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Research Article

THE INSTITUTION OF A PLEA AGREEMENT IS AN INNOVATION IN THE CODE OF CRIMINAL PROCEDURE OF THE REPUBLIC OF UZBEKISTAN

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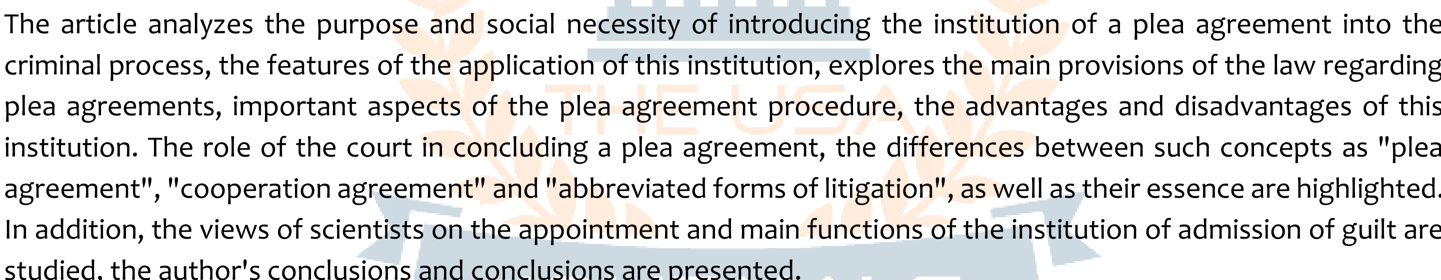
ABSTRACT

The article analyzes the purpose and social necessity of introducing the institution of a plea agreement into the criminal process, the features of the application of this institution, explores the main provisions of the law regarding plea agreements, important aspects of the plea agreement procedure, the advantages and disadvantages of this institution. The role of the court in concluding a plea agreement, the differences between such concepts as "plea agreement", "cooperation agreement" and "abbreviated forms of litigation", as well as their essence are highlighted. In addition, the views of scientists on the appointment and main functions of the institution of admission of guilt are studied, the author's conclusions and conclusions are presented.



KEYWORDS

Guilt, plea guilt, plea bargain agreement, evidence, assistance in the detection of a crime, benefits in the criminal process, mitigating circumstances of the situation.

INTRODUCTION

In the Code of Criminal Procedure, the institution of a plea agreement has been introduced. On February 18,

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2021, President of Uzbekistan Sh. Mirziyoyev signed a law on amendments and additions to the Criminal and Criminal Procedure Codes.

The following institutions have been introduced into the Code of Criminal Procedure:

- preliminary fixing of testimony;
- preliminary hearing in a criminal case;
- plea agreement.

Guilty plea agreement is an agreement concluded with a prosecutor for crimes that do not pose a great public danger, less serious and serious crimes, based on the petition of the suspect or the accused, who agreed with the suspicion or accusation brought against him, actively contributed to the disclosure of the crime and made amends for the harm caused.

The Criminal Code is supplemented by Article 57^2, according to which the term or amount of punishment imposed for crimes for which a plea agreement has been concluded cannot exceed half of the maximum prescribed punishment.

The law came into force from the date of its official publication on February 18.

The introduction of the institution of a plea agreement was provided for by the Decree of the President of August 10, 2020.

The issue under discussion, of course, is important not only for law enforcement agencies, since the introduction of the institution of a plea agreement will, of course, affect the constitutional rights of citizens involved in the orbit of the criminal process[1]. Understanding the scale and depth of the upcoming changes in the work of the criminal prosecution bodies and the court, the experience of reforming the criminal justice system of such post-Soviet states as Georgia, Moldova, Latvia, Estonia and Ukraine, Kazakhstan[2], Germany was studied[3]. Collected information materials about the criminal process in the US, UK, France, Sweden and other developed countries[4].

THE AIM OF RESEARCH

The main purpose of studying this criminal-procedural institute is to determine the socio-political and procedural-legal goals intended by the legislator in its introduction, to determine its main useful "work coefficient", to analyze its tasks and functions.

