

Wiretapping and recording of telecommunications traffic

Abstract

This thesis focuses on the institute of wiretapping and recording of telecommunications traffic, as well as the collection of telecommunications data used in criminal proceedings under the Czech Code of Criminal Procedure. The aim of the thesis is to assess the legal regulation set out in Sections 88 and 88a of the Code of Criminal Procedure, to analyze the compliance of law enforcement authorities with the obligations imposed by law, and to evaluate the effectiveness of using these legal instruments.

The thesis is divided into six chapters, part of which is mainly theoretical and part of which deals with the practical side. The theoretical part comprises the first four chapters, which primarily provide information about the institute of wiretapping and recording of telecommunications traffic and the collection of telecommunications data, including an explanation of the differences between these two instruments. It also analyzes the interference of these measures with fundamental human rights, both at the national and European levels, with reference to the relevant case law of the Constitutional Court of the Czech Republic, the European Court of Human Rights, and the Court of Justice of the European Union. Within the framework of European Union law, the thesis also includes EU directives dealing with the issue of data retention.

The practical part focuses on the procedures of law enforcement authorities prior to the issuance of an order for wiretapping and recording of telecommunications traffic, or an order to obtain telecommunications data, as well as the process of executing these measures once ordered, and the obligations of authorities after their termination. Furthermore, the thesis addresses selected problematic aspects of wiretapping and recording of telecommunications traffic that emerged during the research phase. One of problematic aspect is the interception of communication between a defense attorney and a defendant, contrasted with that between an attorney and a client. This is followed by wiretapping of journalists for the purpose of identifying confidential sources. Another issue examined is the potential neglect by police authorities to fulfill the statutory obligation to destroy recordings of wiretapping.

Key words: wiretapping and recording of telecommunications traffic, data retention, interference with privacy