

# **Conditional release from imprisonment**

## **Abstract**

The aim of the thesis was to describe the institution of conditional release from imprisonment comprehensively, not only from the perspective of procedural law, but also from the perspective of substantive law.

The institute of conditional release can be understood as an exceptional instrument in the hands of the court, which allows for the conditional release of a convicted person from imprisonment under precisely defined legal conditions. At the same time, however, this institution can be characterised as a motivational instrument, since it motivates convicted persons to behave as well as possible; however, it cannot be said that the convicted person has a subjective right, whether constitutional or sub-constitutional, to be released on parole.

An essential prerequisite for the success of a motion for conditional release is the fulfilment of the conditions defined in Section 88 of the Criminal Procedure Code, i.e. all material and formal conditions. However, it will always depend on the individual judge and his discretion when assessing whether the material conditions have been met. This application may be submitted by three basic entities, namely the convicted person himself, the public prosecutor or the director of the prison where the sentence is being served.

The decision on conditional release is entrusted exclusively to the court, where the provisions of Section 331(1) of the Criminal Procedure Code and the commentary literature indicate the subject-matter and local jurisdiction of this court; it is the district court in whose district the prison sentence is served. The decision on conditional release takes the form of an order against which an appeal is admissible. An essential part of any decision on conditional release is the imposition of a probationary period, the purpose of which is to 'monitor' the sentenced person and to ascertain whether he is leading a proper life throughout the period and whether he has therefore actually reformed and whether it is no longer necessary to proceed to further execution of the sentence. In principle, however, the Criminal Procedure Code distinguishes between two modes of complaint, namely a complaint filed against a decision pursuant to Section 331(3) of the Criminal Procedure Code and complaints filed against other decisions pursuant to Section 331 of the Criminal Procedure Code and decisions pursuant to Section 332 of the Criminal Procedure Code.

The aim of the rigorous thesis was, among other things, to point out that a repressive policy towards individual convicts is not always the most appropriate way. On the contrary, milder methods of punishment and dignified treatment of these convicts have proven to be much more effective in practice. In principle, even conditional release itself is an institution which is, in effect, an alternative and contributes positively to the achievement of the desired objectives. In this context, certain hypotheses were elaborated by the rigorosant and the implementation of certain more benevolent methods of serving unconditional prison sentences was also considered.

**Key words:** unconditional imprisonment, conditional release, resocialisation of the convicted person