

Plea bargain

Abstract

This thesis deals with the institution of plea bargaining by means of analysis, description and comparison. The plea bargain is a tool for finding a balance between the interests of the parties to the criminal proceedings, i.e. the accused, the law enforcement authorities representing the public interest and, where appropriate, the victim. Its aim is to reach a solution acceptable to all parties. Plea and penalty agreements are often initiated as a result of complex evidentiary situations where the evidence is incomplete, contradictory or insufficiently reliable, which would otherwise require extensive and time-consuming evidence. The condition is that the accused must declare that he or she has committed the act for which he or she is being prosecuted, which should be presented to the prosecutor as early as possible in the criminal proceedings to give the accused a chance of obtaining the lightest possible sentence.

The first four chapters introduce the institution of plea bargaining, its characteristics and the process of concluding a plea bargain between the prosecutor and the accused and the approval of the plea bargain by the court in national legislation. The fifth chapter focuses on the resonant issue of group cases, i.e. criminal cases where several defendants are jointly charged, and analyses the judgments of the ECHR, CJEU and national case law focusing on the observance of the presumption of innocence in plea bargaining in such group cases. This is followed by a sixth chapter on appeals and a seventh chapter that examines the relevant case law of the ECHR in relation to plea bargaining and sentencing, dividing the case law into different areas where procedural principles conflict. The last chapter deals with a description of the German plea bargaining legislation and its comparison with the domestic one, presenting the main difference in the procedural stage at which the agreement is concluded and the resulting different procedural consequences. Some recommendations for inspiration from the local developments are also outlined.

Key words

Plea bargaining, consensual methods of resolving criminal cases, group cases in plea bargaining