

SEVERAL CONSIDERATIONS OF COMPARED LAW ON SELF-DEFENSE (I)

Lamya-Diana HĂRĂȚĂU*
Traian DIMA**

Abstracts

Criminal legislations of other States regulate self-defense in approximately similar manners, without major differences as compared to the conditions required by the Romanian law-maker to be fulfilled in order for the offence to become justifiable/exempt from liability. In this study, we chose to make a comparison in respect of self-defense from the perspective of 18 States¹ around the world and, in the end, we will summarize several conclusions on the extent to which the Romanian law-maker could draw inspiration from their legislations.

Keywords: *self-defense, compared law, justifiable grounds, grounds for exemption from liability.*

Introduction¹

The concept of self-defense is closely related to the theory of criminal offence, given that its applicability entails the exemption of the criminal nature of the offence and, consequently, the exemption from criminal liability.

We believe that, from this perspective, the study of self-defense ought to be intensified. The fact that the case-law noticed, over time, that courts of law sometimes faced difficulties in giving effect to self-defense in certain cases, determined us to conduct a comparative analysis of the conditions which need to be fulfilled in this respect.

1. Bulgaria

The Bulgarian criminal code stipulates, in the wording of Article 12 of the Second Chapter, dedicated to Criminal Offences, Section II Generalities, that the offence of the person who defends himself in a justified manner against an assault against State interest, public interest or against himself or another person shall not be deemed dangerous from the social perspective, provided that the defense is proportionate to the assault.

Considering that, in Article 9 of the Bulgarian Criminal Code, criminal offence is defined as a socially dangerous action, committed in a guilty manner and provisioned for in the criminal law, it may be noticed, from the definition of self-defense, that the offence committed in this manner loses its degree of social jeopardy, meaning one of the three key features envisaged by the law-maker, which will lead to the absence of criminal nature and of criminal liability.

Furthermore, paragraph (2) of the same text reveals that the action breaking the limits of defense proportionate to the nature and jeopardy of the assault shall be construed as excess of self-defense.

The Bulgarian law-maker described in paragraph (3) of Article 12 of the Criminal Code the instances which, having regard to the nature and jeopardy of the defense, shall not be deemed to be excess of self-defense. Among these, the following have nevertheless been declared unconstitutional:

1. (declared unconstitutional) – the assault originates from one or several persons;

2. (declared unconstitutional) – the wrongdoer is armed;

3. (declared unconstitutional as regards the terms “country house or business-related building”) – the assault took place by entrance using force or theft from a house, country house or business-related building;

4. (declared unconstitutional) the assault took place against an engine, water vessel or movable rolling stock;

5. (declared unconstitutional) the assault took place during the night;

Further to such provisions being declared unconstitutional, in reference to the actual circumstances in which the assault takes place, it may be noticed that, for instance, although the number of wrongdoers is 3 or more, it may however amount to an excess of self-defense limits on the part of the assaulted person.

On the other hand, the same paragraph provides that, if, however, the assault may not be averted otherwise, then exceeding the limits of proportionate defense shall not be deemed to be excess of defense, because the assaulted person could only have responded as he did.

* PhD Teaching Assistant, Faculty of Law-Nicolae Titulescu University, criminal law department, attorney at law (e-mail: lamya@haratau.ro).

** PhD Professor, Faculty of Law, “Nicolae Titulescu” University of Bucharest, criminal law department.

¹ Full texts of the provisions of international criminal codes forming the object of this study were consulted at <http://www.legislationline.org/documents/section/criminal-codes>.

Paragraph (4) of the same article states that the person exceeding the limits of proportionate defense shall not be punished if he was in a state of freight or confusion at the time of his response, given the nature of the assault.

2. Republic of Moldova

In the Criminal Code of the Republic of Moldova, self-defense is stipulated in Article 36 of Chapter III – Circumstances that exempt the criminal nature of the offence.

