

Abstract

The concept and legal consequences of excessive self-defense and necessity

The topic of presented diploma thesis deals with criminal law institutes of self-defense and necessity and the consequences of exceeding their limits provided by the Criminal Code. Both of the above-mentioned institutes belong to the conditions precluding illegality of an act, i.e. specific circumstances in presence which of and subject to conditions any sanction is excluded under effective law. The purpose of these institutions is to make it possible for people to act with impunity in cases they protect the interests of their own or interests of the whole society when these interests are violated or endangered. In principle, these institutes replace the absence of a public authorities at the moment, whose task is to protect these interests. However, on the other side the legislation does have certain limits to prevent from any misuse of these institutes. The key passages of this thesis are therefore focused on situations where the conditions of necessity or self-defense are not fully met and examines the legal consequences of such actions.

The presented thesis is divided into six parts. A brief introduction is followed by the first chapter, which deals with the general view of the conditions precluding illegality of an act, their position and incorporation in law. As of the second chapter, the thesis is focused exclusively on the necessity and self-defense. This part contains the characteristics of these two institutes, their common and different features as well as the historical development under the previous legislation. The third chapter discusses in detail the individual characteristics and conditions of acting in necessity. There are also given examples for each condition and the attention is focused in particular on situations when the conditions could be exceeded. The interpretation is always supported by the relevant case law, which is associated to excesses. The fourth chapter of the thesis, which deals with the self-defense, has the very same structure. Chapter five includes the main and crucial part of the thesis and regards the legal assessment of excesses and consequences, which can arise from failure to observe the limits of necessity and self-defense under the effective law. This chapter outlines possible measures available to judges that allow different ways to assess and privilege acts committed in an excessive self-defense or necessity. The last, sixth chapter, concerns the issue of use of automatic defense systems, which, although not regulated in the Criminal Code, are closely related to the institute of self-defense.