

ABSTRACT

Actual questions of necessary defence

Rigorous thesis called "Actual questions of necessary defence" is based on Criminal Code, Act No. 40/2009 Coll., as applicable to 1 May, 2014. The thesis deals with the necessary defence which belongs to the basic human rights that give everyone the right to avert by himself the attack on interest protected by the Criminal Code. The focus of this thesis is not primarily on the basic legal issues of the necessary defence, but on questions which have not so far been given much attention to and which are at the same time, with regard to the status and the development of the society as well as its legal environment, very current.

First part of the thesis is devoted to the necessary defence as the circumstance excluding illegality, its insertion among these circumstances and in particular to the mutual relationship of individual circumstances to the necessary defence. A particular attention is paid to the relationship of necessary defence to the legitimate use of weapon and to the issue of competition of these two circumstances excluding illegality.

The following part of the thesis discusses in detail the topic of automatic defence systems, which use can be categorized in terms of criminal law as the necessary defence. The problems with these devices necessarily related are discussed in detail, their both legal and moral admissibility, within which some into consideration taken legislative changes are also proposed in order to remove to a certain extent the dismal legal status.

Last part of the thesis explores the genesis and history of the necessary defence and it also deals with the First Republic and the subsequent judicature as a valuable inspiring source. At the base the foreign legal adjustments are also compared as another stream from which you can draw in case of re-thinking of the current anchor of the necessary defence in the Criminal Code. Finally, there is a consideration of a possible conceptual reformulation of the necessary defence in the Czech Republic.

This rigorous thesis gives a view on current issues and problems of the necessary defence that have not been the subject matter to the criminal science or that come with the development of the society and its needs. The thesis focuses on the relationship of the necessary defence to other circumstances excluding the illegality and it discusses in detail the issues of increasingly used automatic defence systems. Finally, it comprehensively assesses the current state of the necessary defence in the context of its historical development and anchor in foreign legal adjustments and it opens the consideration of a possible change of its basic concept in the Czech Republic.