LITERATURE REVIEW

So far, there are not many scientific studies and presentations in the national procedural science about the institution of plea agreement, which is a novel for the criminal procedure of Uzbekistan. In particular, we can mention such scientists as U.A. Tukhtasheva, G.Z. Tulaganova, B. Salomov, D. Bazarova. However, these

[1] Першаков М. Г. Правовое значение и сущность признания обвиняемым своей вины // Современные проблемы уголовно-процессуального доказывания: сб. ст. Волгоград: Издательство Волгоградского государственного университета, 2000. С. 178.

[2] Абдуалиулы, Р. Проблемные вопросы, возникающие при заключении процессуальных соглашений в Республике Казахстан /Р. Абдуалиулы. URL: https://moluch.ru/archive/129/35846.

[3] Thomas Rönnau. Grundwissen — Strafprozessrecht: Verständigung im Strafverfahren // JuS. 2018. № 2. S. 114-118.

[4] Stephanos Bibas, Incompetent Plea Bargaining and Extrajudicial Reforms, 126 HARV. L. REV. 150 (2012). Alex Stein, The Right to Silence Helps the Innocent: A Response to Critics, 30 CARDOZO L. REV. 1115, 1127 (2008). Abbe Smith, "I Ain't Takin' No Plea": The Challenges in Counseling Young People Facing Serious Time, 60 RUTGERS L. REV. 11, 23–30 (2007).

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scientists touched on the general concept and essence of this institution and did not reveal its procedural goals and tasks in a separate way.

In foreign practice, this agreement has been successfully used for a long time, certain legal practice and scientific doctrine have been formed. In this regard, John H. Langbein, Chereminsky E., Levenson L., Aceves Gabriela, M. Vogel, Stephen F. and Garoupa N., Stuntz W.J., Tague P., Mike Work, Peshkov M. of CIS scientists. A., Kuvaldina Yu. V., Makhov V. N., Bochkarev A. E., Dubovik N. Scientific works of such scientists can be cited as an example.

MATERIAL AND METHODS

Logical and scientific methods of scientific knowledge were used in the preparation of this scientific article, in particular, logical analysis, synthesis, historical, comparative-legal methods were used.

RESEARCH RESULTS

As you know, a plea deal, or the so-called deal with justice, is such a process of reaching an agreement in a criminal process, when the investigator, the prosecutor offers the defendant the opportunity to plead guilty to a crime or a less serious crime, provided that the sentence is relaxed. The deal allows the defendant to avoid a full trial and the risk of being found guilty on the original, more serious charge. Based on the experience of other countries, when introducing this institution into the Criminal Procedure Code, the following results can be expected:

1) The efficiency of the investigation of criminal cases will increase, which will positively affect the workload of investigators, operatives, prosecutors and judges;

2) The forces and means of the investigation bodies are saved, which can be directed to the disclosure of grave and especially grave crimes;

3) A "deal with justice" may affect the reduction in the number of persons sentenced to deprivation of liberty by applying alternative types of punishments to them (restriction of liberty, involvement in public works, corrective labor and a fine), including a suspended sentence;

4) A new tool will appear in the Code of Criminal Procedure for identifying such dangerous forms as organized crime, a criminal community, etc.

Specific advantages of introducing such a deal

First of all, this makes it possible for the court to pass a sentence without examining all the materials of the case and relying on the testimony of the accused. Thus, the deal contributes to the acceleration of the trial, approaching the moment of implementation of criminal liability and reducing the workload of judges. The likelihood of a guilty verdict is 100 percent.

Secondly, law enforcement agencies will have the opportunity to deal with other crimes and establish the involvement of other persons in the committed act.

Thirdly, the deal has a preventive effect on convicts, including those sentenced on probation, for whom the prosecutor has established any restrictions, since in case of their violation, the convict has the right to petition the court to annul the deal.

