

# **Plea bargain**

## **Abstract**

The topic of rigorous thesis is plea bargain, as one of the consensual ways of solving criminal cases. This institute arouses certain controversies through its application, but on the other hand, it is an element of modern criminal procedure, which makes the way through the criminal procedure for both law enforcement authorities and the accused person easier. At the same time, through process of plea bargaining is possible to achieve goals of restorative justice, and plea bargaining itself could be considered as a mean of rationalizing of criminal justice. Besides other things, the rigorous thesis aims to provide readers with a comprehensive overview of the institute of the plea bargain with an evaluation of the impact of its application on the individual principles of Czech criminal procedure and its comparison in the context of legal regulations in other countries or its comparison in the context of other similar domestic institutes.

The first part of the thesis deals with the categorization of the plea bargain within the framework of other alternative ways of solving criminal cases in the Czech Republic. Then follows an overview of the development of the institute in the individual years after its incorporation into the Czech Criminal Code. After that, thesis presents the significant amendment of Criminal Code implemented by Act No. 333/2020 Coll., which, as a result of the change in the conditions for the application of plea bargain, had a positive effect on the number of negotiated agreements in the following years. The first part also includes a treatise on the current legal regulation of plea bargain and the individual conditions of its application.

The second part is devoted to the process of plea bargaining, which is immediately followed by the third part concerning the process of approval of the plea bargain by the court.

The fourth part describes the consequences of negotiated plea bargain, or more precisely its approval by the court. These consequences are to a certain extent different from those that occur during the resolution of a case in standard criminal proceedings. Noted can be the limited right to file an appeal, or a change of procedural status of accused person in group criminal cases.

Since the plea bargain is one of the alternative ways of solving criminal cases and thus there is no standard procedure with full application of all the principles of criminal procedure, the application of the institute has an impact to a greater or lesser extent on the individual

principles of criminal procedure. This topic is the subject of the fifth part. In this section, the principle of presumption of innocence and the principle of material truth deserves the most attention, because they are most affected in the process of plea bargaining. Aforementioned principles are limited especially in favour of the principle of speed and economy of criminal proceedings.

The sixth part of the thesis offers the reader a comparison of the institute with similar institutes in foreign legal regulations. For comparison was selected one legal regulation belonging to the Anglo-American system of law, namely plea bargaining applied in the USA and one from the family of the continental legal system, namely the plea bargain in Slovakia.

The last, seventh part is focused on the evaluation of the current Czech legislation of the plea bargain in the context of other consensual ways of solving a criminal case, as the plea bargain coincides in some aspects with the institute of the declaration of guilt. This topic is followed by a sub-chapter dealing with the current problems in application of the plea bargain and possible proposals for changing the legislation *de lege ferenda*.