

The research project objective is to empirically examine the mechanism by which the defendant decides to make use of the four consensual instruments of the Polish criminal procedure (Article 335 § 1 and § 2 of the Code of Criminal Procedure; Article 387 of the Code of Criminal Procedure; Article 338a of the Code of Criminal Procedure), by identifying legal and non-legal elements determining such a decision. The starting points of the research project are derived from studies regarding the legal system of England and Wales (supplemented by research conducted in other countries from common law legal family- USA, Australia, Canada and Hong Kong), where plea bargains have become one of the basic tools for the practical conclusion of criminal proceedings.

Taking from the scientific achievements of three main branches of literature on this subject, which are: 1) indication of legal conditions conducive to the defendant's decision to enter into a plea bargain (in terms of such elements as legal representation in criminal proceedings, the gravity and the number of charges, activity of other participants of the proceedings apart from the defendant, coercive measures applied or expected length of court proceedings) 2) identification of extra-legal conditions determining the decision to enter a plea agreement (in terms of variables such as gender, age, ethnic origin or local environment of the defendant) 3) construction of theoretical models aiming at presenting the negotiation process conducted between participants in criminal proceedings under consensual modes, the project involves the implementation of the proposed research objective by way of an empirical study in the form of questionnaires coupled with direct interviews involving a representative group of defendants in criminal proceedings (no less than 180 cases).

Planned project constitutes the first attempt in Poland to identify the factors determining the defendant's decision to use the consensual mode of ending criminal proceedings.

Polish source literature presents a wide range of dogmatic studies concerning the institutions of plea agreements of the national criminal procedure, but lacks empirical studies aimed at testing the functioning of the discussed modes in practice, especially with regard to the decision-making process behind criminal plea bargains. The most recent empirical studies fragmentarily dealing with this problem, were implemented 10 years ago by the employees of the Department of Criminal Procedure, Faculty of Law of the University of Białystok. The results of the research published there, however, referred only to the practice of using the discussed institutions by professional participants of the criminal proceedings. The presented research project should be treated as a creative development in literature aimed at filling the existing empirical gap regarding the operation of consensual procedures from the point of view of the defendant, as the central subject of proceedings, who renounces his right to challenge the thesis of indictment during full jurisdictional proceedings when deciding to enter into a plea bargain. Using the method of comparative study of legal institutions in two countries from distant legal cultures, and connecting those methods with empirical examination, the proposed project seeks optimal solutions with regard to consensual modes, taking into account the need to safeguard the accused from unauthorised pressure. The literature of the common law countries has long been drawing attention to the threats to basic procedural guarantees related to the development of consensual institutions, including the right to defence against criminal charge, the privilege against self-incrimination and the presumption of innocence. Testing formulated research hypotheses in the conditions of Polish practice will allow to draw conclusions about the desired direction of further amendments to the criminal procedure, presenting a new, critical perspective, so far generally absent from Polish literature, which so far tends to be focused on the instrumental benefits that constantly progressive expansion of the scope of plea bargaining brings from the point of view of court economics.

The proposed work shall contribute to a broader international scientific research tendency concerning the critical analysis of the defendant's position as potentially threatened by unauthorised pressure from other parties participating in the criminal procedure.