Cons of the deal

As a result of the conclusion of an agreement, not all legally significant circumstances of the commission of a crime can be established. The court in such cases

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most often will not seek to delve deeply into the essence of the incident, being satisfied with the formal admission of guilt on the part of the defendant and the opportunity to pronounce a sentence without unnecessary delay[5].

Reduces the severity of the nature of crimes if the punishment for committing them can almost always be avoided.

And, besides, there is a risk that a person, having agreed to a deal, may slander other suspects in order to avoid criminal liability himself.

Disputes around the pros and cons of the deal are going on all over the world. At the same time, the number of countries where such an institution is being introduced is growing every year. Recently, in Moldova, Georgia, Belarus[6] some elements have been introduced into the Code of Criminal Procedure of the Russian Federation[7], Ukraine plans to introduce it.

Persons who have committed crimes, in order to mitigate the sentence, may conclude an agreement on the recognition of guilt with the bodies of inquiry and preliminary investigation.

What is this institution and when was it put into practice? What practical results are being achieved in this direction?

A plea agreement is concluded for certain categories of crimes on the basis of the petition of the suspect or the accused, who agreed with the suspicion or charge brought against him, actively contributed to the disclosure of the crime and made amends for the harm caused.

On this basis, according to the relevant article of the Special Part of the Criminal Code, the term or amount of punishment imposed by the court for crimes for which a plea agreement has been concluded cannot exceed half of the maximum prescribed punishment or term.

In 2021, our court heard a total of 47,657 criminal cases against 61,263 individuals, of which plea agreements were approved in 88 criminal cases against 120 individuals.

As a result of the crimes committed in this category of cases, the parties were compensated for damage in the amount of more than 6 billion soums .

To do this, the suspect or accused must understand the nature of his actions, as well as the consequences of his application. The petition must be filed voluntarily and after consultation with the defense counsel involved in the case.

The suspect or the accused must not deny or refute the suspicions or accusations put forward by the body of inquiry or investigation, the evidence available in the

[5] Сделки о признании вины в уголовном процессе зарубежных стран / А. Д. Алешина, А. Л. Асланян, К. В. Беляева, В. В. Булатова // Юрид. вестн. молодых ученых. – М., 2016. – Вып. 3. – С. 39–44.; Монид М.В. Особый порядок принятия судебного решения при согласии обвиняемого с предъявленным ему обвинением [Текст]: автореф. дис. … канд. юрид.наук. – Иркутск, 2007. – С. 10 – 11.

[6] Шпак В. В. Ускоренное производство в уголовном процессе Республики Беларусь // Пятьдесят лет кафедре уголовного процесса УрГЮА (СЮИ). Ч. 1. Екатеринбург, 2005. С. 327–328.

[7] Кельбиев М.Р. Сравнительно-правовой анализ американской сделки о признании вины и особого порядка судебного разбирательства российского уголовного судопроизводства // Вестник РУДН. Серия: Юридические науки. 2010. № 4. С. 130-136.

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case, as well as the nature and amount of the damage caused.

A guilty plea agreement cannot be concluded if there are grounds for applying coercive medical measures, as well as if a person has committed several crimes and at least one of them does not meet the requirements provided for by the relevant article.

According to Article 586[7] of the Code of Criminal Procedure, cases under a plea agreement are considered in the general manner, taking into account the specifics provided for in this article, no later than one month from the date of receipt of the criminal case with the agreement in court.

Another feature of this category of cases is that the court listens to the opinions of the defendant and his defense counsel[8], the prosecutor, and, if necessary, the victim, the civil plaintiff, and then retires to a separate room to make a decision.

The introduction of the institution of an acknowledgment of guilt into the legislation serves to ensure the full disclosure of crimes, the inevitability of punishment for a crime committed. In addition, it allows criminals to understand the essence of their actions and contribute to the disclosure of the crime, which will lead to a reduced sentence.

The mechanism for implementing the agreement.

