

The aspect of justice in conditional discontinuance of proceedings

Summary

This dissertation examines the problem of justice in conditional discontinuance of proceedings. The above-mentioned institution is an element of the criminal system response next to punishment in traditional meaning. Therefore, the main goal of the thesis is to answer the question: Whether conditional discontinuance of proceedings can be a just instrument of the criminal system response?

Presently, this question is all the more justified because of the legislator's disturbing pursuit to increase scope of usage of this institution, which has been visible since 1969 when conditional discontinuance of proceedings was created.

The author gives a positive answer to this question, nevertheless the concept of justice in the above-mentioned instrument should be analysed in the framework of classical justice and not only restorative justice, which is a mere part of justice in its traditional meaning. The author enlists problems arising from the institution of conditional discontinuance of proceedings in a current state of law, particularly associated with an extension of its scope of usage, including liberalization of statutory threat of punishment. The author notes that this process implicates a decrease in the level of justice in conditional discontinuance of proceedings

The presented thesis is divided into six chapters. It also contains introduction, conclusion and bibliography.

The first chapter contains the presentation of justice in different meanings, especially classical justice compared to the term of restorative justice.

The second chapter presents the analysis how to understand and use equity and the description of the equal application of law paradigm, created by Wojciech Dziedziak and used in this dissertation with modifications concerning determinants of equity.

The third chapter pertains the importance of justice in criminal law and a crime, which is a fact causing inequality, demanding alignment to restore justice. Justice is treated as a main goal of criminal law, which by a certain load of ailments restores

equality.

The fourth chapter describes the ideological and historical perspective of conditional discontinuance of proceedings, originating from Anglo-Saxon countries as an inspiration for the creators of the new institution. In addition, the historical background of the conditional discontinuance of the proceedings is presented, as well as the actual probation measure in the state determined by the penal codification of 1969.

The fifth chapter contains the analysis of material criminal law regulations, concerning conditional discontinuance of proceedings through the prism of justice. The sixth chapter pertains the analogous analysis of procedural criminal law regulations. In these chapters, he also proposes his own solutions which, in his opinion, procure the institution of conditional discontinuance of proceedings and its administration to be more just.

This dissertation, in the author's opinion, is to be a contribution to the discussion on the aspect of justice in conditional discontinuance of proceedings, understood in the classical sense, as well as inspiration for the legislator to seek solutions that could contribute to a fuller realization of justice by this institution.