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The effect of redress the damage on the effectiveness of the institution of conditional discontinuance of criminal proceedings

Wpływ zobowiązania do naprawienia szkody na efektywność instytucji warunkowego umorzenia postępowania karnego

INTRODUCTION

The conditional discontinuance of criminal proceedings is an original Polish legal institution, which is defined as the temporary postponement in issuing a decision on guilt and criminal responsibility of a perpetrator¹. Essential changes in the legal provisions in enforcing binding laws include giving the courts exclusive competence to apply the conditional discontinuance of criminal proceedings² and setting the form of the sentence as

¹ W. Wróbel, A. Zoll, *Polish Penal Law. General part*, Cracow 2012, s. 477 [in Polish].

² A. Zoll (in:) A. Zoll (ed.), *The Penal Code. General part: Comment to articles 1–116*, Warsaw 2012, s. 914-915 [in Polish]; Z. Cwiąkański, *Selected issues of the conditional discontinuance of criminal proceedings*, a paper presented in the IXth Bielany Penal-law Colloquium “The measures associated with placing a perpetrator under probation”, Warsaw, 16 May 2012, published on the website of Czasopismo Prawa Karnego i Nauk Penalnych <http://www.czpk.pl/index.php/wideo/bielanskie-kolokwium-karnistyczne/ix-bielanskie-kolokwium-karnistyczne> (as of 1 February 2016). [in Polish]; K. Juszka, *Judicial protection of human rights in the practice of applying the conditional discontinuance of criminal proceedings* (in:) R. Sztymiler, J. Krzywkowska (ed.), *Problems with judicial protection of human rights*, Olsztyn 2012, s. 273-278 [in Polish].

the only one provided for pronouncing this institution³. This sentence is not a convicting judgement⁴.

Z. Gostyński represents a correct opinion that Art. 67§3 of the Polish Penal Code provides an autonomous basis for adjudicating the obligation to redress the damage⁵.

M. Leonieni and W. Michalski define the effectiveness of conditional discontinuance of criminal proceedings as the correlation between the objectives (targets) of the provisions pertaining to the studied institution and their implementation i.e. results of their application in the practice of courts⁶.

A. Zoll emphasises that adjudicating the obligation to redress the damage caused serves an educating, verifying⁷ and compensatory role⁸.

The obligation to redress damage, linked with the conditional discontinuance of criminal proceedings is always adjudicated *ex officio* although the injured party may also submit a relevant motion to this effect under the provision of Art. 9§2 Polish Code of Criminal Procedure⁹.

In the author's own studies, all ways for completion of the probation period by the accused, hereby called procedural situations, were listed:

- Successful completion of the probation period, and of the period referred to in Art. 68§4 of the Polish Penal Code,
- Successful completion of the probation period, and of the period referred to in Art. 68§4 of the Polish Penal Code arrived at as a result

³ A. Zoll, *Substantive law issues of the conditional discontinuance of criminal proceedings*, "Scientific issue of Jagiellonian University. Part of Law" 1973, nr 62, s. 10-26 [in Polish]; A. Zoll (in:) A. Zoll (ed.), *The Penal Code...*, s. 916-917; P. Hofmański (ed.), *Polish code of criminal procedure. Coment do articles 297-467*, Warsaw 2011, s. 369 [in Polish].

⁴ A. Zoll (in:) A. Zoll (ed.), *The Penal Code...*, s. 917 [in Polish].

⁵ Z. Gostyński, *The obligation to redress damage in new penal legislation*, Cracow 1999, s. 136 [in Polish].

⁶ M. Leonieni, W. Michalski W., *Conditions for the effectiveness of the conditional discontinuance of criminal proceedings in judicial practice*, Warsaw 1975, s. 44 [in Polish]

⁷ A. Zoll, *Substantive law issues...*, s. 111 [in Polish];

⁸ A. Zoll (in:) A. Zoll (ed.), *The Penal Code...*, s. 930 [in Polish]

⁹ M. Szczepaniec, J. Zygmunt, *The obligation to redress damage in the system of probation measures* (in:) Z. Cwiąkowski, G. Artymiak (ed.), *Substantive-law and procedural aspects of redressing damage in the light of penal codifications of 1997, and proposed amendments*, Warsaw 2010, s. 149; M. Szewczyk, *Some remarks on the compensation as punitive measure in the draft of the Penal Code*, "Palestra" 1995, nr 1-2, s. 74; [in Polish]. A. Muszyńska, *Redressing damage caused by crime*, Warsaw 2010, s. 175 [in Polish].

