

1. Plea of Guilty as a Diversion in Criminal Proceedings

1.1. Abstract

The plea of guilty has been one of the most discussed topics polarizing the Czech professional and lay public. In 2019, the plea of guilty celebrated seventh anniversary of its existence in the legal framework of the Czech Republic, but it could be hardly described as “lucky” seven within its existence. What are the reasons for the failure of the plea of guilty is the essential task of this thesis.

First of all, the thesis deals with forms of diversions in criminal proceedings and their history. Nevertheless, even after seven years of application practice, the professional community is not in a position to agree whether to place the plea of guilty in diversions in criminal proceedings or whether the institute is so specific that it should be assigned to another group of proceedings or perhaps be perceived entirely independently.

Given the not entirely simple process of negotiating the plea of guilty in the environment of the Czech Criminal Procedure Code, the thesis also deals with the individual steps of the negotiation process and the formal and material features of the plea of guilty in general. It also affects all conditions and exceptions related to the plea of guilty so as to specify in which cases the plea of guilty cannot be negotiated and, alternatively, what varieties the Czech Criminal Procedure Code offers.

In addition to mapping diversions in criminal proceedings in the context of their characteristics and history of origin, this thesis also deals with a comparison of individual legal regulations of the plea of guilty enacted in the legal systems of Slovakia, Spain, Italy or Germany. All four states have included the plea of guilty in their penal codes, albeit some of them earlier than in the Czech Republic. Given the origin of the plea of guilty, a comparison with the "maternal" legislation of the common law system is also included. Indeed, common law is the cradle of guilt and punishment, and therefore there must be a detailed description of the legislation operating in the countries of the Anglo-American legal system.

Given the ongoing debate over the suitability of the institute of the plea of guilty, this thesis also deals with the most crucial arguments of opponents and supporters of the plea of

guilty. The three most frequent arguments of both opinion streams permeating the Czech judiciary and the lay public are presented and then analysed in detail.