

Abstract

The burden of proof is an universal law institution that includes two fundamental aspects: first, it is a parties rule behavior that answers the question of who has to prove; and second, it is a judge's interpretation rule to know against who decides to when there aren't evidence of the factual basics.

This article's mean objective is to review the burden of proof controversies and its regulation in article 167 of the CGP in Colombia. Therefore, it starts with the exposition of different activities and behavior of the legal procedure relation; then, it examines the historical context, from the antique epoch to nowadays; and, for that reason it concludes that who affirms a fact must prove it.

Hence, it studies the actual polemics about the idea of eliminating the burden of proof total or partiality and questions the judge's possibility of requiring the proof to the party with the most favorable position to provide.

Keywords: burden of proof, dynamic load of proof.