

# **NEW FORMS OF E-COMMUNICATION IN THE CZECH REPUBLIC**

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## **Abstract**

Introduction of modern information and communication technologies within public administration took place in several stages, from the initial exchange of typewriters for computers (primarily called as mainframes) a building of simple electronic databases to the concept called e-Government and application of the principles of interoperability.

The concept of e-Government is considered by many authors, in two links. It is stressed especially the linking aimed at provision of electronic public services, support of the communication channels with the environment., for example through the web access. Second linking then includes the aspects which want to achieve the support of the communication processes and data exchange processes within public administration and to achieve communication within the system.

Communication with public on the types and content of its activity and identifying of the needs of its inhabitants is the purpose of democratically managed public administration. The authorities have the possibility to communicate with the citizens through the different types of communication. The important one of them is the electronic communication and in connection with data boxes.

In the paper, there will be described relevant legislation concerning implementation of data boxes. The best important from it is Act No. 300/2008 Coll., on the electronic acts and authorized document conversion, generally called the e-Government Act. This Act No. 300/2008 Coll. introduced, for certain subjects the obligatory communication through information system of data boxes. This step brought the fundamental change to the possibilities to make electronic notification to the public authorities and in particular the ways and principles of the delivery. These changes affect all public authorities and legal entities and data boxes can be also used by all individuals.. The width of the impact of this law is thus very significant from the point of view of all the Czech Republic and both within the vertical relations, thus public authorities towards individuals and legal entities, and horizontal relation among the private actors themselves. Data box must be set up *ex lege* to the public authorities immediately after their creation. (ie. when the law that sets up them became applicable), to the notaries and bailiffs as soon as the ministry receives information on their inclusion to the relevant register. In the case of legal entity established by law or incorporated in the Trade Register data boxes are set up after their formation, respectively as soon as the ministry receives information on their inclusion in the register. Mandatory data boxes are also set up to the lawyers, tax advisers and insolvency administrators, and again when the ministry receives information on their inclusion in the register. Upon request voluntarily, data box is set up to the non-entrepreneurial individual, to self-employed person, to other legal entities (for example to the foundation) and to public authority, as another data box.

The paper will also specify the legal analysis as well as the impact on other forms of communication.

It is obvious that e-Government like the process of implementation of information and communication technologies in public administration is an integral part of the transformation process of public administration. Its aim is firstly to increase efficiency of functioning of public administration. But also new public services are forming within this process. The most marked changes influenced recently especially the field of communication, for example in terms of creating and obligatory using of information system of data boxes. This paper will be focused *inter alia* on the legal view, on the legal bases and on the legal impacts, also on the economic aspects. The paper will present some connections like influence on functioning and internal structure of the public authorities.

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## **Setting up of data boxes**

Setting up of data boxes is by law or on the request of the concerned person. Data box was set up by law to the public authorities, to the legal entities established by law or registered in the Trade Register, to the organizational parts of foreign legal entities registered in the Trade Register and liquidators, namely to the date of 28th September 2009 (it was established by Act No. 300/2008 Coll. on the electronic acts and authorized document conversion, that the term for public authorities is 90 days from the date of the entry into force of this Act.). The lawyers and tax advisors will have set up data boxes obligatory from 1st July 2012, but they can request for using data boxes former, if they want. The responsible authority for setting up of data boxes is Ministry of Interior. The Ministry of Interior has to set up data box immediately after that fact, when it receive information on registering the legal entities into the defined register. Each subject can have set up only one data boxes.

What is the exact definition of data boxes according the Act No. 300/2008 Coll.? Data box is the electronic store, which is determined to delivering by public authorities and for performing acts towards public authorities. Data box is the electronic store, which serves for delivering of the documents of the individuals, of the legal entities like some companies or natural persons doing entrepreneurial activity. Data boxes are set up and managed by the Ministry of Interior.

Data box is a part of Information system of data boxes. Act No. 300/2008 Coll. defines Information system of data boxes like information system of public administration, which contains information on data boxes and its users. The Ministry of Interior is administrator of Information system of data boxes, but holder of the postal licence is operator of Information system of data boxes. Information system of data boxes is not e-mail server. Data box is not e-mail box.

The wrong, incorrect, inexact, incompleted or outdated data registered in the Trade Register are not the obstacle both to the legal and matter reason for not setting up of data box, but they are the reason for giving suggestion to the court, that is territorially responsible for keeping Trade Register, on the verify the accuracy, correctness and topicality of registered data. The suggestion can be made by the Ministry of Interior, who is administrator of Information system of data boxes and who has to hold only the correct data.

If the legal entity is not deleted from the Trade Register, it is necessary to set up data box, because initiation of the insolvency proceedings, bankruptcy proceedings or entry of the company into liquidation do not chance the legal base of the company.