- of proceedings during which a decision about not resuming conditionally discontinued criminal proceedings was issued,
- Decision about resuming conditionally discontinued criminal proceedings,
 - Decision about resuming the conditional discontinuance of criminal proceedings arrived at as a result of proceedings during which a decision about not resuming conditionally discontinued criminal proceedings was issued,
 - Decision about the discontinuance of enforcement proceedings due to the lapse of the probation period provided for in Art. 68§4 of the Polish Penal Code,
 - Decision about the discontinuance of enforcement proceedings due to the lapse of the probation period provided for in Art. 68§4 of the Polish Penal Code, arrived at as a result of proceedings during which a decision about not resuming conditionally discontinued criminal proceedings was issued,
 - Decision about the discontinuance of enforcement proceedings due to the death of the accused,
 - Decision about the discontinuance of enforcement proceedings due to the death of the accused, arrived at as a result of proceedings during which a decision about not resuming conditionally discontinued criminal proceedings was issued.

The objective of this paper is to present the redress the damage from both the viewpoint of the opinions in legal doctrine, and the correlations between its individual resolutions and their impact on the way of ending the probation period. The analysis of these correlations will be presented by showing factors resulting from the author's own research of 405 court cases, pertaining to the effectiveness of the conditional discontinuance of criminal proceedings. These were cases individually numbered in the archives of the District Court in Krakow and the regional courts situated within the area of its jurisdiction. The presented analysis also includes a presentation of postulates *de lege ferenda* concerning both legislative amendments to the statutory construction of the legal institution of conditional discontinuance of criminal proceedings, as well as the action which should be undertaken in the area of its practical application within the framework of binding regulations.

STATISTICAL ANALYSIS OF COURT CASES

The measure of the effectiveness of the institution of conditional discontinuance of criminal proceedings, which is used in the author's presented research, is the criterion of either successful or unsuccessful course or completion of the probation period¹⁰ broadened by adding the analysis of procedural decisions and the circumstances of the decision-making process affecting the decisions during all stages of criminal proceedings.

In the author's own research of 405 cases, the courts, in judgements conditionally discontinuing criminal proceedings, imposed the obligation to redress the damage to 54 accused (13,5%).

The presentation of the correlations between particular solutions adopted in a judgement conditionally discontinuing criminal proceedings should start from the statistical analysis describing these correlations¹¹.

In statistical analysis, the following scale is usually adopted for correlation:

$r=0$	the variables are not correlated,
$0 < r < 0,1$	there is a meagre correlation
$0,1 < r < 0,3$	weak correlation
$0,3 < r < 0,5$	average correlation
$0,5 < r < 0,7$	high correlation
$0,7 < r < 0,9$	very high correlation
$0,9 < r $	almost full correlation

The first statistical analysis was presented by the results of correlation between the amount of obligation to redress the injury adjudicated in the judgement conditionally discontinuing criminal proceedings, and the time limit for its payment in the same judgement (Table 1, Table 2, Fig. 1).

¹⁰ W. Ciechanowicz, *Effectiveness of the conditional discontinuance of criminal proceedings in the practice of military prosecutors' offices*, "Wojskowy Przegląd Prawniczy" 1978, nr 2, s. 220-221 [in Polish]; M. Leonieni, W. Michalski, *Conditions for the effectiveness...*, s. 6-7. [in Polish].

¹¹ Statistical analysis was consulted with Dr. Adam Ćmiel Eng. from the Department of Applied Mathematics of Stanisław Staszic AGH University of Science and Technology in Krakow.

