

# Table of Contents

The Authors	3
List of Abbreviations	21
General Introduction	23
Chapter 1. General Background of the Country	23
§1. GENERAL INFORMATION	23
§2. GOVERNMENT	23
§3. JUDICIARY	24
§4. SOURCES OF LAW	25
§5. INTERNATIONAL AND EUROPEAN LAW	27
Chapter 2. Telecommunications Infrastructure	29
§1. INTRODUCTORY NOTE TO STATISTICAL FIGURES	29
§2. LANDLINES	29
§3. MOBILE NETWORKS	30
§4. INTERNET ACCESS	31
Chapter 3. The Information and Communications Technology Market	33
§1. STRUCTURE AND SIZE OF THE ICT MARKET	33
§2. PERFORMANCE AND ADDED VALUE	33
§3. LABOUR MARKET IN ICT	34



## Table of Contents

Chapter 4. E-commerce: Facts and Figures	36
§1. INTRODUCTORY NOTE TO E-COMMERCE AND STATISTICAL FIGURES	36
§2. E-COMMERCE: BUSINESS PERSPECTIVE	37
§3. E-COMMERCE: CONSUMER PERSPECTIVE	39
Chapter 5. E-government Initiatives	42
§1. SHAPE AND PERFORMANCE OF THE CZECH E-GOVERNMENT	42
§2. PUBLIC INFORMATION SYSTEMS	43
§3. CORE PUBLIC SECTOR DATA	44
§4. IDENTIFICATION	46
§5. DOCUMENT DELIVERY	47
Part I. Digital Market Regulation	51
Chapter 1. Legal Status of Standards and Technical Specifications	51
Chapter 2. Legal Status of Standard Terms and Conditions	59
§1. INTRODUCTION	59
§2. DEFINING GTCs	59
§3. GENERAL TERMS AND CONDITIONS IN THE CONTRACTING PROCESS	60
§4. FLEXIBILITY OF GENERAL TERMS AND CONDITIONS	61
§5. SMART CONTRACTS AND GTCs	62
§6. THE FUTURE OF SMART GTCs	62
Chapter 3. International Private Law Applied to the Online Environment	64
§1. INTRODUCTION	64
§2. COURTS AND CASE LAW	65



## Table of Contents

§3. GENERAL PRIVATE INTERNATIONAL LAW	67
§4. JURISDICTION	69
§5. LAW APPLICABLE	70
§6. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS	72
§7. ARBITRATION	73
Chapter 4. Competition Law Applied to the Digital Markets	76
§1. INTRODUCTION	76
§2. CZECH COMPETITION LAW AND ITS ENFORCEMENT	77
§3. ANTI-COMPETITIVE AGREEMENTS	78
§4. ABUSE OF DOMINANT POSITION	81
§5. CONTROL OF CONCENTRATIONS	83
§6. SUPERVISION OVER PUBLIC AUTHORITIES	86
§7. FAILURE TO COMPLY WITH COMPETITION LAW	87
§8. CZECH COMPETITION LAW AND SECTORAL REGULATION	89
Chapter 5. Regulation of the Electronic Communications Market	91
§1. LEGAL FRAMEWORK OF ELECTRONIC COMMUNICATIONS	91
§2. CZECH TELECOMMUNICATIONS OFFICE	92
I. CTO Council, Organization of the Office	93
II. Relationship of the CTO to Other Authorities	95
§3. REGULATION OF ELECTRONIC COMMUNICATIONS	95
§4. RIGHTS AND OBLIGATIONS OF OPERATORS SUBSCRIBERS AND USERS, CONSUMER PROTECTION	98
§5. INTERCONNECTION AND ACCESS TO ELECTRONIC COMMUNICATIONS NETWORKS	98
§6. CONSUMER PROTECTION	99



