

# **Witness and his testimony in civil proceedings**

## **Abstract**

The submitted diploma thesis deals with the testimony of a witness in civil proceedings. This is undoubtedly the most demanding means of proof. Its demanding character is given not only by the necessary preparation of the judge before this act, but especially in the subsequent assessment of the credibility of the testimony given. The diploma thesis aims to comprehensively describe the course of the carrying out witness testimony from the moment the witness enters the courtroom to the assessment of the witness's credibility within the reasoning of the court decision. Apart from the testimony, the introductory chapter deals with all the evidence means that can be presented in the Czech civil process with reference to their differences and similarities.

The following chapter deals with the eligibility of the witness, the person of the witness and his witness duties. A witness need not comply with this statutory obligation if, by giving a testimony, he could cause a risk of criminal prosecution to himself or to a person close to him, or if he is bound by a duty of confidentiality.

The third and fourth chapters of the thesis describe the procedure of carrying out of giving a testimony. At first, it is necessary to ensure the witness's presence by the summons delivery. If the witness does not react to the summons and does not appear in court, he may be fined, or may be bringing to the court. As soon as the witness enters the courtroom, the judge begins to interrogate him. The interrogation is divided into two parts, which must be separated so that it is possible to obtain as much information as possible from the witness testimony.

The next part of the thesis is focused on the specifics of the testimony carrying out. A judge must take a different approach to the interrogation of a minor or an overaged witness. In particular, the psyche of these witnesses needs to be taken into account so that their participation in court does not cause them trauma. The peculiarities are also associated with the interrogation of current and former statutory representatives of legal entity. Witness interrogations via videoconferencing are also very common nowadays.

The eighth and ninth chapters shed light on the process of evaluating the testimony and recording the testimony. Court decisions has provided judges with the basic attributes to be taken into account in assessing a testimony. However, Czech courts are increasingly not working with the very detailed RAVEN test, which focuses on assessing the credibility of

witnesses. The judge must also perceive the witness's body language during the witness's statement, which fundamentally indicates whether the witness is telling the truth or is lying.

The final chapter deals with the witness fee. A witness, who has fulfilled his witness duty or was ready to fulfill, it is entitled to claim this right.

**Key words:** a witness, a testimony of witness, credibility