Table 1. The results of correlating for the Spearman R coefficient of rank of the amount of obligation to redress the injury adjudicated in the judgement conditionally discontinuing criminal proceedings, and the time limit for its payment in the same judgement.

Two variables	The Spearman R coefficient of rank The correlation coefficients found are statistically significant with $z < 0,05$			
	N important	R Spearmana	t(N-2)	P
The amount of obligation to redress the injury and the time limit for its payment	42	0,327	2,188	0,035

Source: Own processing

Table 2. The results of correlating the amount of obligation to redress the injury adjudicated in the judgement conditionally discontinuing criminal proceedings, and the time limit for its payment in the same judgement.

Variables	Correlations between variables The correlation coefficients found are statistically significant with $z < 0,05$	
	The time limit for payment of redress the injury	
The amount of obligation to redress the injury	N=42 r=0,55 p=0,00	

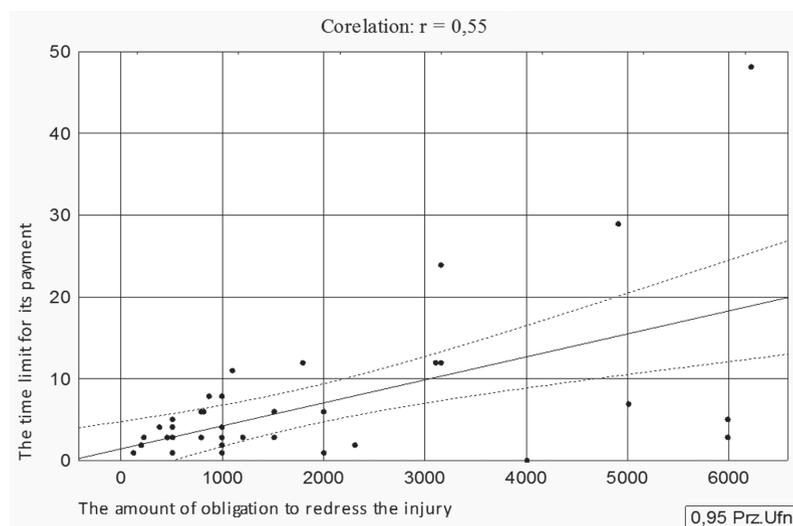
Source: Own processing

The graph (Figure 1) presents the scatter of data the amount of obligation to redress the injury adjudicated in the judgement conditionally discontinuing criminal proceedings, and the time limit for its payment in the same judgement with 0.95 confidence interval.

The results of the author's own studies of receipts indicated that in only 8 out of 54 cases did the accused pay consideration after the time limit resulting from the relevant judgement. The correct linking of the amount and time limit for payment of consideration redressing harm given in the judgement conditionally discontinuing criminal proceedings, underscores the individualisation of responsibility for someone's actions, entailing the redress of damage caused.

As a result of statistical analysis, the below-listed correlations between variables were found to be statistically insignificant.

Figure 1. The scatter of data the amount of obligation to redress the injury and the time limit for its payments



In the analysis, a positive correlation was found between the amount of obligation to redress the injury adjudicated in the judgement conditionally discontinuing criminal proceedings, and the time limit for its payment in the same judgement (R Spearmana = 0,327, $p = 0,035$, r Persona = 0,549, $p < 0,001$).

The first is the correlation between the number of persons supported by the perpetrator and the level of monthly income, and the time limit to meet the obligation to redress damage given in the judgement conditionally discontinuing criminal proceedings (Table 3)

The above conclusion is in line with a general premise relating the possibility to impose the obligation to redress damage, which involves finding that the injured party suffered real damage as a direct result of the crime in question¹² and that the damage includes both the loss of property and the loss of reasonably expected benefits¹³.

