

Abstract

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

The thesis is based on the criminal institutes of necessity and self-defense. The aim of the thesis is to analyse the concept of necessity and self-defence, set limits to those institutes, define cases of transgression of these limits and describe legal consequences of excess.

The thesis is drawn as the analysis of current legislation regulating necessity and self-defense. Given that everyone can make use of these institutes, the thesis concentrates on the fact that the legislation in this matter should be comprehensible and expedient for the acting person and contains a thorough analysis of case-law. The comparative method is used to the lesser extent, Czech legislation is compared with legislation of some other European countries. A part of the thesis concentrates on the frequent *de lege ferenda* suggestions. In author's opinion, the enactment of these suggestions would help to promote legal certainty and extend the possibility to act in necessity and self-defense.

The thesis is divided into an introduction, three main parts, which are further divided into chapters and subchapters, and a conclusion. Part one defines the concept of illegality as a requirement of committing a crime, then the institutes of necessity and self-defence are put into context of the circumstances excluding the illegality. Furthermore the concept of necessity and self-defense is defined and the historical evolution of those institutes is analysed. Finally the conditions of necessity and self-defense are characterised.

The second part of the thesis deals with transgression of the limits of necessity and self-defense. At the beginning a definition of excess from the limits of necessity and self-defense is given. The rest of the second part focuses on thorough analysis of the ways in which transgression of the limits of necessity and self-defense occurs. The emphasis is put on defining vague terms with the help of case-law.

The third part of the thesis is devoted to the legal consequences of transgression of the limits of necessity and self-defense. First the legal classification of the acts committed in excess is explained with regard to culpability of the acting person, then the legal consequences of excess are listed and analysed *de lege lata* and *de lege ferenda*.

In the end of the thesis conclusions are drawn together with the suggestions that would in autor's opinion lead to the improvement of the quality of legislation concerning necessity and self-defense.