Thus, the act provisioned for in the criminal law, committed in self-defense, shall not amount to a criminal offence.

The conjunction between this first provision and the provisions of Articles 14 and 15, defining the criminal offence as a prejudicial act (action or inaction) set forth in criminal law, committed with culpability and subject to criminal punishment, and that an action or inaction that although formally has signs of an act set forth in this code, but due to lack of importance, does not meet the prejudicial degree of a criminal offence, shall not be considered a criminal offence, it follows that the act committed in self-defense eliminates the key features of the criminal offence, as they are set out and, consequently, criminal liability.

Paragraph (2) of Article 36 specifies that a person who commits an act in order to repel a direct, immediate, material, and real attack against himself, against another person, or against public interest and which seriously endangers the person or the rights of the assaulted person or public interest shall be in a state of self-defense.

Furthermore, a person who commits an act set forth in paragraph (2) in order to prevent another one from violently entering into a residential or other area, thus endangering a person's life or health or by threatening such violence, shall be in a state of self-defense.

Hence, it may be noticed from this definition that self-defense meets in a similar, but not identical manner, the same conditions as provisioned for in the Romanian Criminal Code. One of the differences consists of the fact that the Criminal Code of the Republic of Moldova does not refer to the act of the person who, in a state of self-defense, exceeds the limits of proportionality as a result of distress or freight caused by the assault.

3. Poland

In the Polish Criminal Code, self-defense is regulated under Article 25 and forms part of Chapter III called Exemption of criminal liability.

According to the first paragraph of the above-mentioned article, the act of the person averting a direct and unlawful assault against any value protected by law shall not be a criminal offence.

Please note that, unlike the Romanian Criminal Code, which lists the values against which the

assault is directed, the Polish Criminal Code refers to any values, its scope being much wider.

Further on, it is stated that, if the limits of proportionate self-defense are exceeded as compared to the severity of the danger, the court may mitigate the sentence or give it up altogether.

Notice shall be made that unjustified excess of self-defense is regulated, which, in the opinion of the Polish Criminal Code, does not exempt criminal liability, however, acts as legal mitigating circumstance (same as the regulation in the Romanian Criminal Code), the law-maker letting the court of law to decide either to decrease the sentence, or to give it up entirely, taking into account the particular circumstances under which the criminal offence was perpetrated.

Nevertheless, at the same time, paragraph (3) of the same article sets forth that the court will not enforce any sentence if the limits of self-defense were exceeded because of freight or strong emotion caused by the attack. This regulation seems to be grounds for non-liability (non-liability excess), as provisioned for in Article 26 of the Romanian Criminal Code.

What is different is that the law introduces the possibility not to enforce any sentence if the limits of self-defense are exceeded, a provision that is absent from our law but which, in our opinion, is not equivalent in the Polish Criminal Code, either, to an exemption from criminal liability, because the fact that no sentence is imposed is the consequence of the offence losing its criminal character. However, the act committed in this manner will still be construed as criminal offence.

4. Slovenia

In the Slovenian Criminal Code, self-defense is regulated under Article 22 forming part of Chapter 3 called General provisions on criminal offences, Section 1 – Crime and criminal.

Thus, in accordance with paragraph (1) of the article referred to above, "an act committed in self-defense shall not constitute a criminal offence", thus losing its criminal nature, and is not stipulated as justifiable grounds, as it is in the Romanian Criminal Code.

The second paragraph defines self-defense as the act committed with a view to averting an immediate and unlawful assault on himself or on any other person. It is observed that this regulation is similar to the one existing in the Romanian law.

Furthermore, the situation of excess of self-defense is also regulated, stating that, if the offence necessary for defense was committed by exceeding the limits of self-defense, the sentence may be decreased; if exceeding the limits of self-defense was the result of a state of distress or freight caused by the assault, the sentence may be removed. Therefore, in case of unjustified excess of self-defense, it seems as a mitigating circumstance, while

the justified excess seems to be grounds for removing the sentence entirely.

