

Interference with the Right to Privacy by Public Authorities

Abstract

The subject of this thesis is the assessment of selected types of interference with the right to privacy in terms of meeting the requirements of constitutionality. The author focused on cases of flat collection of personal data of a significant number of persons and their further processing for the purposes of public authorities. The considered processing are based on specific legal regulations, usually as mandatory processing, without the possibility for the persons concerned to avoid the processing of their personal data, since the individual relevant legal regulations always regulate the processing of personal data for the purpose of fulfilling a certain public interest.

On the basis of a preliminary analysis, the author has evaluated the cases that appear to be the most serious in terms of the degree of interference with the right to privacy, in particular with regard to the number of persons concerned and the total amount of personal data processed, for further examination in this thesis. Specifically, these are: 1. the blanket processing of electronic communications traffic and location data, 2. the blanket processing of personal data by in-car systems, 3. the blanket processing of personal data of air passengers, 4. the blanket processing of personal data by traffic camera systems and 5. the processing of health data.

In these selected cases, the author has always identified the legislation establishing the processing in question and assessed the definition of the individual elements of processing in the legislation. This part of the thesis also includes an analysis of relevant opinions and decisions of the data protection supervisory authorities and courts and, on the basis of these, an assessment of compliance with constitutional requirements and an evaluation of possible shortcomings for each of the examined regulations.

The outcome of this thesis is a generalisation of the conclusions reached by the author when assessing the individual cases examined and a proposal of *de lege ferenda* measures applicable to both existing and possible future similar cases of interference with the right to privacy. These measures also include proposals for sufficient and effective control mechanisms, which, in accordance with the established decision-making practice of the Constitutional Court of the Czech Republic, are among the basic prerequisites for ensuring the constitutionality of a given legal regulation when it constitutes an interference with some of the fundamental human rights and freedoms.