¹² A. Marek, *The Penal Code. Comment*, Warsaw 2010, s. 222 [in Polish]; M. Szczepaniec, J. Zygmunt, *The obligation to redress damage...*, s. 150; D. Gorzkiewicz, *The conditional discontinuance of criminal proceedings in practice (notes de lege ferenda to Art. 66§3 PC, "Wojskowy Przegląd Prawniczy" 2007, nr 4, s. 65; [in Polish]; M. Królikowski, K. Szczucki (ed.), *Penal Law. General part. Courts' decisions*, Warsaw 2011, s. 316-318 [in Polish].*

¹³ A. Zoll (in:) A. Zoll (ed.), *The Penal Code...*, s. 932 [in Polish]; Z. Cwiąkański, *Selected issues...*, *op. cit.*; A. Pilch, *The nature of the obligation to redress damage under the provisions of Art. 46 of the Polish Penal Code, and the issues of jurisprudential practice* (in:) Z. Cwiąkański, G. Artymiak (ed.), *Substantive-law and procedural aspects of redressing*

Table 3. The correlation between the number of persons supported by the perpetrator and the level of monthly income, and the time limit to meet the obligation to redress damage given in the judgement conditionally discontinuing criminal proceedings

Variables	The time limit to meet the obligation to redress damage
The number of persons supported by the perpetrator	r=0,13
	N=42
	p=0,41
The level of monthly income,	r=-0,22
	N=31
	p=0,24
Income per person	r=-0,23
	N=31
	p=0,23

Source: Own processing

In analysis of the above mutual relationship, no correlation was found between the above variables (e.g. Pearson correlation coefficient $r=0.130$ and it is insignificant, because $p=0.412 > 0.05$).

The above conclusion is in line with a general premise relating the possibility to impose the obligation to redress damage, which involves finding that the injured party suffered real damage as a direct result of the crime in question¹⁴ and that the damage includes both the loss of property and the loss of reasonably expected benefits¹⁵.

damage in the light of penal codifications of 1997, and proposed amendments, Warsaw 2010, s. 122 [in Polish]; J. Lachowski, T. Oczkowski, *The obligation to redress damage as a punitive measure*, "Prokuratura i Prawo", nr 9, s. 43 [in Polish].

¹⁴ A. Marek, *The Penal Code. Comment*, Warsaw 2010, s. 222 [in Polish]; M. Szczepaniec, J. Zygmunt, *The obligation to redress damage...*, s. 150; D. Gorzkiewicz, *The conditional discontinuance of criminal proceedings in practice (notes de lege ferenda to Art. 66§3 PC*, "Wojskowy Przegląd Prawniczy" 2007, nr 4, s. 65; [in Polish]; M. Królikowski, K. Szczucki (ed.), *Penal Law. General part. Courts' decisions*, Warsaw 2011, s. 316-318 [in Polish].

¹⁵ A. Zoll (in:) A. Zoll (ed.), *The Penal Code...*, s. 932 [in Polish]; Z. Cwiąkański, *Selected issues...*, *op. cit.*; A. Pilch, *The nature of the obligation to redress damage under the provisions of Art. 46 of the Polish Penal Code, and the issues of jurisprudential practice* (in:) Z. Cwiąkański, G. Artymiak (ed.), *Substantive-law and procedural aspects of redressing damage in the light of penal codifications of 1997, and proposed amendments*, Warsaw 2010, s. 122 [in Polish]; J. Lachowski, T. Oczkowski, *The obligation to redress damage as a punitive measure*, "Prokuratura i Prawo", nr 9, s. 43 [in Polish].

Another analysis involved the results of the correlation between the time limit to meet the obligation to redress the damage given in a judgement conditionally discontinuing criminal proceedings, and the procedural effectiveness presented in the introduction to this paper. (Table 4, Table 5, Fig. 2).

Table 4. The results of the correlation between the time limit to meet the obligation to redress the damage given in a judgement conditionally discontinuing criminal proceedings, and the procedural effectiveness

Procedural situation	The numer of cases	Total number	Percentage share	Total percentage share
A	28	28	66,67	66,67
B	8	36	19,05	85,71
C	3	39	7,14	92,86
D	1	40	2,38	95,24
E	1	41	2,38	97,62
F	1	42	2,38	100
Lacks	0	42	0,00	100

Source: Own processing

The first column presents the ways of completing the probation period indicated in this paper. The second column contains the numbers of cases in which the time limit to meet the obligation to redress damage was set in a judgement conditionally discontinuing criminal proceedings, in connection with the procedural situation. The third and fourth columns give the corresponding percentage values.

