

**„SELF-DEFENSE IN POLISH AND AMERICAN CRIMINAL LAW.
A COMPARATIVE STUDY”
SUMMARY**

The main subject of Robert Sosik's doctoral dissertation is the comparative analysis of self-defense laws in Poland and in the United States of America. The fundamental aim of the dissertation is to determine whether self-defense in the USA significantly differs from the necessary defense codified in the Polish criminal statute. The Author's intentions are therefore to present similarities and differences of both defenses in those two legal systems; to determine if there are similar problems within the area of applying those defenses; and to establish which legal system provides stricter requirements to granting the right to self-defense. The dissertation consists of eight chapters, an Introduction and Concluding remarks.

In the Introduction, the Author justifies the choice of the subject, points to the aims and the scope of the work and presents applied research methods. Subsequently, the Author describes his research thesis, presents the scheme of the dissertation and delineates its' content with special reference to particular sources.

Chapter I is described as a general introduction to the concept of self-defense. This Chapter is therefore devoted to investigating how the term "self-defense" (or "necessary defense") is perceived in Poland and in the United States of America. The Author deliberates on the functions of this defense, based on the functions of the criminal law in general, with special remarks on multiple approaches to the social function of self-defense.

In Chapter II, the Author investigates the evolution of self-defense laws starting with the first records of the defense in the Roman law, through its' development in Europe until the 18th century. Afterwards, the Author performs analysis on the development of self-defense laws in the Partition countries and in the *common law* system. In the final part of the Chapter the Author describes necessary defense in the polish codified law of the 20th century, effective before 1997 Criminal Code.

Chapter III concerns the legal character of self-defense and covers the form and shape of the defense both – in Poland and in the USA. The Author discusses this matter by describing the place of self-defense among the affirmative defenses in both legal systems, as well as by pointing particular connections and relations in reference to the effective constitutions of both countries. In the following part of the chapter, the Author discusses the shape and the regulations concerning applying self-defense laws outside the criminal law in both legal systems.

Chapter IV is devoted to the elements of necessary defense in Polish criminal law. The Author places those elements under two sections – the requirements of the attack, among which there are: attack on a legally protected interest, imminence of the threat and its' unlawfulness; and the requirements of the defensive actions. Among the requirements of the defensive actions the Author describes: necessity of the defense, awareness of the attack and acting in order to defend from the attack.

In Chapter V, the Author investigates the self-defense laws in American criminal law, starting with presenting the sources of criminal law in the United States of America, with special reference to the problem of accepting *common law* crimes. In the following part of the Chapter, the Author presents the elements of self-defense in the USA and discusses the varieties of the defense – with special remarks on the defense of other people, defense of property and defense of a dwelling. The Author also points to the fact that there are 52 criminal codes effective in the USA, therefore the discussed requirements might differ among the states, with particular differences being fundamental.

Chapter VI is devoted to the problems connected with establishing the boundaries and the legal framework of self-defense, with special emphasis on the problems in construing the necessity requirement in Poland and in the United States. In the Chapter, the Author investigates the necessity requirement through the duty to retreat as well as through the proportionality rule.

In Chapter VII, the Author presents rules and conditions of the legal liability for exceeding self-defense in both legal systems. Firstly, the Author investigates the intensive and extensive excesses in Polish criminal law, which stand for using excessive force in the defensive actions or violating the temporal connection between the threat and the defensive actions. Next, the Author describes imperfect self-defense and heat of passion defense in American criminal law, comparing both defenses to the relevant regulations of Polish criminal law. Chapter VII ends with the Author's deliberations on exceeding self-defense within a dwelling.

Chapter VIII is devoted to specific issues connected directly or indirectly with practical aspects of self-defense in the United States of America and in Poland. The Author provides comparative remarks on the relation of self-defense to lesser-evils defense; on the permissibility of claiming self-defense in an affray or assault cases; and on the relation of self-defense to resisting arrest and other threats caused by law enforcement officers.

In Concluding remarks the Author briefly summarizes the results of his research by providing a compilation of the major similarities and differences in the regulations concerning self-defense and necessary defense in Poland and in the United States of America.