

Taking of evidence in administrative proceedings

Abstract

The topic of this thesis is the taking evidence in administrative proceedings, which aims to present compendious knowledge concerning the administrative authority; to eliminate eventual contradictions in established facts; and to decide on the matter. Taking into account the diversity among administrative proceedings, it is essential to discuss the individual types of the incriminate proceedings, eventually their specific phases, and simultaneously to provide connections between individual evidence institutes. Also, possible discrepancies in evidence, or perhaps complete absence of evidence, should not be omitted since the legislator has not established exclusive obligation, even though the evidence poses significant part of the proceedings. The presented thesis is divided into five chapters. The first chapter thoroughly reviews the principles of administrative proceedings, which are tightly connected with the process of taking of evidence. The second chapter discusses the terms in the context of evidence, whereas such terms are not explicitly stated in the law. These terms are defined based on the jurisprudence and specialized literature. The third chapter covers process stamping of individual phases in taking of evidence, which extends to the field of corrective and supervisory means. A part of the discussed chapter also includes the problematics of concentration principles. The fourth chapter discusses in detail the demonstratively stated means of evidence in Act. No. 500/2004, Code of Administrative. Special attention is given to interrogation of the witness due to the absence of codified procedure of interrogation in the Code of Administrative. Knowledge from the field of criminology, especially methods described by Viktor Porada, are applied to the interrogation within administrative proceedings. The fifth chapter gives insight to some of the proceedings conducted by the Office for the Protection of Competition. To fulfill the comprehensiveness of the presented thesis, functioning of the Office for the Protection of Economic Competition is described as well as subsidiarity of application of the Code of Administrative in these types of proceedings. Finally, this chapter encompass the types of proceedings, in which the legislator established a reversal of the burden of proof.

Key words: means of evidence; principles of the taking of evidence; taking of evidence in proceedings conducted by the Office for the Protection of Competition