

## **Abstract**

The thesis addresses the analysis and comparison of individual elements of defenses under Czech and German criminal legal statutes with respect to the conclusions, which are therefrom drawn in theory and practice. The aim of the thesis was to render overview concerning the distinctions in the defenses, provided that these are based on common reasoning, are generally acknowledged and theoretically elaborated, rather than to present an exhaustive commentary on all legal institutes which exclude illegality and as such come into mind. The fact that the defenses are mutually close in their character and meaning within both legal systems was a major prerequisite for the thesis.

The thesis analyses the distinctions with regard to the individual preconditions of separate defenses. These distinctions are not limited only to the extent of the wording of a legal statute, they also greatly manifest in professional literature and case law. Owing to the brief and abstract nature of the respective provisions the courts and theorists developed large quantities of principles and rules which precise and sometimes even amend these provisions.

The subject has been processed under consideration of the present-day legal regulation, the topics of origin and development of defenses has intentionally not been discussed. The main focus of the thesis consists in the legal institutes of necessity, being the most general defense, self-defense and consent.

The general part of the thesis deals with the interpretation of the term “defense” and with its position within the criminal law system. This part contains brief description of common principles regarding defenses. In separate chapters the difference in conception of the structure of individual elements of a crime under Czech and German law has been outlined together with the different influence on the part of illegality, or more precisely its exclusion, it implies.

The special part of the thesis focuses on specific defenses – necessity, self-defense and consent. These chapters have always been divided to reflect a common scheme, i.e. a general discussion is followed by an analysis of the individual elements. Where possible, emphasis has been laid on common explanation of the elements under Czech and German law in order to achieve maximum clarity.