

## **Contentious issues of necessary defence in judicial practise**

### **Abstract**

This thesis is focused on the analysis of contentious issues of the criminal law institute of necessary defense within the relevant cases of judicial practise. Its purpose is to summarize the concept of the institute of necessary defense in the Czech legal system, to find out the circumstances that courts usually take into account in their decision-making and to answer other questions that are inextricably linked to the institute of necessary defense.

The content of the diploma thesis is divided into chapters and subchapters. The first two chapters briefly deal with the development and function of circumstances precluding wrongfulness within the system of criminal law, the purpose of the necessary defense as one of them and its relation to necessity. The content of these chapters is mainly undisputed knowledge about these institutes. The final part of the second chapter draws on the relation between necessary defense and necessity and deals in more detail with the issue of subsidiarity, taking into account the decision-making of courts. The third chapter deals with the core of the institute of necessary defense and its necessary requirements and provides a full insight into the issue of conflict initiation and the associated victimological complicity. The fourth, most extensive chapter of the thesis, focuses on all controversial issues related to deviating from the limits of necessary defense. The first part of this chapter describes the process of legislative expansion of the limits of necessary defense in our territory over time followed by topics such as intense and extensive excess, the importance of the subjective point of view of the defender, fault in relation to exceeding necessary defense or the relationship between endangered and sacrificed interests. The subject of the fifth chapter is the so-called putative necessary defense. The relation between the assessment of necessary defense and the excusable motives is briefly discussed in Chapter Six. Chapter seven deals with other protective institutes of self-help established in other branches of law. The last chapter includes general knowledge gained in working with judicial practise decisions.

Keywords: necessary defense, deviation from the limits of necessary defense, excess of necessary defense