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Exceeding the Self-Defense Limits: Concept, Characteristics and Types of Responsibility for the Incident

This article highlights some aspects of excess in necessary defense, analyzes legislation enshrined the concept of self-defense, and the circumstances following the excess of necessary defense limits. In this paper, the author partially revealed concepts of necessary defense excess and analyzed the types of liability for exceeding the limits of necessary defense. Article provides that on the legislative level, the concept of self-defense is fixed in the Ch. 1,

Art. 36 of Criminal Code of Ukraine according to which it is not considered an offense causing harm to the person responsible for infringement, in a state of self-defense, that is, in the protection of rights and interests of persons protected or of other persons and public interests of the State from socially dangerous encroachment, provided that there has been excess of necessary defense. It describe the characteristics for the limits of necessary defense exceeded: the existence of a socially dangerous encroachment, which requires self-defense: the harm caused to protect legally protected interests, causing death without being clearly caused by nature and danger of assault and environment protection; the perpetrator intentionally caused the death of the victim or caused serious bodily injury. We found out that exceeding the limits of self-defense entails criminal liability under special criminal law. Murder by exceeding the limits of necessary defense is qualified under Art. 118 of the Criminal Code, and grievous bodily it harm in the same circumstances – be Ch. 124 of the Criminal Code. Causing a state of defense or moderately severe injury, we must note that material or other damage is not a criminal offense under the laws of Ukraine. According to law, excessive defense is possible if caused to the person who infringes, grievous bodily harm (death or grievous bodily harm) clearly did not meet the danger level, or environment protection. Patency of the inconsistency means causing someone who infringes; grievous bodily harm should be in obvious, sudden or non-compliant with the risk of infringement committed or protection of the environment prevailing for protected person.

Keywords: self-defense; exceeding the limits of necessary defense; the excess of defense; signs of exceeding limits of the necessary defense limits; the responsibility.