

Crime of unauthorised interference with the right to a house, flat or non-residential premises

Abstract

This thesis examines the criminal offense of unauthorised interference with the right to a house, flat, or non-residential premises within a broad context. By addressing a topic that has received limited scholarly attention, this study highlights its contemporary relevance, particularly in light of the escalating housing crisis. Furthermore, the offense serves as a fitting example to illustrate both theoretical and practical considerations in contemporary criminal policy.

Beyond the introduction and conclusion, the thesis comprises four chapters, each progressively analysing the topic through constitutional and civil law, criminal law, and criminological perspectives.

In the first chapter, I present ownership, property rights, and the right to housing, and discuss their legal protection. I also address the constitutional and civil law foundations of these rights, including relevant international obligations.

In the second chapter, I analyse in detail the essential elements of the offense of unauthorised interference with the right to a house, flat or non-residential premises, providing a broader context that includes its systematic classification, relationship to other criminal offenses, and the historical evolution of the legal framework.

In the third chapter, I elaborate on the diverse forms of unauthorised interference, encompassing unlawful occupation, unlawful use, and unauthorised obstruction of rightful use, primarily drawing upon available case law from general courts.

In the final chapter, I focus on the application of the principle of subsidiarity of criminal repression, analyse and evaluate the Constitutional Court's ruling on the social harm of squatting, and compare Slovak and Spanish law to demonstrate how this offense is treated elsewhere. Finally, I reflect on the criminalization of unauthorised interference, presenting my own thoughts and proposals.

Underlying this thesis is the conviction that criminal law should function as a last resort by which society safeguards itself against the most egregious forms of harmful conduct.

Keywords: unlawful occupation and use, unauthorised obstruction, subsidiarity of criminal repression