



Jozef Sábo, *Hodnotenie dôkazov v daňovom práve* (Pavol Jozef Šafárik in Košice, 2020)

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At the end of 2020, the University of Pavol Jozef Šafárik in Košice published a monograph by Jozef Sábo entitled *Hodnotenie dôkazov v daňovom práve* (Evaluation of Evidence in the Tax Law). It is a scientific monograph which, in accordance with its title, deals with theoretical and practical problems of evidence in tax proceedings.

Although the author is originally from the Slovak Republic and in his interpretation occasionally uses examples from Slovak legislation, the book cannot be seen as an excursion into Slovak tax law. On the contrary, the book under review emphasizes general principles of evidence evaluation, which can be considered common at least at the level of European law. If the author uses examples from tax law, he focuses almost exclusively on the issue of value added tax, especially on the issues of proving tax frauds and fulfilling the conditions for obtaining a tax deduction. In my opinion, this can also be seen as a positive feature of the reviewed publication, given the existence of a common European value added tax system. Since the individual institutes and the problems associated with them are based on European Union law and the case law of the Court of Justice of the European Union, the examples given by the author should also be understandable to readers from other Member States.

The author sees the potential contribution of the book on two levels. The first is a contribution to making the process of evaluation of evidence by tax administrators more efficient and streamlined. The author is convinced that the correct understanding and application of the evaluation of evidence in tax proceedings ultimately also protects the fiscal interests of the state, especially in cases of tax evasion. The author then sees a second potential benefit in strengthening the respectability of tax law as a separate branch of law in society. I am convinced that the reviewed publication can contribute to the achievement of both objectives.

As for the content of the reviewed publication, it is divided into two approximately equal parts. In the first part, aptly titled “The Concept of Truth in Tax Law”, the author deals primarily with the definition of the basic premises of the issue under consideration, i.e. the possibility of knowing the facts, the standard of proof, the distribution of the burden of proof and the process of evaluating evidence individually and in relation to each other. The author approaches the issue with, in my opinion, the correct assumption that the nature of a factual event that took place in the past (i.e. the truth in simple terms) can rarely be known with absolute certainty. He therefore works with the notion of a practical standard of truth as a rationally justified belief about a certain fact. The evaluation of evidence is therefore intended to induce a belief in the correctness of factual inferences in a model rational observer who is endowed with expert common knowledge, critical thinking, and logical reasoning. In my opinion, the above helps the clarity of the publication and enables it to transcend the author’s country of origin, since the matter described has in this context universal validity.

I find the discussion of the standard of proof in tax proceedings very interesting. The author refers to it as clear and convincing evidence and sees it as a kind of compromise between the standard of proof in criminal proceedings, where guilt must be proven beyond reasonable doubt, and in civil litigation, where the preponderance of evidence of one of the parties is decisive. In this respect, it is, in my view, a bit unfortunate that the author perhaps too often illustrates his interpretation with examples from criminal law, where the standard of proof, the allocation of the burden of proof and the facts relevant to the decision in the case are significantly different from proceedings in tax cases. From a practical point of view, on the other hand, one can appreciate that the author also addresses in this part the issue of tactics in presenting factual claims, proposing evidence, and challenging the relevance of particular means of evidence. This approach can be illustrated by the example of expert evidence, where the author points out, for example, the possibility of questioning the basis on which the expert relies, the impartiality of the expert himself or whether the question under consideration falls within his expertise.

In my opinion, the second part of the reviewed publication, entitled “Standards of Evidence Evaluation”, can be considered as a methodological aid for the organization and subsequent evaluation of evidence, both separately and in their mutual context. The main focus of the author’s attention is on the methodology of evidence evaluation, dividing the standards of evidence evaluation into structural ones, based on their visual arrangement and the use of mathematical and logical methods, and psychological ones, which emphasize in particular the role of stories in the evaluation of evidence. From a practical point of view, what is particularly valuable about this section is that the author highlights the most common mistakes that can be made when using these methods.

In view of the above, the reviewed publication can be considered logically structured. While the first part is mainly devoted to the problem of the goal of the evidence evaluation process, the second part is focused on the methods to achieve this goal. The only minor problem with the book under review is that the author often takes detours in his commentary, explaining certain minor aspects of the subject matter in unnecessary detail. This can be illustrated by the author’s discussion of the importance of DNA in the process of proof, which can be considered marginal at best in tax administration. Thus, one can understand that the author uses the problem of matching certain numbers of DNA markers to explain certain shortcomings of the probabilistic model of evaluating evidence, but the detailed explanation of how to challenge this evidence feels redundant. However, the minor deficiency complained of in no way diminishes the overall value of the reviewed publication. Thus, it can certainly be recommended to anyone interested in the issue of evaluation of evidence in tax law. The publication may be beneficial for those who are actively involved in the course of tax proceedings or subsequent litigation, as well as for those whose interest in the subject matter is more academic. An important bonus of the reviewed publication is the fact that it is available to readers free of charge in electronic form. Those who are interested in the subject matter but do not speak Slovak can thus get acquainted with the content of the publication with some effort, for example, with the help of machine translation.

References

Sábo, J. (2020). *Hodnotenie dôkazov v daňovom práve*. Univerzita Pavla Jozefa Šafárika v Košiciach, Vydavateľstvo Šafárik Press. Online: <https://zenodo.org/record/4817641>

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