

The project will aim to analyse the current legal and institutional regulations with respect to retention and provision of communications data, develop a new model of communications data retention and provision for the authorised entities. The development of a new model will be possible after conducting research aimed at determining whether the currently binding provisions regulating the scope of providing communications data are in compliance with the European Union law and whether the current legal mechanisms and organisational solutions ensure sufficient control over the provision of messages and communications data.

In order to answer the raised questions, the research will use a monographic method, which will make it possible to:

- analyse the features and elements of the present model of collecting and providing communications data;
- describe the character and the way in which the current model of collecting and providing data operates and develops;
- determine problems and irregularities in its operation;
- prepare a conception of a new model of communications data retention and provision.

The project will be basic research in character. At present, after the judgement of the European Court of Justice of 8 April 2014, which declared Directive 2006/24/EC of the European Parliament and the Council of 15 March 2006 to be null and void, and the judgement of the Polish Constitutional Tribunal of 30 July 2014 on “billings and tapping”, there is no model of collecting and providing communications data. Thus, it is necessary to develop such a model. Research done in order to develop it will be very original in character, as no such model exists at present. The judgements of the above-mentioned courts, especially of the European Court of Justice, were radical changes to the principles of collecting and providing communications data. A new model cannot be developed based on the assumptions and principles of the model that has been used so far.

The development of a new model will require working out completely new assumptions that will constitute the basis for the creation of a new conception of data collection and provision. The analysis of the current situation, both actual and legal, will make it possible to define the existing problems. Identified problems, their influence on the process of data collection and provision, will be used in the process of acquiring knowledge indispensable for developing a new model of communications data collection and provision.

The research will not be practically utilised. Its end goal will be to acquire knowledge, which will then be used to develop a model of data collection and provision. The knowledge of data collection and provision we have at present is based on the regulations that were in force before the judgement of the European Court of Justice or even more precisely on Directive 2006/24/EC of the European Parliament and the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks. The above-mentioned judgement declared the Directive to be null and void so the attainments in the field became practically out-dated. The research will make it possible to acquire knowledge and develop a new model of collecting and providing communications data.

The issue of communications data collection and provision is one of the most lively discussed topics concerning human rights and freedoms. Communications messages and data provision, especially the so-called telephone billings attract the attention of the citizens, the media and organisations. The society takes a keen interest in whether the acquisition and processing communications data does (not) violate human rights and freedoms.

The issue is especially important in Poland, where the amount of the acquired billing data is the biggest among all the EU member states, even in comparison with the countries with the population exceeding Poland's. Historic experience also plays an important role. Unfortunately, as Polish and European courts' judgements show, the current communications data collection model is not in compliance with the principles of a democratic state. Thus, it is necessary to develop a new communications data collection and provision model. Amendments to the current regulations are not sufficient. It is necessary to develop a completely new model of communications collection and provision. There have been no works on the development of such a model in legal literature before.