It is observed that, in the case where the limits of proportionate defense are exceeded, criminal liability will mandatorily be diminished, whereas, in the case where the lack of proportionality is the result of a state of distress or fright caused by the attack, then criminal liability *may* be removed.

It should be emphasized that, unlike in the Romanian Criminal Code, where criminal liability shall not be incurred in the latter case, in Slovenia, its removal is optional. Moreover, presumed self-defense is not regulated at all.

5. Georgia

Self-defense is stipulated in the Georgian Criminal Code in Chapter VIII dedicated to Non-incriminating circumstances.

Thus, in accordance with Article 28, the person harming the perpetrator of an assault in order to protect himself or his legal interests shall be deemed in necessary self-defense.

Paragraph (2) of the same article sets forth that self-defense shall also exist regardless of the person's possibility to prevent the attack or ask another person for help.

Paragraph (3) states that the injury of the wrongdoer shall occur with a view to retrieving property of which the assaulted person was deprived illegally, within the limits of the law, if this occurred immediately after the assault.

In the last paragraph, the Georgian law-maker refers to the failure to fulfill the conditions for self-defense having regard to the nature and danger of the assault, for which this grounds will not be given relevance to.

6. Italy

In the Italian Criminal Code, self-defense is regulated under Article 52, included in Title III called On criminal offences, Chapter I – On perpetrated offence and attempts.

Thus, as deriving from the said article, the person having committed a criminal offence in self-defense shall not be punished, when he was forced to defend his own or a third party's right against immediate and unlawful danger, provided that the defense is proportionate to the danger.

Furthermore, in the cases referred to in Article 614 of the Italian Criminal Code, incriminating home invasion, self-defense is presumed if the assault relates to one of the places indicated in defining that criminal offence, and the assaulted person may use a weapon held legally or another appropriate means to protect his or a third party's safety or his own or a third party's property, even when the wrongdoer withdraws or there is threat of

danger. The same provision also applies in the case where the assault takes place in any other location where business or profession-related activity is conducted.

From these provisions, it may be noticed that an absolute presumption of self-defense is being created², where proportionality is requested only as regards the fulfillment of conditions for the weapon being used by the assaulted person in his response, to be owned legally, and when the person's property is targeted, the assault shall also be directed at the person himself.

Please note that, in most of it, the Italian regulation is, in principle, similar to the one in the Romanian criminal law, but there are also significant differences. In this respect, self-defense, in the opinion of the Italian law-maker, is not justifiable grounds, as the act provisioned for by the criminal law is not a criminal offence, because the person protecting himself acts without guilt, since he is forced, states the law-maker, to defend a right pertaining to himself or to a third party.

As for self-defense, in the hypothesis where the aggressor commits the criminal offence of home invasion, the Italian law is more permissive for the person protecting himself, and the latter, in his defense, may use a fire weapon without deeming that the proportionality principle was infringed, also presumed in the case where the aggressor withdrew from the person's home, and the latter still used the weapon. In consideration of such regulation, the case described herein for the purpose of this study would pose no other questions. We may not help but wonder, however, how this regulation could be in line with the provisions of the European Convention on Human Rights.

7. Latvia

Self-defense is detailed, in the Latvian Criminal Code, in the provisions of sections 28 – 30 forming part of Chapter III called "Circumstances which exclude criminal liability".

According to section 28, the circumstances which exclude criminal liability are necessary self-defense, detention causing personal harm, extreme necessity, justifiable professional risk, and the execution of a criminal command or criminal order, even if acts committed in such circumstances correspond to the constituent elements of a criminal offence.

In accordance with section 29, necessary self-defense shall be an act committed in defense of State or public interest, or of the rights of himself or of a third person, and also in defense against assault or threat of assault. Criminal liability applies if the limits of defense proportionate to the nature and severity of the assault have been exceeded.

