

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

### **Abstract**

The presented master's thesis deals with the criminal law institutes of self-defense and necessity, especially their legal conditions and legal consequences associated with their violation. In the system of Czech criminal law, both institutes hold a place among the explicitly regulated circumstances excluding criminal liability. They are significant institutions that enable anyone to protect their legitimate interests or the legitimate interests of others, the state, or society as a whole when these interests are threatened by a certain danger, and the competent authorities are unable to ensure their proper protection. The fact that an act was committed in a situation of necessity or self-defense excludes the unlawfulness of such conduct and, consequently, the criminal punishment associated with it. However, for such conduct to be considered permissible and beneficial for society, it is essential that the conditions and limits stipulated by the criminal code for actions in necessity and self-defense are met.

The aim of this work is to comprehensively analyze these individual conditions and limits, and subsequently define the concept and different types of excess in necessity and self-defense. The thesis also thoroughly examines the legal consequences of not meeting these conditions and evaluates whether the current legislative state allows for adequate consideration of the fact that the criminal offense was committed as a result of excess.

For this purpose, the work is systematically divided into five chapters. The first chapter serves to introduce the reader to the issue of circumstances excluding criminal liability in a broader context by defining the concept of unlawfulness, generally defining the concept, types, and significance of excluding criminal liability, distinguishing them from reasons for the extinction of criminal liability, the extinction of punishment, and reasons for impunity. Although the institutes of extreme necessity and self-defense in this thesis are primarily discussed from the perspective of criminal law, the first chapter also includes a comparison with the same institutes from the perspective of administrative law and civil law. The second chapter provides an overview of the development of the legal regulation of the institutes of necessity and self-defense since the establishment of independent Czechoslovakia. The fourth and fifth chapters alike first define the concept of both institutes and their significance, then focus on analyzing the individual legal conditions for their application, and finally discuss the various excesses associated with them, i.e., cases in which these legal conditions are not fulfilled in all respects.

The fifth chapter then seamlessly follows the discussion on excess, as it thoroughly analyzes the legal consequences that can be associated with excessive conduct and whether there is room for improvement in the legal framework in this regard.

## **Key words**

Necessity, self-defence, excess