

Expert Evidence in Civil Procedure

Abstract

Expert evidence is an essential part of the civil process. Its purpose is to help the court in resolving a factual question, the answer to which goes beyond ordinary knowledge. The relevance of the topic is given both by the persistent problems in connection with expert evidence, and the new legislation on the expert activities effective from 1 January 2021. The thesis describes some problematic aspects at various stages of expert opinion proving, as problems related to the assignment of the expert opinion (distinguishing between legal and factual questions), the preparation of the opinion itself (especially its insufficient reviewability) and problems related to its evaluation before the court. The objective of the thesis is to define the main problems associated with expert evidence, to evaluate the impact of the new regulation of expert activities on evidence in court proceedings, to assess whether the regulation of provisions § 127 and § 127a of the Civil Procedure Code is satisfactory, and possibly to propose a solution that would be able to eliminate the defined problems.

The first part of the thesis includes an introduction to procedural evidence, deals with the role of the expert and expert opinion in civil proceedings and gives an overview of the most important changes introduced by the new legislation. The second and third parts are devoted to the expert opinion itself, its requirements and the evaluation of the expert opinion by the court. In the last part, possible legislative changes are presented, especially in relation to provision of § 127a of the Civil Procedure Code, which always brings a number of problems. As a result, it is found that the new legislation on expert activities together with the implementing decrees significantly increases the quality of expert activities and thus to the better evaluation of expert opinions by the court. The biggest difficulty of the current regulation is seen in the insufficient regulation of the parties' right to submit their own expert opinions to the court, and therefore the author of the thesis is in favour of solving the problems by abolishing provision § 127a of the Civil Procedure Code.

Key words: Expert; Expert opinion; Evidence in civil proceedings