

Thesis title

Substantiation of Electronic Evidence

Abstract

Thesis deals with the substantiation of electronic evidence within the framework of criminal procedure. The importance of the issue of obtaining such a category of evidence further intensifies as the technology continues to develop. The various types of crime perpetrators simultaneously leave behind digital traces with regard to almost all cases. Therefore, the author focuses on the issue, whether it is possible to obtain such an evidence effectively. The author concurrently takes into account the question of whether the process of obtaining electronic evidence meet certain threshold of protection of the fundamental rights and freedoms of an individual. Hence, the author analyses the characteristic of the individual relevant procedures. The issue of *data retention*, in other words the areal data collection and preservation in the light of recent case law as well as the possible adjustments to current legislation is subject to scrutiny. Attention is drawn, *inter alia*, to the novel procedure which enables preventive preservation of data important for the criminal proceedings. Furthermore, the author takes into account the issue of obtaining the content of the communication by means of electronic mail. Moreover, thesis deals with the partial problems of the provisions with regard to the obtaining of electronic evidence, e.g. unsuitable limitation conditions of surveillance of persons and items, during which shall any audio, visual or other records be made.

Thesis further outlines the issue of how to obtain relevant data from the social media. In this context, the voluntary channel of cooperation has come along as a response to the current inefficient legislation. Thus, the author has chosen to discuss the European Union proposal, as well as the initiation of the mutual agreement between the European Union and the USA. These constitute a reaction to the new US law, i.e. CLOUD Act, which established the obligation of social media to provide for the user data to federal authorities regardless of the location of such data. In the last part of the thesis, the author deals with the proposed principles and their contribution.

Keywords

Electronic evidence, law enforcement authorities, data