

ABSTRACT

This thesis deals with the legal framework and the use of wiretapping and record of telecommunication traffic, which is set under Section 88 in the Code of Criminal Procedure and the similar institute of survey of data about telecommunication traffic under Section 88a. The goal of the paper is to analyse valid legal framework, use of both institutes in real with accent on finding current problems and suggesting their solution.

Wiretapping and survey of telecommunication data are institutes that serve to get information in criminal procedure and to take evidence, at the same time they are major interference to the basic human rights, particularly the privacy. However if the legal conditions are fulfilled, the interference is allowed. This constitutional aspect is examined in the thesis.

Considering today's world full of modern technologies and the choice of remote communication both wiretap and survey of data are plentifully used. In accordance with that it is necessary to deal with the question of legitimacy of using both institutes, the question of how to order and execute them and also the possibilities of using the results of them as the evidence in criminal procedure. The thesis devotes to the important and recent judicature relating to legality of interference with the basic rights and the problematics of the obsolete legal terms (e.g. telecommunication) and the institutes, which are not sufficiently covered in legal framework (e. g. taking evidence from the personal social website). The part of the paper is also dedicated to the information duty to the person, who was wiretapped, the control of legality executed by both the court and special institutions and the cross-border wiretap.

Through analysis of both institutes author came to the conclusion that the legislators leave the legislation too generic and unadapted to the different possibilities of use the institutes in recent days. It would be appropriate to do a lot of legislative changes to the development of modern technologies.