

Wiretapping and recording of telecommunication traffic

Abstract

The thesis deals with the institute of wiretapping and recording of telecommunication traffic, which deserves closer attention due to the constant development of technologies. The aim of the thesis is to analyse the main issues of the regulation not only according to the pivotal criminal procedure norm, but also according to other acts, especially in the context of constitutional limits.

The thesis is divided into five chapters. In the initial chapter, the author briefly deals with wiretapping of telecommunications traffic from a technological perspective followed by an analysis of the development of wiretapping and recording of telecommunications traffic, in terms of foreign legislation and then Czech legal system. It takes into account not only the historical development of §88 and §88a of the Criminal Procedure Code but also the parallel regulation of wiretapping in the Police Act of 1991. In the second chapter, the author outlines the constitutional limits not only in the terms of the Charter but also according to the Convention and the related case law of the European Court of Human Rights. In the crucial third chapter, the author examines the regulation of wiretapping and recording of telecommunications traffic according to applicable law that is not limited to treatment of *de lege lata*, but also offers considerations *de lege ferenda*. Thus, mainly §88 and §88a of the Criminal Procedure Code are analysed, as well as related provisions, such as the publication of wiretaps. Furthermore, the author deals with the regulation of cross-border wiretapping or non-criminal regulation of wiretapping, especially with regard to the current legislative process from the point of view of evidence or the detection tool. The fourth chapter is devoted to judicial and parliamentary control over the use of wiretapping and recording of telecommunications traffic. The last chapter is set aside for some partial issues of wiretapping, which according to the author would deserve the most attention in the possible recodification of criminal procedural law.

In conclusion, the author summarizes the work and adds that the legislator during the long existence of wiretapping and recording of telecommunications traffic in the criminal code unfortunately failed to sufficiently deal with the developing technical possibilities of wiretapping and recording in terms of legislative changes.