The suspect has the right to petition the prosecutor to conclude a deal from the moment the suspicion is presented to him, since by this moment there is already any evidence of his involvement in the crime before the stage of the judicial investigation.

At the same time, the prosecutor is empowered to independently initiate the issue of concluding a "deal" . This is proposed in order to simplify the investigation of complex criminal cases. However, the final decision is made, of course, by the court. And in preparing this chapter, we had a dilemma - to include the victim in the orbit of the "deal" or not.

For example, in Georgia, the victim does not have any rights at all when dealing with justice.

In this regard, we tried to strengthen the judicial stage. In addition to the fact that the judge rechecks the concluded deal, the victim is also connected to the judicial part. His participation in the court is mandatory if he does not agree with the deal. When sending a criminal case to the court, the prosecutor shall notify the victim in writing in advance with an explanation that he has the right to appeal the transaction in court and file a civil claim[9].

Consideration of the transaction by the court is carried out within 5 days from the date of receipt of the case materials.

The court, having considered the legality of the transaction, makes one of the following decisions in the deliberation room:

1) On approval of the agreement;

[8] Alschuler A.W. The Defense Attorney's Role in Plea Bargaining // Yale Law Journal. 1975. N 84.

[9] George Fisher, Plea Bargaining 's Triumph, 109 YALE L.J. 857 (2000). Adam M. Gershowitz & Laura R. Killinger, The State (Never) Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants, 105 NW. U. L. REV. 261, 262–63 (2011).

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2) On refusal to approve the agreement and transfer of the case to the prosecutor.

In cases where the agreement is approved, the court issues a guilty verdict.

The court, having considered the decision to conclude a plea agreement, issues a ruling on refusal to approve the agreement and transfers the criminal case to the prosecutor for investigation under the general rules or revision of the agreement, if:

1) There are no grounds for approving the agreement or the requirements of the procedural law are violated when concluding the agreement;

2) The court does not agree with the conditions stipulated in the agreement regarding the qualification of the crime in the charge brought against the defendant;

3) The court has reasonable doubts about the guilt of the defendant;

4) The parties have renounced the concluded agreement.

A private complaint may be filed against a court ruling by the defendant, the victim (civil plaintiff), their legal representatives, counsel, and a private protest by the prosecutor.

In our opinion, the "agreement" should be extended to large categories of crimes. First of all, it should be aimed at countering organized forms of crime, extremism and terrorism. At the same time, such a process must be balanced so that none of its members can escape criminal responsibility. And a deal can be made with one of several suspects, regardless of giving their consent. Therefore, we propose that in relation to persons who have agreed to extradite other participants in the crime, the materials of the criminal case should be separated into a separate proceeding and a court decision issued against them after the conviction of all accomplices in the crime.

In our opinion, the deal must be linked with the institution of ensuring security measures for persons participating in the criminal process. In this regard, we propose to provide for a provision on providing a safe place for persons who have agreed to a deal and a person should not be kept in the same cell with other accomplices in a crime.

Perhaps, based on the experience of the United States, it is advisable to consider the issue of the right to fully exempt from criminal liability of persons who actively contribute to the disclosure of crimes[10].

I believe that it is necessary to give the investigator and the interrogating officer the right of procedural initiative before the prosecutor , since the task of solving the crime remains with the police. In our opinion, the investigator and the interrogating officer should independently submit a petition to the prosecutor about the deal, since it is they who are in direct contact with the persons under investigation.

Foreign experience of a plea deal

A procedure similar to the Anglo-Saxon "plea-bargaining" (negotiations between the prosecution and the defense, the so-called plea bargain)[11] was

[10] Fischer G. Plea Bargaining's Triumph: A History of Plea Bargaining in America 222-238 p.9.1.2003

[11] Махов В.Н., Пешков М.А. Уголовный процесс США (досудебные стадии): учеб. пособие. М., 1988. 208 с.; Топчиева Т.В. Соотношение сделки о признании вины (на

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introduced in France under the name "Procedure for appearing in court with a preliminary confession of guilt" (CRPC), by law of 9 March 2004. The purpose of this procedure was to free the correctional courts from the most simple cases, as well as to speed up the administration of justice[12].

