

Abstract

Thesis title: Burden of proving in disputes regarding damages

The issue of providing evidence in disputes regarding damages is a theme involving many questions, whose legislation seems to be questionable in some cases. This aspect is compensated for and supplemented by application practise, which makes the theme continuously relevant.

The aim of my diploma thesis is to provide a general, descriptive, and comprehensive interpretation of the specifics of providing evidence in disputes regarding damages. Another objective of this diploma thesis is to demonstrate that it is difficult to gain insight both in theoretical and in practical issues of the burden of proof because the opinions of courts and some of the authors specializing in this issue are different in some cases.

The first part deals with the general notion of evidence in the civil procedure. I mention the concept and the subject of evidence and its importance in the civil procedure. I also mention selected legal principles connected with providing evidence. A further focus of this part is on procedural obligations of the parties, especially on the obligation of claims and of the burden of proof. It is based on theoretical concepts by significant authors (especially J. Macur). The burden of proof and the related institutes of providing evidence are defined both theoretically and with regard to practical examples in legislation and in court decisions. The evidence itself and the process of providing evidence are discussed briefly as well.

The second part shifts the focus specifically to the burden of proof in disputes regarding damages. I explain the characteristics of civil liability and compare various concepts of the phenomenon in current legislation. Then I go on to distinguish general and special liability cases and to mention the conditions on which the obligation to pay compensation is based. I analyze the facts which have to be proved by the claimant in civil procedure, and I point out some situations when it could be difficult from the claimant's perspective to carry the burden of proof. The analysis also deals with the facts which have to be proved by the defendant. The final part of this diploma thesis deals with actions for damages, with the issue of damages in personal injury and with recent changes in this subject.