

Abstract

This thesis analyzes legal framework as well as other issues regarding monitoring and intercepting the substance of communication under Section 88 of the Criminal Procedure Act. Also, the characteristics of logging and accessing data relating to communication (such as times, patterns, locations and parties involved) under Section 88a are described. These institutes in certain instances represent lawful interfere with the right to respect for private life and other human rights and both are of critical importance in the investigation of many types of crimes.

The thesis is systematically divided into seven chapters.

Chapter One presents both concepts in their relationship to the affected basic human rights and describes characteristics, major principles as well as the procedure of issuing a wiretap and data retention warrants.

As both concepts have similar features with conception of Surveillance of persons and items under the Section 158d of the Czech Criminal Procedure Act, comparison with this institute is provided in the second chapter.

The third Chapter is devoted to the evolution of Wiretapping legislation and its changes due to particular amendments. The first legal regulation of Wiretapping was adopted in the Czech Criminal Procedure Act in 1991 as a response to the political revolution followed by the need for explicit legislation providing human rights as well as conditions on which it is permitted to interfere with these rights.

Chapter Four focuses on performance of Wiretapping and data retention itself. Implementing legislation is particularly important at this stage. For better understanding, legal definitions of telecommunications, electronic communications and other terms used in relevant legislation are outlined. Topic of encrypting as a potential obstacle in obtaining information through the wiretapping and data retention is also presented.

The next chapter follows the topic of wiretapping of modern communications since it focuses on a specific kind of widely used communication form, social sites. It is evident that using different kinds of social networks where people can easily share not only private information, but also other content, can as well be used for criminal activities.

Control mechanisms as an important guaranty of legitimacy of wiretapping are analyzed in the sixth chapter. There are two main mechanisms in Czech legislation guarantying lawful conduct of wiretapping and data retention. Supreme Court examine the legality of the order for the interception and recording of telecommunication traffic upon a petition of the person whose communication was recorded. Another type of control comes under the competence of The

Permanent Commission established by the Chamber of Deputies and conducts general control over wiretapping and data retention.

Last chapter provides proposals for legislative improvement, which are based on the research conducted in this study.