

Abstract

My thesis deals with crimes of murder and manslaughter under section of 140, 141 Czech criminal code. The main goal is to analyse obligatory and facultative facts of these crimes, especially by using legal literature and tens of judicial decisions. However, this goal is not easy to achieve if the reader is not properly familiar with general issues concerning the topic. Therefore, some of more general topics are necessary part of my thesis as well.

A short introduction in the beginning is followed by a chapter dedicated to human life. Human life is protected object of both discussed crimes, murder and manslaughter. What needs to be properly understood is where a human life begins and ends. Man can be only killed only if his or hers life had begun as perceived by criminal law. The chapter is focused on the majority understanding of the beginning of a new life of the legal experts (to which I also lean towards) but the minority opinion is briefly mentioned as well. The end of human life is even more important because killing another person is the merit of the concerned crimes. However, the end of the human life is mostly quite clear and it is not usually questioned by legal experts.

The second more general chapter is determined to introduce the historical development of the legal regulation of the intentional killing in our country. The chapter is subdivided into three parts using chronological basis (it should be mentioned that the chosen boundaries are not exactly sharp due to very long development). The first two subchapters are rather general, the third one on the other hand is much more focused on analyses of former legal regulation of intentional killing.

Next chapter concentrates on the crime of murder. The first subchapter deals with all four facts of this crime (every one of them has its own part and is thoroughly examined). It should be mentioned in particular that quite newly crime of murder can be committed by an artificial person as well. Next two subchapters are dedicated to „simple“ murder and „premeditated“ murder. It is a new differentiation of murder that brought the new criminal code; the latter variation of murder should express higher social threat due to possibility of deeper rational process. Every now and then this conception is criticized but it can be considered praiseworthy that the legislator tried to listen to arguments of the legal experts and tried to differentiate intentional killings more. In my opinion, it is very important if the murder is committed under special aggravating circumstances contained in section 140 paragraph 3 of

the criminal code. That is why separate subchapter is dedicated to these circumstances. The last part of this chapter deals with the preparation and the attempt of the murder.

The crime of manslaughter should be considered as the main attempt to differentiate intentional killings. In most of its facts it is similar to the murder (that is why the subchapter dedicated to the facts of the manslaughter is rather short and mostly it is referenced to the subchapter dealing with the facts of murder). Its own subchapters have two special elements of this crime – manslaughter „committed under strong distress“ and „committed due to previous abominable behaviour of the victim“. This chapter is strongly focused on these two elements. Subchapters concentrated on special aggravating circumstances under section 141 paragraph 2 of the criminal code and on the attempt of the manslaughter are included.

In order to be as complex as possible, the thesis contains chapter dedicated to relation between murder and manslaughter and other selected crimes. The crime of murder is the general crime for the majority of intentional killings. The other ones come into consideration if there is additional aggravating or mitigating circumstance. However, murder preserves its superiority because the crimes mentioned in this chapter are rarely committed or because cases of intentional killings are rather cautiously qualified as these special crimes by the courts.

To preserve the complexity of the thesis, chapter focused on euthanasia is also included. The main goal of the chapter is to describe the relation between euthanasia and its possible criminal qualification. However, I think it is necessary to define some of the basic terms (although it is true that these terms are very complicated and discussed widely, so my definition of these is not the only one coming into consideration). This chapter also contains my *de lege ferenda* suggestions because I think that concerning euthanasia, there is a big gap in Czech criminal law.

Finally, in the very end of my thesis the main pieces of knowledge are pointed out. Also, I included my own opinion on selected issues concerning murder, manslaughter or affiliated phenomena.