² Article 52 of the Italian Criminal Code was amended by Law No 59 of 13 February 2006, when the right to self-defense was regulated in case of a home assault.

It may be noticed that the Latvian law-maker ranks first, in respect of self-defense, the protection of State or public interests and only then the person and his rights, while in Romanian law prevalence is given to the person and his rights and only afterwards to general interest.

According to paragraph (2) of the same section, defense is disproportionate to the nature and danger of the assault, when it was not necessary in order to prevent or avert such assault.

A new element is brought by the provision in paragraph (3), stipulating that causing harm to the assailant through negligence, while averting the assault, shall not be criminally punishable. Also, if the assaulted person had the possibility to avoid the assault or ask for help, he will also be in self-defense, in responding.

Another innovation of the Latvian law-maker consists of the regulation in section 30 called Apparent self-defense (putative, comment added).

According to this text of law, a person shall be in apparent self-defense when he mistakenly thinks that an assault such as described in Section 29 is taking place. In cases when the particular circumstances in which the offence was committed have provided a basis for assuming that an actual assault was in progress, the person who responds by mistake, without knowing that his assumption was incorrect, shall fall under the scope of necessary self-defense, and therefore shall not be held under criminal liability.

Furthermore, a person who exceeds the limits of proportionate self-defense which would be permissible in the circumstances described above, shall be held in accordance with the provisions of excess of necessary self-defense. At the same time, if the assailant was harmed during the act of defense, in the condition of an apparent assault, the provisions governing criminal offence committed by negligence shall apply.

As regards this regulation, we hereby express our agreement and will submit a proposal for an intended law (*lege ferenda*) so that putative self-defense, already discussed in Romanian doctrine, be expressly provided in the Romanian Criminal Code, as well. And, by way of example, we refer to the situation where the "apparent" assault comes from a person handling a rubber snake or any other instrument in a threatening manner, but which has all the attributes to be believed by the victim to be real. In this case, we opine that the victim's fending amounts to self-defense even if the assault was only apparent.

8. Estonia

In the Estonian Criminal Code, self-defense is provided for in item 28 of Chapter II called Criminal Offence, Section I dedicated to grounds exempting the criminal character of the offence.

In accordance with the above-mentioned article, paragraph (1), an act is not unlawful if the person combats a direct or immediate unlawful assault against his legal rights or those of another person, by violating the legal rights of the assailant, and without exceeding the limits of proportionate self-defense.

Further on, the excess of self-defense is regulated, whereby a person is deemed to have exceeded the limits of proportionate self-defense if he acts with deliberate or direct intention in self-defense, by means which are obviously incongruous with the danger arising from the assault, thus intentionally causing severe harm to the assailant. Since the Estonian law-maker provides no specific indication in respect of such excess of self-defense, it is to be construed that the person fending the assault in such a manner will no longer benefit from the mitigating consequences of self-defense, in light of the wording of paragraph (1) item 28.

Article 57 item 8 stipulates excess of self-defense as a mitigating circumstance.

Unlike other legislations, in the Estonian Criminal Code, the possibility of the assaulted person to prevent the assault or ask for help does not exclude the right to self-defense.

It is also worth mentioning that the Estonian regulation of self-defense is similar to Romanian law, with several differences.

9. Finland

Self-defense is stipulated in the Finnish Criminal Code in Section 4, forming part of Chapter 4 called Grounds for exemption from liability.

According to this text of law, the act that was necessary for a person to protect himself against a direct or threatening assault shall be deemed self-defense, save for the case where it obviously exceeds the limits of proportionate defense, considering the nature and severity of the assault, the person of the victim and of the assailant, and also other circumstances.

Where the defense exceeds the limits of proportionality (excessive self-defense), the perpetrator shall be exempt from criminal liability if the circumstances in which he defended himself determined him to respond as such, given the danger and sudden nature of the assault.

From this provision, it may be inferred that excess of self-defense may escape criminal liability only if the disproportion is correlated with the dangerousness and sudden nature of the assault.