## Table of Contents

§7. DISPUTE RESOLUTION	100
§8. SECURITY OF NETWORKS AND SERVICES, PROTECTION OF PERSONAL DATA	102
§9. CONSTRUCTION OF ELECTRONIC COMMUNICATIONS NETWORKS	104
§10. OTHER LEGISLATION IN THE SECTOR OF ELECTRONIC COMMUNICATIONS	105
I. Act on Certain Information Society Services	105
II. Act on Measures to Reduce the Costs of Deploying High-Speed Electronic Communications Networks	106
Chapter 6. Regulation of Broadcasting Activities (Audiovisual Services)	107
§1. LEGAL FRAMEWORK	107
§2. ACT ON THE OPERATION OF RADIO AND TELEVISION BROADCASTING	107
§3. RIGHTS AND OBLIGATIONS OF RADIO AND TELEVISION BROADCASTERS AND RETRANSMISSION OPERATORS	109
§4. BROADCAST CONTENT	110
§5. ACT ON ON-DEMAND AUDIOVISUAL MEDIA SERVICES	111
§6. OBLIGATIONS OF PROVIDERS OF ON-DEMAND AUDIOVISUAL MEDIA SERVICES	112
§7. COUNCIL FOR RADIO AND TELEVISION BROADCASTING	113
I. Composition and Organization of the RRTV	113
II. Competence of RRTV	114
III. Relationships of the RRTV to Other Bodies	114
§8. SUPPORT OF THE EUROPEAN WORKS	115
§9. MARKETING AND ADVERTISING OBLIGATIONS	116
§10. ACT ON THE CZECH TELEVISION AND ACT ON THE CZECH RADIO	118
§11. ADVERTISING REGULATION ACT	119
§12. ACT ON ELECTRONIC COMMUNICATIONS	120



## Table of Contents

Chapter 7. Regulation of Online Interactive Services	122
§1. INTRODUCTION	122
§2. REGULATION OVERVIEW	122
§3. NOTABLE TRANSPOSITIONS AND ADAPTATIONS OF EU LEGISLATION	123
I. E-commerce Directive Transposition (ACISS)	123
II. Cookies	124
III. Platform-to-Business	125
Chapter 8. Regulation of Cryptography and Dual-Use Goods	126
Part II. Online Public Services	135
Chapter 1. E-government Legal Framework	135
§1. INTRODUCTION	135
§2. RIGHTS TO DIGITAL SERVICES	135
§3. PUBLIC INFORMATION SYSTEMS	138
§4. BASIC REGISTERS	140
§5. DELIVERY	143
§6. CONVERSION	147
§7. PROMULGATION	148
Chapter 2. Legal Framework for eHealth	151
Chapter 3. Online Voting	160
Chapter 4. Other E-government Services	163
Part III. Online Transactions	165
Chapter 1. Electronic Contracting	165
Chapter 2. Electronic Signatures	171
§1. 'SIMPLE' ELECTRONIC SIGNATURE	171



## Table of Contents

§2. ADVANCED ELECTRONIC SIGNATURE	172
§3. QUALIFIED ELECTRONIC SIGNATURE	174
§4. 'RECOGNISED' ELECTRONIC SIGNATURE	175
Chapter 3. Trust Services	177
§1. ELECTRONIC SEAL	177
§2. ELECTRONIC TIME STAMP	179
§3. ELECTRONIC REGISTERED DELIVERY SERVICE	180
§4. DATA BOX	181
§5. WEBSITE AUTHENTICATION SERVICES	183
Chapter 4. Online Financial Services	185
§1. INTRODUCTION	185
§2. REGULATION OF ONLINE FINANCIAL SERVICES IN THE CZECH REPUBLIC	185
I. Payment Services	186
II. Crowdfunding	188
III. DLT and Cryptocurrencies	189
IV. Loan Services	189
V. The Approach of the Czech Regulatory Authority	190
§3. AML REGULATION	191
Chapter 5. Law of Evidence in the Digital Environment	193
§1. ELECTRONIC EVIDENCE IN PRIVATE LAW	193
§2. ARCHIVING	199
§3. AUTHORIZED DOCUMENT CONVERSION	202
Chapter 6. Consumer Protection (Online Sales and Online Services)	203
§1. SALE OF GOODS DIRECTIVE, DIGITAL CONTENT DIRECTIVE AND THEIR TRANSPOSITION INTO THE CZECH LAW	203



