

## **Abstract**

### **The concept and legal consequences of the transgression of the limits of self-defense and necessity**

The object of this diploma thesis is criminal institute of self-defense and necessity and legal consequences of their transgression. These circumstances excluding the illegality release an act of person, who prevents a directly imminent danger or attack, from illegality as an element of the crime. We find the importance and indispensability of these institutes in possibility of use of self-help in favor of the protected interests, without a threat of penal sanction. This work is mainly focused on situations where legal conditions and limits of self-defense and necessity were transgressed, which caused their criminal liability. Even here it is desirable to apply more benevolent approach towards the offender than to other perpetrators of common crimes, because otherwise self-defense and necessity is considered a positive phenomenon.

After a brief introduction, in the first part of this diploma thesis, the author deals with circumstances excluding the illegality in general and with the concept of illegality itself. In the second part, the author deals with the definition of the term and conditions of necessity and mainly focuses on explanation of the unclear and questionable elements of necessity. In the following part, there are defined situations when the limits of necessity are transgressed, generally called the excess. Parts four and five copy the structure of the second and third part, but they are about self-defense. These parts are widely supported with case law, because practice of the courts is rich in this area. In the fifth part, the issue of the use of automatic defense equipment is also discussed, which the author considers quite actual and interesting topic. The sixth part pays attention to consequences of the transgression of the limits of self-defense and necessity and mentions the possibilities of the court when determining kind and term of punishment for offenders of so-called excesses. Finally, the author provides an overview of considerations about amendment of Criminal Code and expresses her opinion regarding the suitability of these amendments and overall assessment of the valid legal regulation. Historical development of both institutes is not presented in a separate chapter; however, the author focuses on a comparison with previous or even older legislation directly during the explanation of particular issues.

The aim of this diploma thesis was to explain the concept of necessity and self-defense and to describe their limits, mainly by relevant judgments, as well as to introduce possible court procedure leading to determine punishments to persons acting in excess. The author also aimed to deal with some theoretical problems in this area and assess the legislation in force, including proposals to amend the Criminal Code. This thesis was based on legal regulation valid and effective as of 30 March 2015.