

Summary

The Amnesty and Pardon - Comparative Review

The present work deals with the institutes of pardon and amnesty, which generally mean the forgiveness of a crime and the penalty associated with it. These two institutes fall within the area of the constitutional, as well as the criminal law. Since this work is comparative, I had many choices what to compare (these two institutes with each other, history of the amnesty and pardon, amnesty and pardon in the Czech Republic and other countries etc.)

First, there is a short introduction of the institutes of amnesty and pardon, their forms and the history of how these two institutes emerged in the society. It is obvious that the institutes of forgiveness were well known even in the times before the Jesus Christ.

Mainly, I have focused on comparing the amnesty and pardon within the individual constitutions of the independent Czechoslovakia and later the Czech Republic. I have described and compared the expressions of these two institutes in all of the Czechoslovak and the Czech constitutions (1918, 1920, 1948, 1960, 1968 and 1992). The expressions were very similar. The word „pardon“ was only used in the Constitution of 1920. On the other hand, the word „amnesty“ was used by all the constitutions except for the one of 1918. I have concentrated on who could decide on granting a pardon or proclaim an amnesty during the validity of the individual constitutions. It has always been mainly the right of the president, but with the obligation of countersignature of the member of the government. Interesting were the constitutions of 1960 and 1968, where the president was accountable for his acts to the parliament, and therefore, there was no need for countersignature.

The current Constitution of the Czech Republic (Czech: *Ústava České republiky*; adopted on December 16, 1992) came with a controversial solution in case of granting a pardon. The president is in this case not accountable to anyone and at the same time there is no obligation of countersignature for this act.

Also, I have tried to compare the Czech regulation of the amnesty and pardon with the foreign regulations. Mostly, the granting of pardon is the right of the head of the state, but in some states is this right being executed by other authority (e.g. Sweden – the government). The president or king usually has to consult granting of a pardon or proclamation of amnesty with another authority (e.g. Netherlands –

advice from the court). If there is no need of advice or consultation, there is usually obligatory countersignature of the act (France, Belgium). The exception is the Kingdom of Denmark, where the king has the right to grant pardons and to proclaim amnesty without countersignature and without any advice or consultation with other authority.