## Table of Contents

§2. EXISTING PROVISIONS ON THE SALE OF GOODS OR SERVICES ONLINE	205
§3. OUT-OF-COURT SETTLEMENT OF CONSUMER DISPUTES	208
Chapter 7. Liability of Online Service Providers	209
§1. INTRODUCTION	209
§2. LIABILITY ACCORDING TO ACISS (E-COMMERCE DIRECTIVE)	209
I. Mere Conduit	210
II. Caching	210
III. Hosting	210
IV. No General Obligation to Monitor	211
V. Conclusion	211
§3. CASE LAW	211
I. Liability of Hosting Providers	211
II. Liability of ISSPs for Content Affecting Personality Rights of Individuals	213
Part IV. Intellectual Rights	215
Chapter 1. Patent Law	215
§1. PATENT PROTECTION IN THE CZECH REPUBLIC	215
§2. CONDITIONS FOR PATENTABILITY	216
§3. NATIONAL PATENT PROCEEDINGS	218
§4. THE RIGHT TO A PATENT	220
§5. ENTERPRISE INVENTION	220
§6. DISPOSITION WITH PATENTS	221
§7. PATENTS RIGHTS AND ITS LIMITATIONS	221
§8. DURATION OF PROTECTION, TERMINATION AND REVOCATION OF A PATENT	222
§9. PATENT PROTECTION FOR COMPUTER-IMPLEMENTED INVENTIONS	223
Chapter 2. Trademarks	226
§1. DESIGNATION RIGHTS	226



## Table of Contents

§2. PURPOSE OF TRADEMARK RIGHTS AND ITS FUNCTION	227
§3. NOTION OF TRADEMARK AND ITS CATEGORIES	228
§4. TRADEMARKS REGISTRATION PROCEDURE	228
§5. BEGINNING, DURATION AND SCOPE OF THE PROTECTION	232
§6. TRADEMARK AS AN OBJECT OF OWNERSHIP	234
§7. LAPSE OF THE PROTECTION	235
§8. COLLECTIVE AND CERTIFICATION TRADEMARKS	236
§9. KEYWORDS AND TRADEMARKS ON THE INTERNET	237
Chapter 3. Design Protection (Application to Digital Products)	240
§1. DIFFERENT TYPES OF DESIGN PROTECTION	240
§2. THE EU FRAMEWORK FOR DESIGN PROTECTION	241
§3. DESIGN PROTECTION AT THE NATIONAL LEVEL	241
§4. DESIGN	242
§5. ELIGIBILITY REQUIREMENTS	242
§6. INDUSTRIAL DESIGNS APPLICATION PROCEEDINGS	243
§7. SCOPE AND DURATION OF PROTECTION	244
§8. DESIGN RIGHT AND EFFECTS OF A REGISTERED DESIGN	245
§9. EXTINCTION AND CANCELLATION OF THE REGISTERED INDUSTRIAL DESIGNS	246
§10. GRAPHICAL USER INTERFACES	246
§11. 3D PRINTING AND DESIGN LAW	247
Chapter 4. Copyright Protection in the Digital Context	249
§1. INTRODUCTION	249



## Table of Contents

§2. THE REGULATORY FRAMEWORK	249
§3. PROTECTED SUBJECT MATTER	253
§4. AUTHORSHIP AND ENTITLED PERSONS	255
§5. RIGHTS GRANTED	258
§6. LIMITS OF PROTECTION	262
§7. LICENSING	265
§8. ENFORCEMENT OF RIGHTS	269
Chapter 5. Legal Protection of Software	273
§1. INTRODUCTION	273
§2. PROTECTED SUBJECT MATTER	273
§3. RIGHTS GRANTED AND ENTITLED PERSONS	276
§4. LIMITS OF THE PROTECTION	278
Chapter 6. Protection of Databases	281
§1. CATEGORIES OF DATABASE PROTECTION	281
§2. COPYRIGHT PROTECTION OF DATABASES	281
§3. SUI-GENERIS DATABASE PROTECTION	282
§4. INDEPENDENT ELEMENTS	282
§5. ARRANGEMENT OF ELEMENTS	283
§6. INDIVIDUAL ACCESSIBILITY	284
§7. SUBSTANTIAL INVESTMENT	284
§8. CHARACTERISTICS OF THE SUI GENERIS RIGHT AND ITS DURATION	285
§9. DATABASE PRODUCER	285
§10. DATABASE RIGHTS	286
§11. LIMITATIONS	287