Subjects whom data box is not set up by law (for example natural persons) can request for setting up of data box. The request must be delivered to the Ministry of Interior and must contain certified signature of the applicant with the exeption of the cases, when the request is signed before the employee of the Ministry of Interior or before the employee of the contact point of public administration, or if the request obtains advanced electronic signature based on the qualified certificate issued accredited provider of the certification services. In described case the employee of the contact point of public administration confirms, that the applicant in certain moment signed the request before him and that the identity of the applicant was verified. The request can be made by these ways: personally in the filling room of the Ministry of Interior, on the contact point of public administration (workplace of CzechPOINT), by mail or by e-mail.

If the request fulfils the requirements set by Act No. 300/2008 Coll., the Ministry of Interior sets up data box till 3 working days from the moment of making application. Within this term, the access data will be sent to the applicant. The applicant will be also warn to remove some possible shortcomings. The registering of the delivering applications for setting up of data boxes has significant importance for assessment of the compliance of the 3-days term, during which the Ministry of Interior has obligation to set up data box. The correctness of data cited in the applications for setting up of data boxes is verified through data registered in Information system of the population database and next information systems or databases. The bodies that are responsible for administration of the relevant information systems or databases have to inform the Ministry of Interior on the facts that are important for the administration of information system of data boxes. This information is provided to the Ministry of Interior through the way that enables the remote access. The verification of relevant data is usually done automatically. The authorized person confirms the result of this verification. In the case of making of application through the contact point of public administration, data are also verified on base of the documents

brought by the applicant. If the discrepancy of this data with data registered in the relevant databases exists, it is necessary next verification.

It is evident, that Act No. 300/2008 Coll. distinguishes data boxes of the public authorities, of the legal entities, self-employed individuals and other individuals. The original concept of Act No. 300/2008 Coll. is that each subject has the right to have one data box. But this concept allows to set up data box on the request to the individual, who is also self-employed person, from both reasons. It means that this person can have two data boxes, but each of them is set up from different reasons and each of them can be used only for delivering of the correspondence concerning the legal situation of the holder of the relevant category of data box. The self-employed person can have only one data box regardless on the number of the subjects of undertaking. For the branches of advocacy, tax advisory and insolvency administration, separate data box of self-employed person is set up with connection to other subject of undertaking.

According to Act No. 300/2008 Coll. it is also possible to set up data box to the individual person or legal entities who resides outside the territory of the Czech republic. These subjects has the obligation to prove their status with some relevant documents.

The amendment of Act No 300/2008 Coll. from the year 2009 enabled to the public authorities to dispose of more data boxes. These data boxes of public authorities can be set up on the request of the public authority, especially for the need of their internal organizational units (like territorial departments) with regard to the performed agenda. The legal effects of the documents delivered to these data boxes are the same.

The reason for introducing of data boxes is not replacing of the existing forms of the internal communication within public authorities. The Ministry of Interior has the obligation to publish by the way enabling the remote access the list of data boxes of public authorities and individuals and self-employed persons and legal person that performs the activities in the sphere of public administration, and the list of their organizational structure. Within the organizational structure all data boxes of public authorities are published. The ministry of Interior has to have information on all changes about organizational structures.

## **Accessing of data boxes**

The Ministry of Interior sends the entitled person immediately after setting up of data box the access data as the login name and security password. In case of legal person the access data are sent to the statutory bodies. Data box is made available generally by first login of the entitled person into data box. This means that from this moment it is possible to send and receive data messages. If the entitled person does not login into data box within 15 days from delivering the access data, data box is available by 15th days from its delivering automatically. The data message is delivered when the entitled person logs into data box, according to Act on Administrative Procedure. Sometimes it is used the institut called „fiction of delivering“. It means if the person does not login into data box within 10 days from its delivering into data box, the data message is considered to be delivered.

Primarily, the entitled persons have the right to the access into data box. These persons have the possibility to charge some other persons by the access into data box. They have to set up the scope of this authorization. The charged person are entitled to the access into data box in the scope set by the main person. These person have specified permission from main person to send or receive the defined types of the documents. As mentioned above, the impediment of the accessing of data boxes is not the fact, that the legal entity entered into insolvency, into bankruptcy or into liquidation.

By the access data we mean the login name and security password. Only the entitled person can request on the invalidation of the access data. “Bigger“ users have the possibility to login into data box through the electronic system of the filing service or through other electronic application by specific system certification. Filing service is a special system on register all document, that circulate at the body (public authority). This possibility facilitates very significantly the communication through data box and facilitates the distribution of the documents between data box and internal system of its holder. The adaption for using of the system certification is contained in the Operating rules of information system of data boxes.

If it happens that access data are lost or alienated, this fact must be announced to the Ministry of Interior, that these access data will void and send new access data to the entitled person.

