

# Tolerable risk

## Abstract

The thesis deals with the topic of tolerable risk. Tolerable risk is a type of criminal defense that has first appeared in the Penal Code, Act No. 40/2009 Coll. Today, after almost ten years since the it came into effect, is the time to summarize the practical use of this institute.

Chapter One outlines the types of criminal defenses and looks at the position that tolerable risk takes among them.

Chapter Two offers a historical view on the development of tolerable risk as an institute; first showing how it had been inferred from doctrine and then how the final version of tolerable risk, implemented in the Penal Code, was found.

Chapter Three analyses the constructional features of tolerable risk; that means the conditions to be met in order to apply this criminal defense.

Chapter Four compares tolerable risk with other criminal defenses, both legally defined (self-defense, necessity, consent, legitimate use of the weapon) and also not legally defined (fulfillment of obligation, exercise of entitlement, performance of a profession).

Chapters five, six and seven deal with the most common areas in which tolerable risk is employed. These areas are healthcare (Chapter Five), economy (Chapter Six) and sport (Chapter Seven). These three chapters focus on those components of tolerable risk that are problematic, essential or interesting in the aforementioned areas. These questions include such as: who is allowed to be the subject of tolerable risk, whether it can be said that those three areas are beneficial for all of society and if so, how much. However, each chapter is specific in its own way - for example, Chapter Five gives particular attention to the term "*lege artis*".

Chapter Eight discusses thoughts *de lege ferenda*, meaning opinions on the institute of tolerable risk and its use as a practical and effective instrument to protect economic and social development.