## Table of Contents

§12. 'DATA OWNERSHIP'	288
Chapter 7. Chips Protection	291
§1. INTRODUCTION	291
§2. PROTECTED SUBJECT MATTER AND ENTITLED PERSONS	291
§3. REGISTRATION PROCEDURE	292
§4. RIGHTS GRANTED AND THEIR LIMITS	293
§5. DURATION OF PROTECTION, ITS TERMINATION AND WITHDRAWAL	293
Chapter 8. Protection of Internet Domain Names	295
§1. NOTION OF INTERNET DOMAIN NAMES	295
§2. DOMAIN NAMES AS LEGAL OBJECTS	296
§3. DOMAIN NAME FUNCTIONS	297
§4. DOMAIN NAME TERMINATION	297
§5. DOMAIN NAME TRANSFER AND ITS PLEDGE	298
§6. PROTECTION OF DOMAIN NAMES	298
§7. UNFAIR COMPETITION PROTECTION	299
§8. COLLISION WITH TRADENAMES AND NAMES OF LEGAL ENTITIES	300
§9. DOMAIN NAMES AND TRADEMARK PROTECTION	300
§10. DOMAIN NAME CONFLICTS WITH A NATURAL PERSON'S NAME	301
Part V. Cybersecurity Law	303
Chapter 1. Institutional Framework	303
§1. FACTORS DEFINING INSTITUTIONAL FRAMEWORK OF CYBERSECURITY	303
§2. INSTITUTIONS IN CYBERSECURITY AND CYBER-DEFENCE	304
§3. CSIRTs AND CERTs	305



## Table of Contents

Chapter 2. General Obligations	308
§1. SCOPE OF APPLICATION	308
§2. SECURITY MEASURES	310
§3. INCIDENT REPORTING	312
§4. ADMINISTRATIVE ORDERS	313
§5. CYBER-EMERGENCY	315
Chapter 3. Sector-Specific Obligations	316
§1. PROPOSAL OF 2017 TARGETING THE FINANCIAL SECTOR	316
§2. HEALTH SECTOR	317
§3. ENERGY SECTOR	319
Chapter 4. Liability and Remedies	322
Part VI. Cybercrime	323
Chapter 1. Application of International and Regional Agreements	323
Chapter 2. Specific Computer Crimes	326
§1. INTRODUCTION	326
§2. UNLAWFUL ACCESS AND ILLEGAL INTERCEPTION	327
I. Unlawful Access	327
II. Illegal Interception	329
§3. DATA INTERFERENCE AND SYSTEM INTERFERENCE	330
§4. MISUSE OF DEVICES	331
§5. COMPUTER-RELATED FORGERY	332
§6. COMPUTER-RELATED FRAUD	333



## Table of Contents

Chapter 3. Traditional Crimes in a Digital Context	335
§1. GENERAL INTRODUCTION	335
§2. CONTENT-RELATED OFFENCES	337
I. Dissemination of Pornography	338
II. Racist and Xenophobic Expression	340
§3. OFFENCES RELATED TO INFRINGEMENTS OF COPYRIGHT AND RELATED RIGHTS	342
Chapter 4. Criminal Procedural Aspects	344
§1. INTRODUCTION	344
§2. SEARCH AND SEIZURE OF STORED COMPUTER DATA	344
§3. INTERCEPTION	346
§4. ELECTRONIC EVIDENCE	348
Selected Bibliography	349
Index	351