

Abstract

This master's thesis deals with the definition of two institutes concerning the circumstances excluding criminal liability, specifically the most essential ones, namely the necessity and self-defense, in particular their requirements and the impact of exceeding these statutory conditions.

Self-defense and necessity are key instruments that allow any person to act to protect his or her own or another's interests that are threatened at a given moment, to the exclusion of the criminal liability of the perpetrator, since it is not possible to ensure adequate protection of the interests by the public authorities in a timely manner or, at all. The action of persons in such situations is not only impunity but even directly desirable. These are therefore institutes which legally ensure self-help when it is certain that help from public authorities would be too late. In order to apply these institutes effectively and efficiently in practice, it is necessary to define the conditions of their use in law and these conditions must then be observed in the context of acting in self-defense or necessity.

This thesis aims to comprehensively describe the conditions of necessity and self-defense, analyze them, and focus on potential gaps in effective legislation or controversial and criticized issues. Finally, the thesis aims to define the excursions from these limits and to focus on the legal consequences of these excesses from a criminal law perspective, to evaluate these and to provide considerations for improvement.

For these purposes, the thesis is systematically divided into five chapters. In the first chapter, attention is focused on the general definition of the general institute of circumstances excluding criminal liability and its position in the current system of criminal law. The following two chapters focus on a comprehensive discussion of necessity and self-defense and their inclusion in the systematics of circumstances excluding criminal liability. These chapters focus on a detailed analysis of the conditions of these institutes. The fourth chapter offers an overview of the consequences of exceeding the limits and conditions of necessity and self-defense, their legal basis, and the conditions of their application to specific cases. The fifth chapter focuses on the perceived gaps and ambiguities in the statutory legal framework concerning both the definition of the conditions under which these circumstances excluding criminal liability may be applied, but also the criminal consequences of exceeding them.

Key words

Necessity, self-defense, excess