot be proved or proving thereof would be difficult. I also examined review of preliminary questions and possibility of application of court discretion in evidence in civil proceedings.

In the last subchapter of the general part I dealt with principles governing the evidence in civil proceedings. These principles influence the form of the evidence in civil proceedings and good knowledge and correct practical use thereof is therefore important and valuable.

In the section dealing with selected issues of evidence in civil proceedings I first concentrated on various proofs. Because of the extent of this topic I deliberately did not concentrate on all proofs enumerated in Section 125 of the Civil Procedure Code, but I examined in detail only statements of competent bodies and expert opinions. I chose those because the legal regulation thereof was recently significantly amended.

The second subchapter aims at procedural duties and burdens during evidence in civil proceedings with special aim at court judicature pertaining thereto.

The third subchapter distinguishes phases of the evidence in civil proceedings. Also in this subchapter the topic is linked with judicature of the courts, especially of the Supreme Court of the Czech Republic and the Constitutional Court of the Czech Republic. First part deals with adduction of evidence, legal concentration and instruction duty of the court. Second part concentrates on obtaining proofs, with special focus on influence of proof costs

on decision of the court on refusal of the proof. This part examines also the issue of admissibility of a proof. Third part of this subchapter addresses procedural phase of examination of evidence. The last part of this subchapter deals with evaluation of the evidence by the court. In this part I especially focused on evaluation of expert opinion because I concentrated thereon in detail in the thesis.