The Finnish Criminal Code contains no special regulations in respect of presumed self-defense.

Unlike the Romanian law, certain new elements may be noticed in the Finnish legislation governing self-defense. Thus, in analyzing a case of self-defense, consideration shall be given both to the conditions in which the assault and the defense took place, the person protecting himself, but also the

person of the assailant and other circumstances, as well. These legal clarifications seem correct, in our opinion, in analyzing different situations of self-defense because the persons involved (the assailant and the person protecting himself) may have significant particularities, such as physical strength, intellectual abilities, profession, training, etc., which could help in forming a fair conclusion as to the existence or inexistence of self-defense.

10. Sweden

In the second part of the Swedish Criminal Code, dedicated to the theory of criminal offence, in Chapter 24 called On general grounds for exemption from criminal liability, there are provisions governing self-defense.

Thus, in accordance with Section 1, an act committed by a person in self-defense constitutes a criminal offence only if, having regard to the nature of the aggression, the importance of its object and the circumstances in general, it is clearly unjustifiable.

A first definite similarity between the Swedish and the Romanian law is the fact that the Swedish law-maker also considers self-defense as justifiable grounds for exemption from criminal liability if the act was committed in self-defense.

Furthermore, as provided by the Swedish law-maker, the right to act in self-defense only exists if it is directed against:

1. a threatening assault on a person or property;
2. a person who violently or by the threat of violence obstructs the repossession of property when caught in the act;
3. a person who has unlawfully forced or is attempting to force entry into a room, house, yard or vessel;
4. a person who refuses to leave a dwelling when ordered to do so.

It is observed that, unlike the Finnish Criminal Code, for instance, the Swedish law-maker specifically regulated the circumstance where the assault is directed at the home of a person, the refusal to leave it, or even repossessing property. Furthermore, self-defense in the Swedish opinion is also different from Romanian regulations.

11. Norway

Self-defense is also stipulated in the Norwegian Criminal Code in its First Part, containing general provisions; more specifically, in Chapter 3 called Conditions governing criminal liability.

The wording of Section 48 of the said Code reveals that no one may be punished for an offence committed in self-defense.

The person acting with a view to preventing or fending against an unlawful assault shall be deemed

to act in self-defense, provided that the act did not exceed what appeared to be necessary for that purpose.

However, the Norwegian law-maker, just as the Romanian one, provides that the act of the person who exceeds the limits of proportionate self-defense shall not be punishable if such excess is due solely to emotional upset or consternation caused by the assault. However, there are no regulations on presumed self-defense.

12. Switzerland

Title II of the Swiss Criminal Code regulates self-defense.

Hence, in accordance with Article 15 of the said Code, if a person is unlawfully assaulted or threatened with imminent assault, the assaulted person and any other person are entitled to ward off the assault by means that are reasonable in the circumstances.

Article 16 paragraph (1) refers to excess of self-defense, according to which, if, in defending himself, a person exceeds the limits of proportionate self-defense, as defined in the preceding paragraph, the court shall reduce the sentence. Therefore, justified excess acts as mitigating circumstances.

According to paragraph (2), it is laid down that if the offence is committed by a person in excess of the limits of proportionate self-defense as a result of excusable excitement or panic, it shall not be deemed as a criminal offence and therefore shall be exempted from punishment. This means that lawful excess is assimilated to necessary self-defense, while in the Romanian law it is non-punishable excess.

13. Germany

Self-defense is regulated in the German Criminal Code in Title IV called Self-defense, Necessity and Duress.

In accordance with section 32 of the above-mentioned title, a person who commits an offence in self-defense does not act unlawfully.

Self-defense is defined as any defensive action that is necessary to avert an imminent unlawful assault on himself or another.

According to section 33, whose sub-title is Excess of self-defense, a person who exceeds the limits of proportionate self-defense, as compared to the assault, out of confusion, fear or terror shall not be held criminally liable.

