



IN CRIMINAL PROCEEDINGS, A PLEA AGREEMENT, ALSO KNOWN AS A PLEA BARGAIN, IS A NEGOTIATED AGREEMENT BETWEEN THE PROSECUTION AND THE DEFENDANT

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ABSTRACT

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When there is an admission of guilt and agreement with the prosecution, it is logical to speak of a special procedure with an emphasis on the plea agreement — especially when it includes active cooperation with the investigation (such as revealing previously unknown information in unclear situations) and if the case has a high public resonance.

President of the Republic of Uzbekistan, Shavkat Mirziyoyev, stated that *“the priority tasks of the reforms currently being carried out in the Republic of Uzbekistan are the creation of an effective system to combat corruption, ensuring the genuine independence of the judiciary, improving the quality and transparency of justice, simplifying pre-trial criminal proceedings, reducing its duration, and ensuring access to justice for citizens.”* (Decree of the President of the Republic of Uzbekistan dated 28.01.2022 No. UP-60 “On the Strategy for the Development of New Uzbekistan for 2022–2026”. National Legal Database of the Republic of Uzbekistan. Access: <https://lex.uz/ru/docs/5841077>, accessed: 30.03.2024)

These priorities — particularly the simplification of judicial proceedings and reduction of time for criminal case consideration — are necessitated by current demands. In the context of the financial, time, and human resource burdens (on investigative and judicial bodies), the plea agreement supports the independence and efficiency of legal proceedings, reduces uncertainty, and saves time and money.

As a result, the General Prosecutor's Office, Ministry of Internal Affairs, State Security Service, Ministry of Justice, and the National Center of the Republic of Uzbekistan for Human

Rights proposed implementing an appropriate procedural mechanism in the form of a plea agreement. This would enable procedural efficiency in handling criminal cases and reduce the burden on the judiciary and investigative bodies.

Another reason for introducing the plea agreement into the criminal procedural legislation is *“the introduction of international standards and advanced foreign experience in this field.”*

At the same time, analysis of judicial-investigative practices and public complaints reveals a lack of full mechanisms ensuring the protection of individual rights and freedoms in criminal proceedings, as well as legislative gaps regarding the clear definition of the investigative powers of law enforcement agencies.

In foreign countries where the plea bargain has existed for a long time, an entire doctrine has already formed around it, and various issues have been identified. The institution remains a subject of academic debate. Therefore, it is relevant to present the views of foreign scholars on the matter:

• **S.A. Kasatkina** defines the plea agreement as *“a fundamentally new concept for legislation, legalizing the possibility of an agreement between the prosecution and defense during the pre-trial stage of a criminal case. It defines the limits, forms, and conditions of cooperation with the investigation, affecting the possibility of changing the trial procedure, ultimately providing the defendant with benefits such as sentence reduction.”*

• **A.V. Smirnov** views it as accelerated and simplified proceedings.

• **M.V. Goloviznin** emphasizes that the plea agreement is a procedural document.

• **Zh.K. Konyarova** argues that this procedure simplifies and accelerates justice, which is important for upholding the right to a fair trial within a reasonable time.

• **T.V. Topchieva** asserts that its main purpose is not merely simplification and acceleration, but encouraging active cooperation between the suspect and law enforcement authorities in solving crimes.

The plea agreement is a procedure regulated by the criminal procedural legislation of the Republic of Uzbekistan, aimed at the investigation and exposure of crimes, including those that are serious but not extremely dangerous. It includes an agreement between the investigator and prosecutor on one side, and the accused and their defense counsel on the other, assuming mutual benefits.

Under such an agreement, the suspect or defendant, based on a formal petition, agrees to assist in uncovering and investigating the crime, admit guilt, and compensate for damages. In turn, the prosecution, represented by the prosecutor, and the investigator or inquiry officer, commits to considering the case taking into account the assistance provided by the person who committed the crime.

R.R. Kovalev outlines the following features of a plea agreement as a legal procedure:

1. It is a way of resolving relationships between opposing subjects of this branch of law;
2. It is a legal act that creates rights and obligations for participants;
3. It reflects the voluntary expression of will by the parties;
4. Its content is based on mutually acceptable conditions and lawful concessions;
5. It must be in written form.

In the near future, practical implementation of the plea agreement may reveal various

issues. It is hoped that scholars, practicing lawyers, prosecutors, investigators, and other legal practitioners will propose amendments to improve the criminal procedure legislation.

Among the debated issues is the possible theoretical contradiction between the plea agreement and the **presumption of innocence**. This principle implies that a suspect or defendant is considered innocent until proven guilty through a lawful process and confirmed by a final court verdict.

Thus, thorough discussion and analysis may be required to balance efficient crime investigation with core principles of justice and legality. The main requirement of the presumption of innocence is that the accused is not required to prove their innocence — this burden lies entirely with the prosecution.

G.A. Pechnikov writes that in special judicial procedures, “...contrary to the presumption of innocence, the defendant is immediately classified as a criminal... As a result, we get the idea that ‘the end justifies the means,’ where ‘confession’ is the goal, and the ‘deal’ is the means.”

By choosing to enter a plea agreement, the accused essentially waives the presumption of innocence — one of the foundational principles of criminal justice. This raises the question of whether all procedural principles are equally fundamental and whether they genuinely ensure justice and protection of individual rights.

In a motion to conclude a plea agreement, the suspect or accused agrees to cooperate with the investigation, which may itself serve as evidence of guilt.

Risks of reduced investigative professionalism arise because:

- Investigators may become less motivated to conduct thorough investigations if guilt is admitted early.
- Critical facts or additional perpetrators may be overlooked due to reduced investigative effort.

Thus, the plea agreement may risk reducing investigative quality, which could negatively impact public safety and confidence in the justice system.

V.V. Kolesnik argues that the pre-trial cooperation agreement essentially represents an expanded form of a civil-law-style agreement on criminal liability, linking it to the adversarial nature of criminal proceedings. She cites **A.G. Smolin** and **V.G. Abshilava**, who advocate using **civil law concepts** to explain the nature of this legal institution.

The concept of a pre-trial cooperation agreement (plea bargain) has become a subject of extensive legal analysis and discussion. This legal tool allows the accused to cooperate with the prosecution in exchange for benefits such as reduced charges or sentencing recommendations.

Scholars use civil law categories to explain the plea bargain, reflecting a broader trend in legal science to incorporate interdisciplinary approaches and insights from different legal traditions.

By exploring parallels between civil law and plea agreements, researchers aim to uncover new perspectives that enhance understanding of this legal tool.

V.V. Kolesnik’s analysis of the pre-trial cooperation agreement provides valuable insights into its nature and legal consequences. Emphasizing its link to legal claims and citing other legal scholars, she contributes to a deeper understanding of this complex legal mechanism.

The study of civil law categories in relation to plea agreements highlights the

interdisciplinary nature of legal science and its potential to clarify complex legal concepts. Thus, analyzing plea agreements through the lens of civil law theory can help clarify their features, mechanisms, and role in the criminal justice system.

In the monograph by **V.R. Avkhadeyev, V.S. Astashova, L.V. Andrichenko**, and others, it is asserted that plea bargaining creates contractual relations to resolve criminal-procedural conflicts, thereby fulfilling the compensatory function of justice. The benefit of intersectoral legal transactions lies in effectively settling relations between participants in criminal law.

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