It is only three procedural situations which - a) Successful completion of the probation period, and of the period referred to in Art. 68§4 of the Polish Penal Code, b) Successful completion of the probation period, and of the period referred to in Art. 68§4 of the Polish Penal Code arrived at as a result of proceedings during which a decision about not resuming conditionally discontinued criminal proceedings was issued, c) Decision about resuming conditionally discontinued criminal proceedings - are well represented in the cases of the accused on whom the obligations to redress damage were imposed.

From the viewpoint of the studied effectiveness, the results obtained for this correlation lead to the conclusion about the pertinence of the statutory solution introducing the obligatory nature of imposing the obligation to

redress damage in applying the conditional discontinuance of criminal proceedings.

The results of one-dimensional significance tests for the time limit to provide redress for damage given in a judgement conditionally discontinuing criminal proceedings.(Table 5.)

Table 5. The results of one-dimensional significance tests for the time limit to provide redress for damage given in a judgement conditionally discontinuing criminal proceedings

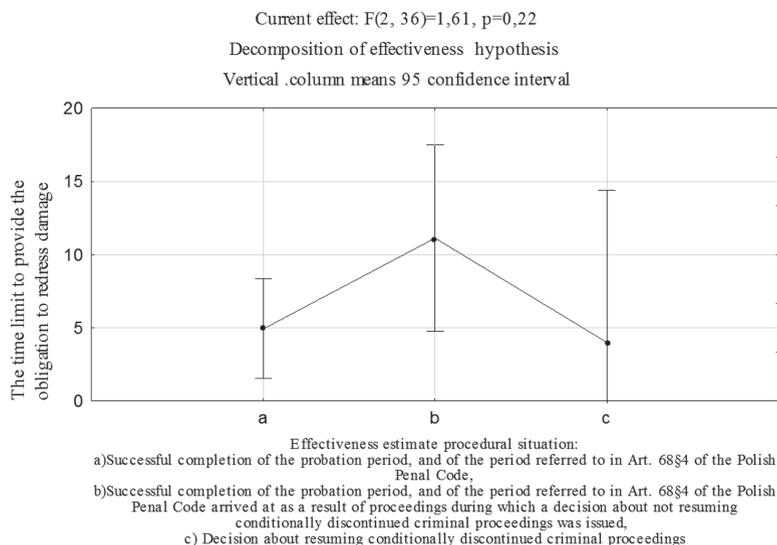
One-dimensional significance tests for the time limit to provide redress for damage given in a judgement conditionally discontinuing criminal proceedings Parametrisation with sigma limitation. Decomposition of effectiveness hypothesis

Result	SS	Degree of discretion	MS	F	P	Partial Eta-kwadrat	Niecentralność	Observe of validity (alfa= 0,05)
Intercept	814,3	1	814,27	10,32	0,003	0,223	10,32	0,88
Procedural situation	253,4	2	126,69	1,61	0,215	0,082	3,21	0,32
Error	2841,8	36	78,94	-	-	-	-	-

Source: Own processing

The next graph (Figure 2) illustrates the expected average boundary values for the time limit to provide and the effectiveness measured by the procedural situation. (1-way ANOVA) to redress damage given in the judgement conditionally discontinuing criminal proceedings, as a function of effectiveness measured by the procedural situation (a,b,c).

Figure 2. The expected average boundary values



In analysis of the above mutual relationship, no correlation was found between the above variables.

The next analysis concerns the results of correlation between the amount of obligation to redress for damage, given in the judgement conditionally discontinuing criminal proceedings, and the way of executing that obligation in the judgement in question. (Table 6, Figure 3)

Table 6. The results of U-Manna Whitneya test for the way of executing the amount of obligation to redress for damage and its level, given in the judgement conditionally discontinuing criminal proceedings.