It is to be noticed that, in the German Criminal Code, criminal liability is also exempted if the obvious incongruity between the assault and the response is due to the state of confusion or fear which could have seized the assaulted person, as a result of the aggression.

14. France

Chapter II of the French Criminal Code, called Grounds for absence or attenuation of liability, regulates self-defense.

According to Article 122-5 of the said Code, a person is not criminally liable if, confronted with an unjustified assault upon himself or upon another, he performs at that moment an action compelled by the necessity of self-defense or the defense of another person, except where the means of defense thus used are not proportionate to the seriousness of the assault.

Moreover, a person is not criminally liable if, to interrupt the perpetration of a criminal offence against property, he performs an act of defense other than wilful murder, where the defensive act is strictly necessary to remove the jeopardy and the means used are proportionate to the gravity thereof.

In accordance with Article 122-6 of the same Code, self-defense shall be presumed when the offence is committed in the following instances:

- to repulse at night an entry to an inhabited place committed by breaking in, violence or deception;
- to defend himself against the perpetrators of theft or pillage carried out with violence.

Extensive similarity is noticed between the French regulations and those in the Romanian Criminal Code. Mention is to be made that the French law-maker does not treat self-defense as a justifiable grounds, either, criminal liability being exempted in consideration of the lack of guilt.

15. Belgium

Self-defense is laid down in the Belgian Criminal Code in the Title dedicated to Criminal offences and misdemeanors, in the Section Justifiable grounds.

In accordance with Article 416 of the same Code, "the act of a person defending himself against an actual assault directed at himself or at another shall not be construed as murder, bodily harm or battery".

In the relevant literature, self-defense is the reflection of a principle of law according to which any person facing a jeopardy shall be entitled to defend himself, his reaction shall however be moderate, not exceeding the limits of the assault³.

The doctrine emphasized that the assault needs to be imminent, unlawful and directly threatening the physical integrity of the person, his health, freedom or dignity.⁴ Furthermore, the assault shall be effective and sufficiently severe⁵, and not originate

from an authority, since it would not be unlawful in that case⁶.

Article 417 refers to presumed self-defense. According to that article, a person shall act in self-defense when he averts the entry into a house, outbuilding, by breaking in, violence or climbing, during nighttime. This presumption is, however, deemed by the law-maker to have a relative character, while, as set forth in paragraph 3 of the same article, a person shall be in a state of absolute self-defense when he protects himself against an offence of theft or burglary committed with violence against himself or against another person.

The Romanian law-maker may have drawn inspiration in regulating self-defense from the Belgian legislation, given the striking resemblance of the two regulations. It is observed that, in the opinion of the Belgian law-maker, too, defense is a justifiable grounds exempting the criminal liability of the offence.

16. Spain

Self-defense is regulated in the Spanish Criminal Code in Book I, called General provisions on criminal offences and misdemeanors, the persons responsible, the penalties, safety measures and other consequences of criminal offences, Title I – On criminal offences and misdemeanors, Chapter II – On the grounds of exemption from criminal liability.

In accordance with Article 20 item 4 of the above-mentioned Code, the person committing an act in defending his rights or the rights of another shall be in self-defense, as long as the following conditions are fulfilled:

- the aggression is unlawful.

In the case of defense of property, the aggression shall be of such a nature as to jeopardize the integrity or amount to an imminent loss. If the assault targets the dwelling or its rooms, trespassing shall be deemed unlawful aggression.

- the use of proportionate means to avert or prevent the assault.
- lack of sufficient provocation on the part of the defending person.

Article 20 item 6 of the Code stipulates that the person who committed the criminal offence in a state of panic shall not be held criminally liable.

The stipulation of the conditions listed herein above is an indication that self-defense is not expressly regulated in the case where the limits of disproportionate defense, as compared to the assault, are exceeded.

