

AGREEMENT ON GUILT AND PUNISHMENT

ABSTRACT

The topic of the rigorous thesis is “*Agreement on guilt and punishment*”. The institution of plea bargaining means an agreement made between the prosecutor, the defendant and the victim, where the defendant declares that he has committed the act for which he is being prosecuted and at the same time agrees to waive his right to a proper trial, all in exchange for a lighter punishment. Although the institution of plea bargaining is a relative novelty in Czech criminal law, it is highly controversial when the expert community is unable to agree on whether or not this institution is beneficial for Czech criminal law. The primary aim of this rigorous thesis is to summarize and analyze in detail the legal regulation of the institute of plea bargaining enshrined in the legal system of the Czech Republic and at the same time considerations *de lege ferenda* that could eliminate the controversial issues of the institute of plea bargaining at least to some extent.

The thesis is divided into seven chapters. The first chapter of this thesis focuses on diversions in criminal proceedings, the concept of diversion and the controversy over the question whether the institution of plea bargaining can be considered as a diversion in criminal proceedings. The second chapter contains a list of the principles of criminal procedure to which the institution of plea bargaining is in breach. The process of implementation of the institution of plea bargaining into the Czech legal system is described in detail in chapter three of this thesis, which also contains the tables showing the frequency of application of the institution of plea bargaining after individual amendments to the Criminal Procedure Code. This is followed by an analysis of the individual conditions that must be fulfilled in order for plea bargaining to take place at all. The fourth chapter also contains a negative list of cases in which a plea bargain cannot be concluded and an overview of the amendment to the Code of Criminal Procedure which makes it possible to conclude a plea bargain in criminal proceedings for particularly serious crimes. The fifth chapter of the thesis contains an elaboration of the whole procedure on plea bargaining *de lege lata* with an attention to the individual problems arising from this institute. In the sixth chapter, the author of the thesis deals with the possibility of applying the institute of plea bargaining in criminal proceedings against corporations. At the same time, in relation to the institute of plea bargaining, the author points out the problematic absence of legal regulation that would take into consideration the specifics of criminal proceedings against corporations. The seventh chapter of the thesis then contains the legal regulation of the

institution of plea bargaining in the Slovak Republic, where the author closes this chapter by questioning why there are not as many plea bargains in the Czech Republic as in Slovakia.

Keywords: plea bargain, criminal proceedings, diversion in criminal proceedings