

# **Agreement on guilt and punishment**

## **Abstract**

The subject of the work is the institute of an agreement on guilt and punishment as a special way of handling criminal cases. The essence of an agreement on guilt and punishment is an agreement between the public prosecutor and the accused, in which the accused confesses to committing the act for which he is being prosecuted, in exchange for imposing a lesser punishment than that which would threaten him in standard criminal proceedings. It is a form of diversion in criminal proceedings, which is intended to speed up and simplify criminal proceedings.

The agreement on guilt and punishment is enshrined in the Czech legal system for a relatively short period of time. It was introduced in 2012. As the guilt and punishment agreement did not materialize in practice in the following years, certain changes had to be made. These occurred in 2020 when, for example, an agreement on guilt and punishment was made possible for particularly serious crimes.

The work is structured into six chapters. The first chapter deals with the question of whether it is possible to classify the agreement on guilt and punishment among the diversions in criminal proceedings. To answer this question, it was necessary to clarify the very concept of diversion. The work also briefly deals with the historical development of diversions in the Czech legal system. The second chapter outlines the historical context of the agreement on guilt and punishment, including the efforts of the legislator to introduce conciliation proceedings before 2012. At the same time, the chapter discusses the changes that were introduced by Act No. 333/2020 Coll.

The third chapter examines the compliance of the agreement on guilt and punishment with the basic principles of the criminal process, such as the principles of evidence, material truths and the principle of publicity. Furthermore, this part of the thesis discusses the possible conflict between the conciliation procedure and the right to a fair trial. Emphasis is also placed on the case law of the European Court of Human Rights.

The following is an analysis of the current legislation on guilt and punishment in Chapter Four. It first describes the process of negotiating an agreement on guilt and punishment and then deals with the procedure for its approval. An agreement on guilt and punishment negotiated

after the commencement of the main trial is set aside in a separate subchapter. The fifth chapter compares the legal regulation of the agreement on guilt and punishment in the Czech Republic, Slovakia and the United States. In the United States, the case law of the US Supreme Court is also taken into account, which considerably completes the institute of an agreement on guilt and punishment. The last chapter examines how much the guilt and punishment agreement is used in practice. From the data obtained from the Ministry of Justice, a table is created that shows the number of concluded and the number of approved agreements on guilt and punishment. Based on the knowledge gained during the writing of the thesis, *de lege ferenda* proposals are formulated that could improve the current legislation.

**Key words: agreement on guilt and punishment, diversions, criminal procedure**