Similar procedures were also adopted by other countries, not only Anglo-Saxon, long before such a procedure was introduced in France. However, the "Pleading Guilty Appearance" procedure is distinctly different from the "plea-bargaining" procedure, as the principle of negotiation has been eliminated under the CRPC.

In the United States, a guilty plea is a core element of criminal justice: in exchange for a guilty plea, the person being prosecuted negotiates with the prosecutor for a reduced sentence[13].

Basically, after admitting one's guilt to the federal authorities, the punishment is reduced by about 30%[14]. Thus, the judge, in exchange for the confession by the accused of his guilt, can cancel some of the claims of the prosecution, or reclassify the crime to a less serious one, although **the very principle of negotiating within the framework of the "Procedure for appearing in court with a preliminary confession of guilt" was excluded[15].**

In Canada, charges are often reviewed after a preliminary guilty plea, which takes the form of negotiations[16].

In England, confession of guilt is a frequent occurrence and in most cases entails a reduction in punishment by 20 or 30%[17].

In Germany, jurisprudence also recognizes the negotiation of a change in the maximum sentence prescribed, if a frank confession has been made and there is no doubt about the guilt of the person concerned.

In Spain , the plea procedure was introduced by law of 28 December 1998.

Finally **, in Italy** , on the one hand, there is a procedure for the application of punishment at the request of the parties, in which the prosecutor's office and the accused ask the judge to apply the measure of punishment established by the general agreement of the parties, and, on the other hand, there is an abbreviated procedure for issuing a judgment, which allows the judge to issue a decision without debate by

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примере США) и порядка разрешения уголовного дела, предусмотренного главой 40 УПК РФ // Алтайский юридический вестник. 2013. N 1 (1). С. 31-34.

[12] Звечаровский И. Э. Юридическая природа института досудебного соглашения о сотрудничестве // Законность. – 2009. – № 9. – С. 14–16.

[13] Холмогорова Н. Ю. Сделка с правосудием в России и США: сравнительно-правовой анализ процессуального законодательства // Вестн. Удмурт. унта. – 2016. – Т. 26, вып. 2. – С. 84–88.

[14] Langer M. From Legal Transplants to Legal Translations: The Globalization of Plea Bargaining and the Americanization Thesis in Criminal Procedure // Harvard International Law Journal. 2004. N 1.

[15] Dervan L. E. Bargained Justice: Plea Bargaining's Innocence Problem and the Brady Safety-Valve [Электронный ресурс] // Utah Law Review. – 2012. – P. 51-97. – URL: http://psycnet.apa.org/record/2017-56970-001 (дата обращения: 28.06.2018).

[16] Гуценко К.Ф. Уголовный процесс основных капиталистических государств / Англия. США. — Вып. 1. — М.: РУДН, 1969

[17] Bjerk D. On the Role of Plea Bargaining and the Distribution of Sentences in the Absence of Judicial System Frictions (Preliminary Draft) // McMaster University and RAND Corp. 2005. 29 Nov

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the parties, based only on evidence, since the accused waived the right to reduce the sentence by one third. So far, 78,000 convictions have been issued in France as a result of the application of the preliminary guilty plea procedure (out of 630,000 convictions each year for offenses and crimes)[18].

Law No. 2011-1882 of December 13, 2011 on the distribution of litigation and on the simplification of certain judicial procedures, expanded the conditions under which the prosecutor has the right to resort to this preliminary guilty plea procedure.

DISCUSSION OF RESEARCH RESULTS

This procedure consists of several stages.

Most often, it begins at the initiative of the prosecutor, who proposes a measure of punishment to the accused who has admitted his guilt. The latter must either accept this measure of punishment, or refuse.

If the accused agrees, a court session is held to enforce this decision, and if the judge also decides to issue a decision in this court session, this decision will have the force of a guilty verdict[19].