The regulation in the Spanish Criminal Code is also similar to the Romanian Criminal Code, except

³ J.J. HAUS, *Principes généraux du droit pénal belge*, t. I, 3e éd., Gand Publishing House, Librairie générale de Ad. Hoste, 1879, Brussels, Swinnen, 1977, p. 469, n° 616.

⁴ Court of Cassation, decision of 28 February 1989; p. 662; (for more details, <http://www.actualitesdroitbelge.be/>).

⁵ *Revue de droit penale criminelle*, Liege, 1992, p. 1013.

⁶ P. Lambert, *Legitime defense*, Postal Memorialis – Lexicue du droit penal et des lois speciales, Kluwer Waterloo Publishing House, 2008, p. L.20/5.

that in the Spanish law-maker's view self-defense does not amount to justifiable grounds, but is deemed as a reason exempting criminal liability.

17. Portugal

Article 32 of the Portuguese Criminal Code sets forth self-defense, forming part of Chapter III called Grounds exempting criminal nature and guilt.

Thus, an act constitutes self-defense when committed as the necessary means to repel a present and unlawful aggression on legally protected interests of the agent or of a third person.

Additionally, the Portuguese law-maker further regulated, in Article 33, the situation of excess of self-defense.

According to that provision, exceeding the limits of self-defense shall not exempt from criminal liability, but may mitigate it.

As also stipulated by the Romanian law-maker, if, however, the excess of proportionality limits as compared to the severity of the assault is due to a state of fear or distress, then criminal liability shall be exempted.

18. The Republic of Haiti

Self-defense is regulated in the Criminal Code of Haiti within the category of grounds exempting criminal liability, in Articles 273 and 274.

In order for self-defense to be held, it is necessary for the assault to be directed at a person or his property, and the assault needs to be current, actual, imminent, unlawful, and the response shall be proportionate to the assault.

In accordance with these legal regulations, a person shall act in self-defense when responding to the perpetrators of thefts or burglaries, for which violence was used. Such a regulation is not to be found in the Romanian law and, in our opinion, should also be adopted by the Romanian law-maker.

In case of excess of self-defense, when the limits of proportionate defense are exceeded, the law-maker of the Haitian Criminal Code did not provide the consequence of criminal liability being exempted.

Conclusions

In the countries whose legislations were referred to herein above, we did not find the two-tier classification (justifiable grounds and grounds exempting criminal the liability, in relation to self-defense) whereby the criminal offence or criminal nature of the act is removed, except for Belgium, where self-defense is ranked among justifiable grounds.

In specifying the circumstances of the assault, the laws of neither of the countries analyzed above specify that the assault needs to be material, which, in our opinion, leaves room for interpretation.

In the legislation of other countries, in case of self-defense, among the values jeopardized in the assault is also the person's property, which in Romanian law is not provided, the defended values pertaining to the attributes of the natural person.

In certain countries (Malta and the Grand Duchy of Luxembourg), self-defense is regulated in light of the criminal offences against life, health and bodily integrity.

Not all countries reviewed in our study regulate presumed self-defense or self-defense occurring during nighttime, while other countries have much more extensive regulations, as compared to the Romanian Code, in respect of "presumed self-defense".

Not all countries have a full regulation for "justified excess" and "pardonable excess" in the field of self-defense, as well as the consequences of exceeding self-defense in such cases.

In certain countries, there were very significant regulations in the field of self-defense, as well as the consequences of exceeding the limits thereof.

The concept of self-defense is regulated in all countries subject to our review, being a universal one, with various particularities specific to each country.

As compared to other countries, we believe that the regulation of self-defense in the Romanian Criminal Code is better, but still perfectible, in consideration of certain situations and ECHR requirements.

Selective reference:

- <http://www.legislationline.org/documents/section/criminal-codes>
- J.J. HAUS, *Principes généraux du droit pénal belge*, t. I, 3e éd., Gand Publishing House, Librairie générale de Ad. Hoste, 1879, Brussels, Swinnen, 1977, p. 469, n° 616;
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