

Substantiation of Electronic Evidence

Abstract

This thesis addresses the procedural questions of securing and presenting electronic evidence in criminal proceedings. The use of modern devices and the subsequent creation of electronic evidence is very common, making it necessary for legislation as well as investigative, prosecuting and adjudicating bodies to set out an adequate framework for securing and producing such evidence. The thesis seeks to determine the limits of this framework with regard to the rights to a fair trial, privacy and secrecy of correspondence, as well as the principle of public authority interference minimization, keeping in mind that electronic evidence must be secured and produced in accordance with the Criminal Procedure Code, the Constitution and enforceable international treaties, respecting the rights of individuals but also allowing criminal proceedings to reach their ultimate goal. The thesis first concentrates on traditional instruments of securing evidence, e.g. search warrants, seizure of an item, operative-search means or various types of wiretapping. These general findings are then applied to commonly used information technologies, such as emails, documents stored on websites or social media platforms, as well as communication conducted via mobile applications. In its conclusion, the thesis confronts these findings with the current methods used by law enforcement, persecutors and criminal courts when dealing with electronic evidence during criminal proceedings, paying special attention to the Supreme Prosecutor's position on electronic data storage devices.

Key words: substantiation, electronic evidence, criminal procedure