Schematically, this procedure is divided into two distinct stages:

- Proposal stage **(I),** in which only the prosecutor of the republic and the accused, who must be accompanied by a lawyer, participate;
- The stage of enforcement of this decision **(II),** where the role of the prosecutor's office fades into the background, giving way to the active role of the judge, who decides to approve this procedure.

The victim appears in the process only at this stage, since he is invited to the court for a meeting on the approval of the decision to apply the CRPC procedure.

I. Proposal stage

The proposal is made by the prosecutor, who plays a decisive role both in deciding on the application of this procedure and in the content of the proposal made. **(one)**

The accused, who necessarily has his own lawyer, may accept the proposal made or refuse it, in exceptional cases, after a certain period of reflection. **(2)**

1. The role of the prosecutor's office.

Initiative in the procedure

It belongs to the prosecutor, and he alone can decide on its application. This is carried out in accordance with the principle of expediency of criminal prosecution. More specifically, at the end of the investigation, most often at the end of the detention (limited to a maximum of 48 hours), the prosecutor makes a decision on the basis of which a criminal case will be initiated. It is equally acceptable that the suspect or his lawyer may also file a plea motion, but it is up to the prosecutor to decide whether to accept or reject the motion. *Along with this, it should be noted that the prosecutor, when deciding on the application of the guilty plea procedure, can also summon the accused to court.*

[18] Ministere de la Justice. Circulaires de la direction des Affaires criminelles et des Graces // Bulletin Officiel du Ministere de la Justice. 2001. N83.

[19] Yant M. Presumed Guilty [Электронный ресурс]. – URL: articles.latimes.com/1991-03-20/martinyant (дата обращения: 28.06.2018)

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SUGGESTION OF PUNISHMENT

The prosecutor may propose to the person who has thus admitted his guilt one or more of the main or additional types of punishment provided for the offense in question.

In response, the prosecutor is forced to set boundaries in this matter. In fact, the measure of punishment in the form of deprivation of liberty, proposed as a possible measure, cannot exceed half of the term provided for by the measure of deprivation of liberty for this punishment.

The proposal of the prosecutor may be accepted or rejected, but does not provide for discussion or negotiation.

2. The role of the person who committed the crime. Participation of a lawyer in a case

In the issue under consideration, the participation of a lawyer is mandatory. The confession of one's guilt before the prosecutor of the republic and the proposal of the latter can be carried out only in the presence of a lawyer who can study the case on the spot and conduct completely confidential negotiations with his client. The client cannot refuse the participation of a lawyer. In theory, there is no provision for a lawyer to negotiate a proposed sanction[20].

However, lawyers express a great desire to have such an opportunity to negotiate on the proposed sanction. In any case, the presence of a lawyer is mandatory. On the one hand, the fact that such a very quick procedure is being followed leaves the accused little time to think; therefore, he should be duly protected and made aware of the full consequences of his consent or refusal to accept the proposed measures of punishment. On the other hand, the application of this procedure is especially aimed at *"first time offenders"* who are in real need of advice[21].

Finally, in this procedure, the decisive role is assigned to the prosecutor of the republic, that is, an employee of the justice system, whose independence is the subject of discussion and who is not considered by the European Court of Human Rights as a representative of the judiciary, since he is hierarchically subordinate to the Ministry of Justice.

Consent or refusal to accept a sentence proposal

The person who committed the crime must be notified that he has a ten-day period for reflection, after which he must declare whether or not he agrees to accept the proposed measure (or measures) of punishment.

In all cases, whether the accused announces his decision immediately, or after the expiration of the time allotted for reflection, he must have his lawyer next to him when he communicates his decision to the prosecutor of the republic.

