

## **Excessive self-defense and necessity**

### **Abstract**

In this rigorous thesis are described the institutes of necessity and self-defense focusing on the establishment of their rules and contravention of these rules. This rigorous thesis consists of eight main chapters and final chapter including de lege ferenda consideration. The introduction of the thesis is dedicated to the history of both institutes on the territory of Czech Republic. It is then followed by a comparison of these institutes with similar ones in other areas of law, namely the civil and the administrative law. In the rigorous thesis, I also briefly described the legal defenses. The body of the thesis is then the description of necessity and self-defense, their main attributes and rules for their legal usage. The contravention of these rules may lead to a case of usage of the excessive self-defense and necessity. That is why I am devoting the major part of this work to their breach and its consequences.

Legal usage of necessity needs to follow specific rules. A breach of these rules may cause an act of excessive necessity. Each of this criteria, with focus on its observance and breach is described in an individual subchapter. The condition of „the absence of the burden of tolerance“ is elaborated thoroughly as I believe I might have found a possible discrepancy in the legislation. The same way as with the necessity, I tried to describe the rules defining self-defense with emphasis on its observance and breach in the individual cases. In cases of both institutes, I devoted individual subchapters to the consequences of breaching the rules of necessity and self-defense.

For a foreign comparison, I decided to choose the German legislation, that differs from the Czech one majorly. However, especially the institute of excuses is often a source of inspiration for Czech criminal science while thinking de lege ferenda. So I deemed appropriate to analyse carefully.

Finally, I am evaluating the Czech legislation and offering my own opinion and my own de lege ferenda reasoning for an eventual amendment of these criminal code provisions.