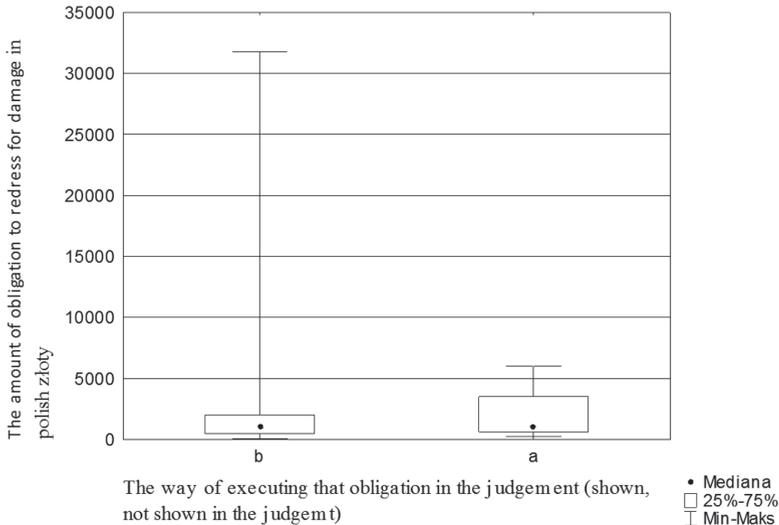
U-Manna Whitneya test – The way of executing the amount of obligation to redress for damage

Variable	The level of monetary consideration
Suma rang b	1372,5
Suma rang a	112,5
U	97,5
Z	-0,066
P	0,947
Z popraw.	-0,066
P	0,947
N important b	50
N important a	4
dokl. p	0,937

Source: Own processing

The graph (Figure 3) presents the correlation between the amount of obligation to redress for damage, given in the judgement conditionally discontinuing criminal proceedings, and the way of executing that obligation in the judgement in question.

Figure 3. The correlation between the amount of obligation to redress for damage and the way of executing that obligation in the judgement in question



In analysis of the above mutual relationship, no correlation was found between the above variables. ($p=0,947$, test U Manna-Whitneya).

Analysis of the author's own studies indicates that the factor enhancing the effectiveness of the studied legal institution is the specific indication in the judgement conditionally discontinuing criminal proceedings of the manner in which the obligation to redress the damage has to be met. This condition was included in 5 out of 54 cases studied where such an obligation was imposed. In 4 out of these 5 cases, the total amount of obligations was divided into instalments, and both the amounts of instalments and the time limits for particular instalments were determined in detail in the judgement. The fact that such a form was applied in the judgements affected the timely performances by the 5 accused.

The next analysis covered the correlation between the manner of payment envisaged for the the obligation to redress the damage (in instalments, or as a total amount) given in a judgement conditionally discontinuing

criminal proceedings, and the time limit provided for the performance of this obligation in the judgement (Table 7, Fig. 4)

Taking into account the heterogeneity of variance and strong right-side asymmetry of data, the Kruskal-Wallis nonparametric ANOVA test was applied.

Table 7. Nonparametric ANOVA test of Kruskal-Wallis rank correlation between the manner of payment envisaged for the the obligation to redress the damage (in instalments, or as a total amount) given in a judgement conditionally discontinuing criminal proceedings, and the time limit provided for the performance of this obligation in the judgement

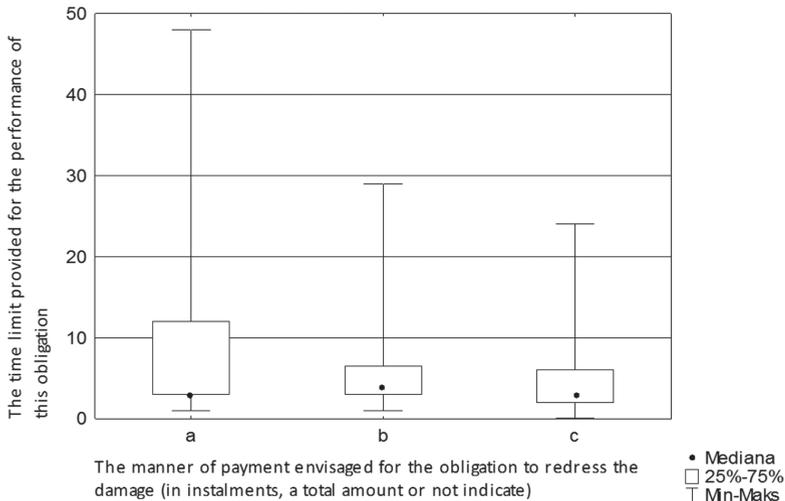
ANOVA Kruskal-Wallis rank				
Kruskale-Wallis test: $H(2, N=41)=0,79; p=0,67$				
The amount of obligation to redress for damage	Variable			
	Kod	N import ant	Total of ranks	Average of rank
A	1	5	115,5	23,10
B	2	20	442,0	22,10
C	3	16	303,5	18,97