Thus, there are two possibilities:

[20] Chin, Gabriel Jackson, Pleading Guilty Without Client Consent (February 26, 2016). William & Mary Law Review, Vol. 57, No. 4, 2016, UC Davis Legal Studies Research Paper, Available at SSRN: https://ssrn.com/abstract=3009521. Jones v. Barnes. 463 U.S. 745, 764 (1983). Albert W. Alschuler, The Defense Attorney's Role in Plea Bargaining, 84 YALE L.J. 1179, 1245 (1975).

[21] Peter A. Joy & Kevin C. McMunigal, Does the Lawyer Make a Difference? Public Defender v. Appointed Counsel, CRIM. JUST., Spring 2012, at 46, 46–47. Christopher Slobogin & Amy Mashburn, The Criminal Defense Lawyer's Fiduciary Duty to Clients with Mental Disability, 68 FORDHAM L. REV. 1581, 1641 n.279 (2000).

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- or the person who committed the crime refuses to accept the offer. In this case, the prosecutor without fail sends the case after the investigation to the court.

In fact, having started the procedure for admitting guilt, the prosecutor initiates criminal prosecution. Thus, he no longer has the principle of expediency of criminal prosecution and cannot terminate the proceedings;

- or the person who committed the crime accepts the proposal of the prosecutor.

In this case, he appears before the court, where the authorized judge must officially confirm the chosen measure of punishment.

II. Approval stage

At the approval stage, the judge enters the process, who, before making a decision on the approval of the punishment, must carry out a very thorough work to verify all the facts. At this stage of the process, a victim appears in order to protect their interests.

2. Duties of a judge in a trial

If a measure of punishment proposed by the prosecutor is adopted, the accused shall immediately, at the request of the prosecutor for approval by the court of the measure of punishment, appear before the judge.

This judge hears both the accused person and his lawyer.

When we talk about a judge authorized to make decisions on the approval of a measure of punishment, we are talking about a reviewing judge, since he controls the validity of acts and their legal qualification.

He has an active role: he hears the detainee and his lawyer, interrogates the detainee about the circumstances of the offense and ascertains whether the given offense allows for the application of the preliminary guilty plea procedure. Judicial hearings on the approval of the measure of punishment are public.

In fact, a judgment resulting in a deprivation of liberty, except in special circumstances requiring a closed hearing for reasons of protection of the victim, should be the subject of a public hearing. At the end of the debate, the judge makes a decision on whether the measure of punishment is approved or, in fact, the judge is not obliged to approve the measures of punishment proposed by the prosecutor. The judge is left with the right to simply accept or refuse, he cannot replace the one proposed by the prosecutor of the republic with another measure. The judge makes his decision on the day of the court session on the approval of the measure of punishment, making a reasoned judgment. It should be noted that the presence of representatives of the prosecutor's office is not required at this court session.

3. Decision to approve the measure of punishment or refusal to approve if approved

The statement has the force of a guilty verdict. It follows from this that the criminal prosecution is over, that the sentences approved by the judge are entered in the case with information about the criminal record of the accused and that they may be the first term in case of relapse. Also, if the approved penalty is imprisonment, the person will be immediately taken into custody or brought before a sentencing judge, whose decision will be enforced without delay. In

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addition, a decision approving a measure of punishment is subject to immediate execution, despite the possibility of appeal.

In case of refusal to approve the measure of punishment

If the court refuses to approve the sentence proposal, it will, regardless of its reasons for refusal, be required to make a decision not to approve. In turn, the decision to refuse approval is not subject to appeal. Further, therefore, the case will go to court.

The main provisions:

1. A revised version of the definitive norm, where an agreement on the admission of guilt is understood to be an agreement concluded on not representing a great public danger, less serious and serious crimes, an agreement between the prosecutor, on the one hand, and the suspect (accused) and his defense counsel, on the other hand, in which these parties agree on the conditions for the implementation of criminal liability (features of sentencing) of the suspect or the accused in connection with his consent to the suspicion brought against him, accusation, active assistance in solving the crime and compensating for the harm caused.

