

Abstract

This doctoral thesis concerns itself with the search of one's home or search of other premises and locations by law enforcement. The objective is to provide an assessment of the current legal framework for such searches, both in terms of whether personal rights are being sufficiently protected and in terms of whether the framework is well-suited for practical application. Given the nature of home searches and searches of other premises and locations, i.e., more specifically, given how the performance of such searches may infringe upon personality rights, this thesis takes a rather detailed look at the proportionality between the interference with such rights, on the one hand, and the importance of conducting the home search for the respective criminal procedure, on the other. For this reason, an entire chapter is dedicated to the concepts of privacy protection, the inviolability of the home, and the right to be secure in one's home. The thesis analyzes in detail the legal framework for home searches and the search of other premises and locations under current Czech law, but also provides an overview of the historical legal development in our country, touching upon the various pieces of legislation which governed this criminal-law instrument in the past. Naturally, the thesis also devotes space to the practical aspects, i.e., both the procedure to be followed during the various types of searches itself and the procedure before a search is ordered, but also the requirements for the proper documentation of searches. Beyond the general realm of searches by law enforcement, the thesis also specifically touches upon the rules for, and practical execution of, searches of premises on which attorneys-at-law pursue their profession, considering that, aside from potential conflicts with personal rights, such searches also give rise to the problem of a potential breach of client-attorney privilege. The issue of protection of one's privacy, which is clearly being interfered with when a search is performed, is of course being discussed also within the broader European context, i.e., specifically, the context of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which is which this thesis addresses home searches also in relation to the requirements enshrined in the Convention. With a view to the ever-increasing volume of international cooperation in the field of criminal investigations, the thesis also takes a look at the concept of home searches in third countries for the purposes of criminal proceedings conducted in the Czech Republic. Finally, the thesis also comprises the author's personal views and practical experience gained in the role of public prosecutor.