Source: Own processing

The graph (Figure 4) presents the correlation between the manner of payment envisaged for the obligation to redress the damage (in instalments, or as a total amount) given in a judgement conditionally discontinuing criminal proceedings, and the time limit provided for the performance of this obligation in the judgement

The author's first proposal to the legal institution is amending the law (art. 336§3 Polish Code of Criminal Procedure) by giving prosecutors an additional possibility to extend the range of his/her contribution to the judgement conditionally discontinuing criminal proceedings by suggesting the manner and time limit to perform punitive obligations and measures, also for the purpose of synchronising this provision with binding Art. 68§2 of the Polish Penal Code.

Figure 3. The correlation between the manner of payment envisaged for the obligation to redress the damage and the time limit provided for the performance of this obligation



In analysis of the above mutual relationship, no correlation was found between the above variables (ANOVA $p=0,67$).

One of the author's own proposals concerning the application of conditional discontinuance of criminal proceedings with respect to the accused being supported by other persons results from a negative assessment of the practice used in 76 out of 91 examined cases. The modification of the above-referred practice consists particularly in the choice of restitution as the principle for performing the obligation to redress damage, and on refraining from the imposition of monetary consideration and court costs on the accused supported by other persons. Such practice will prevent doubts about personal compliance with the said decision in the judgement. The example of the aforementioned doubts was the content of the reasons for a decision on not reinstating the conditionally discontinued criminal proceedings after monetary consideration had been paid in by the mother of the accused.

The author's next proposal of changes in applying the legal institution examined in this paper is to determine, each time, the time limits and ways of meeting the obligations and performing punitive measures in judgements conditionally discontinuing criminal proceedings. Considering the method of payment, two practical factors should be mentioned: address of the beneficiary and his/her account number. The precise indication

of the manner of implementing the judgement by providing the above details enhances the possibility of its implementation within the probation period and limits attempts by the accused to delay the decision of properly implementing the decision on the obligation to redress damage imposed in the judgement conditionally discontinuing criminal proceedings.

It is disturbing to see the practice of courts which issue the decision to not reinstate conditionally discontinued criminal proceedings, or the decision to reinstate such proceedings within the period of probation when the accused evaded, in particular, the implementation of the obligation to redress damage, in these cases where the court did not determine the time limit for its implementation in judgements conditionally discontinuing criminal proceedings.

M. Leonieni rightly stated that the court should establish in its judgement not only the period of probation but also the time limit to fulfil the obligation. In M. Leonieni's opinion if the court has not set the time limit it is presumed to be equal with the period of probation, therefore a court implementing that judgement may not, by its own decision, and to the detriment of the accused, change the content of legally binding judgement and to set a shorter time limit¹⁶. The current lack of consequence on the part of Polish legislature should be pointed out: on the one hand, it differentiates between obligations and punitive measures in terms of material basis for applying the legal institution studied in this paper but (art. 67§3 Polish Penal Code and art. 68§2 Polish Penal Code), on the other hand, in procedural provision mentions only the obligations and forgets the punitive measures.

It should also be pointed out that the proceedings aimed at reinstating the conditionally discontinued criminal proceedings should be initiated immediately after the lapse of the time limit indicated in the judgement of conditionally discontinuing criminal proceedings, in particular, when it occurs due to lack of fulfilment of the obligations to redress damage, or to pay monetary consideration.

