

Abstract

This diploma thesis is focused on the analysis of the factums of murder and manslaughter pursuant to Section 140 and 141 of the Act No. 40/2009 Coll., Criminal Code, as amended, by studying historical and present-day legal acts, related documents, specialised literature from the field of law, medicine, psychology and anthropology, and of the jurisprudence of the Czech courts. The thesis is divided into five main chapters.

The first chapter is focused on the historical development of the criminal regulation of intentional homicides since the foundation of the independent Czechoslovakia, starting from the reception of the 1852 Austrian Criminal Code which was applicable in the Austrian part of the former Austro-Hungarian Empire, through the period socialist legislation represented by the Criminal Codes of 1950 and 1961, up to the adoption of the current Criminal Code in 2009.

The second chapter addresses the problem of defining the term human life, explaining the moment and the moment of its end. This chapter also gives an overview of the protection of human life as it is guaranteed by the international agreements and treaties as well as by Czech constitutional order in the Charter of Fundamental Rights and Freedoms.

The third chapter is the analysis of the criminal offence of murder pursuant to the Section 140 of the Criminal Code. Therefore, it starts with the detailed description of all the obligatory elements of a both factums of murder, so called “simple murder” pursuant to Subsection 1, which is committed in state of sudden strong mental agitation, and so called “premeditated murder” pursuant to Subsection 2, committed with aforethought or after premeditation. This chapter also describes the circumstances that condition application of a more severe sentence pursuant to Subsection 3.

The chapter 4 follows with the analysis of the crime of manslaughter pursuant to Section 141 of the Criminal Code, in particular of both mitigating factors of this criminal offence, which is the strong derangement caused by fear, shock, confusion or another excusable mental motion and the previous condemnable conduct of the aggrieved person.

In the fifth and last chapter, the crimes of murder and manslaughter are compared to the other criminal offences against life. The fifth chapter also includes the reflection on the regulation of the termination of life on request in Czech Republic and its comparison to selected member states of the European Union.