2. The nature and procedure of the plea agreement is much closer in content to the European version of the "plea deal" or "punishment deal" than to the "plea deal" used in the United States, although, of course, legal the regulation of such transactions in the national legislation of various countries has its own characteristic features that are characteristic of the legislation of this state only.

3. The plea agreement is a new legal phenomenon in criminal proceedings, with the help of which procedural economy is achieved, that is, the very idea of cooperation is the implementation of the principle of expediency, a reasonable and adequate approach to socio-economic realities, reflected in criminal law institutions.

Despite the fact that the plea agreement, in its social and legal purpose, in a certain sense coincides with active repentance, confession, voluntary refusal to complete the crime, it is a fundamentally new phenomenon in criminal procedure legislation, distinguished by its detail, procedural the procedure for registration (written form, with a content clearly defined by law), legal regulation (a separate chapter in the Code of Criminal Procedure) and the purposes of the conclusion.

4. The conclusion that a plea agreement, like any other agreement, must have parties endowed with rights and obligations to achieve goals that are interrelated for them and cover mutually beneficial cooperation: the accused (suspect) undertakes to commit active actions in order to assist the investigation in solving and investigating a crime, searching for property obtained as a result of a crime, in exchange for making a court decision in a special manner and minimizing criminal punishment. The latter, in turn, depends

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on the prosecution, whose duty is the correct and high-quality implementation of the information received from the accused (suspect).

5. The scope of possible application of a plea agreement is limited to the framework of a criminal case against a given suspect (accused), as well as obtaining information about other crimes committed by the suspect (accused).

The model of cooperation that can form the basis of the decision to enter into a plea agreement should not be based solely on obtaining information that allows the identification and prosecution of the person in question. It is a combination of the following elements: 1) active assistance in the disclosure and investigation of a crime in a criminal case, on which an agreement is expected to be concluded; 2) possible (but not mandatory) exposure of other persons who contributed to the commission of this crime, or a report on their other criminal activities; 3) giving evidence about his criminal activity, that is, exposing himself in the commission of a crime.

6. The subject of a plea agreement is only the conditions for implementation, and not the grounds for criminal liability, as well as the specifics of sentencing, since only a court establishes liability for a criminal act, which is guided by the provisions of criminal law providing for the possibility of mitigating punishment for a person who has entered into a plea agreement. guilty and fulfilled all the obligations specified in it. The change of qualification and charges in the direction of mitigation or reduction of the volume of charges cannot be the subject of a cooperation agreement, guilt for the committed crime will and must be imputed only in accordance with the evidence established in the course of criminal proceedings.

7. The terms of the plea agreement are the actions of the accused, which primarily include active contribution to the disclosure and investigation of the crime. These conditions are mandatory. Optional conditions, depending on the discretion of the parties, may be the search for property stolen as a result of a crime, compensation or other compensation for harm to the victim, etc.

The confession of guilt and repentance of a person in the committed crime is a prerequisite for an agreement on admission of guilt.

8. The application of a plea agreement cannot be made dependent on the will of the victim, who cannot fully appreciate the significance of such an agreement, since his intentions are based mainly on compensation for material and moral damage caused to him by the crime, and on punishing the guilty person. At the same time, the possibility of his participation in the court session and the decision of the verdict in relation to the defendant, with whom a pre-trial agreement on cooperation has been concluded, where the judge must find out from the victim the attitude to the agreement, is not excluded. In addition, in case of disagreement with the court decision, taken taking into account the

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conditions of the agreement concluded by the accused, the victim has the right to appeal this decision to a higher court by filing a complaint against the verdict.

9. It is proposed to adopt a set of legislative novelties aimed at improving the national criminal procedure legislation, in terms of regulating relations arising from the conclusion of an agreement on the admission of guilt and its implementation at the pre-trial stages of criminal proceedings:

- on the procedure for explaining the right of the suspect or the accused to file a petition for the conclusion of an agreement on acknowledgment of guilt;
- on the procedure for filing and considering a petition for concluding a plea agreement;
- on the procedure for drawing up a plea agreement.

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