This group encompassed 48 out of 405 cases where the accused delayed both the monetary consideration and the payment to redress the damage, not suffering the consequences in the form of initiating the proceedings to reinstate the conditionally discontinued criminal proceedings. It is

¹⁶ M. Leonieni, Reinstating the conditionally discontinued criminal proceedings by the court., *Problemy Wymiaru Sprawiedliwości* 1973, nr 2, s. 95 [in Polish].

likely that such practice results from preferring the late performance of the obligation set in the judgement conditionally discontinuing criminal proceedings by the accused, over the meticulous observation of time limits for this performance.

SUMMARY OF THE STATISTICAL ANALYSIS OF COURT CASES

In summary, it should be emphasised that the direct effect on the effectiveness of the conditional discontinuance of criminal proceedings, and in particular on its practical application is exerted by the form of the judgement conditionally discontinuing criminal proceedings. The proper analysis presented in this paper of the correlations between the decisions adopted in the judgement, and fulfilling the postulates *de lege ferenda* concerning with redress the damage will contribute to the improvement and more effective use as well as to enhancing the importance of the institution of conditional discontinuance of criminal proceedings.

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- The translations of Polish titles are provided by the author of this study By “Polish Code of Criminal Procedure” I am referring to Statute of 6 June 1997 Code of Criminal Procedure (Journal of Laws of 1997, No. 89, item 555 with later amendments). By “Polish Penal Code” I am referring to Statute of 6 June 1997 Code of Penal Law (Journal of Laws of 1997, No. 88, item 553 with later amendments) Statistical analysis was consulted with Dr. Adam Ćmiel Eng. from the Department of Applied Mathematics of Stanisław Staszic AGH University of Science and Technology in Krakow

Summary

The objective of this paper is to present the redress the damage from both the viewpoint of the opinions in legal doctrine, and the correlations between its individual resolutions and their impact on the way of ending the probation period. The analysis of these correlations will be presented by showing factors resulting from the author’s own research of 405 court cases, pertaining to the effectiveness of the conditional discontinuance of criminal proceedings. These were cases individually numbered in the archives of the District Court in Krakow and the regional courts situated within the area of its jurisdiction. The presented analysis also includes a presentation of postulates *de lege ferenda* concerning both legislative amendments to the statutory construction of the legal institution of conditional discontinuance of criminal proceedings, as well as the action which should be undertaken in the area of its practical application within the framework of binding regulations.

KEY WORDS: *institution conditional discontinuance of criminal proceedings, duty to redress the damage, effectiveness, research of court records, statistical analysis, Spearman corellaction coefficient, U-Manna Whitneya test and Kruskala-Wallis test.*

Streszczenie

Celem artykułu jest przedstawienie teoretycznych i praktycznych aspektów oraz zależności statystycznych związanych z nakładaniem zobowiązania do naprawienia szkody w wyroku warunkowo umarzającym postępowanie karne. Niniejsza prezentacja zostanie oparta na analizie wyników badań własnych 405 spraw sądowych dotyczących efektywności warunkowego umorzenia postępowania karnego, opatrzonych sygnaturą akt Sądu Okręgowego w Krakowie oraz sądów rejonowych położonych na obszarze jego właściwości. Do analizy badań wykorzystano współczynnik korelacji porządku rang Spearmana model ANOVA (1-czynnikowa ANOVA), test U-Manna Whitneya, test Test Kruskala-Wallisa. Przedmiotowa analiza obejmuje także przedstawienie postulatów de lege ferenda dotyczących zarówno modyfikacji ustawowej konstrukcji badanej instytucji, jak również działań jakie należy podjąć w praktyce jego stosowania w ramach obowiązujących przepisów.

SŁOWA KLUCZOWE: *warunkowe umorzenie postępowania karnego, zobowiązanie do naprawienia szkody, efektywność, badania spraw sądowych, analiza statystyczna, współczynnik korelacji porządku rang Spearmana, test U-Manna Whitneya, test Test Kruskala-Wallisa.*

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