## **Subjects of the communication through data boxes**

The original form contained in Act No. 300/2008 Coll. supposed the using of the communication through the system of data boxes among the public authorities each other and among public authorities and natural persons and legal entities. On one side of the communication channel the public authority should be always. The amendment of the Act No. 300/2008 Coll. enabled, so that, from 1st January 2010, data boxes were used for delivering of data messages also between the private subjects (like for example between individuals). This „private „ communication is not free, the users of data boxes within private communication have to pay some fee, this fee „goes“ to the operator of information system of data boxes (it is the Czech Post, state enterprise), and the fee is paid by the person, from whose data box data message will be sent. The sending and receiving of data messages through data boxes between public authorities are free. The concrete conditions of this service are established by the operator of information system of data boxes (by the Czech Post, state enterprise). The Ministry of Interior has the right to destroy data message, if it finds out that data message contains wrong format or computer program that is enable to bring some damages at information system of data boxes or in information registered within this information system. Within „private“ communication it is not necessary the sending document to be signed electronically. From 1st January 2010 till 30th June 2010 it is possible to use „private“ communication only for the purpose of sending of the invoices or similar „things“ for payment. After 30th June 2010, it will be enabled to send anywhat documents within „private“ communication.

## **Limitation and cancellation of data boxes**

The Ministry of Interior make unavailable data box of individual person or self-employed person in cases connected to this person (like death, declaration of death, limitation for legal capacity, limitation on personal freedom). Information is provided according Act No. 300/2008 Coll. by the relevant authorities (like for example prisons or detention unit) to the Ministry of Interior. Data boxes of self-employed person or of the legal entity will be made unaccessible from the date of erasure of this person from the set database (for example from the Trade Register). Data box can be also made unaccessible on the request of the concerned subject, for which data box was set up.

Data box of individual person will be cancelled after 3 years from the death of the individual. Data box of self-employees person and of legal persons will be cancelled after 3 years from the erasure from the set register. Data box of the public authority will be cancelled after 3 years from the date of its cancelation. Within the mentioned 3-year term data box is not accessible, but data on the manipulation with data box including received and sent data messages are stored.

## **Information system of data boxes**

According Act No. 300/2008 Coll. it is Information system of public administration that contains information on data boxes and their users. Information system of data boxes serves for performance of public administration within ensuring the activities set up by Act No. 300/2008 Coll. and also by Act No. 365/2000 Coll., on information systems of public administration, and by Act No. 101/2000 Coll., on the protection of personal data. Data contained in information system of public administration are not public and it is not possible to provide them to the other persons, with exemption of the contact adress, to which should be delivered to the addressee, if the agreement was given for its publication. The identificator of data box can publish only the holder of data box, it cannot be confused with the contact address. The question on identification of data box is an integral part of information system of data boxes. It means that questions are made through information system of data boxes. The conditions of the identification of data boxes are set up by the obligation of the Ministry of Interior to ensure the protection of personal data within this information system.

## **Conversion**

The nature of the system of delivering through data boxes implies the forms of the documents, which can be used for delivering. These documents must have the form of data message. The primary nature of the document can have paper format or can have digital form. Sometimes it is necessary to convert the one form of the document to second form of the document. Act No. 300/2008 Coll. introduces the institution of so called authorized document conversion. Authorized document conversion is conversion of the document from the digital into paper form or vice versa, verifying of the parity of the content of these documents and connection so called the verification clause. Verification clause contains the necessary matters relating to the conversion. The conversion is described in Act No. 300/2008 Coll. and next regulation No. 193/2009 Coll., on setting of the details of authorized document conversion. Introducing authorized document conversion means the equalization of the electronic (digital) form of the document with the paper form of the document during the communication

with authorities or bodies. The conversion on the request is made by the contact point of public administration. The documents in the electronic form that have to be converted are transmitted to the contact point of public administration on the technical data medium like on CD or DVD or they can be sent from data box into electronic store for authorized document conversions and then it is possible to draw out the converted outcome in the paper form.

The details for authorized document conversion is set up by the regulation No. 193/2009 Coll., which was mentioned above. The authorized document conversion is made through the electronic application of the system of the contact points of public administration which is accessible by the way enabling the remote access. By the system of the contact points of public administration we mean the set of the technical equipment and software administered by the Ministry of Interior, with its help the contact points of public administration fulfil their competencies. The electronic application is specific software that is the part of this information system. The application CzechPOINT is nowadays the electronic application of the system of the contact points of public administration. The authorized document conversion is thus made on the request or ex offo. Making of the authorized document conversion is not free, but it is the subject to the administrative fee of 30 Czech crowns for each page of the converted document. The authorized document conversion cannot be made in some specific cases, it is in cases, when due to the uniqueness it is not possible to replace them (like identity card, passport), next in cases, when we can doubt of the credibility of the documents or documents with some plastic text or documents that does not fulfil the technical matter set by the regulation No. 193/2009 Coll. During the authorized document conversion on the request is necessary to verify the validity of electronic signature. Qualified time stamp serves for evidence of existence of the document within certain time moment.

The authorized document conversion made ex offo can be made only by the public authority and this permission cannot be transferred on other subject. The documents converted on the request and converted ex offo have the same legal effects.

## Some initial shortcomings

The first shortcoming can be seen in risky introduction of the system through the form of „big-bang“. In practice, only one activity how to test the environment of data box is activation of data box. Most of users waited for last minute. I think that not all authorities and bodies are ready to use data box concerning the technical specification or training the concerned employees in this field. Nobody had the possibility to test data box in advance, for example to test, how to work with data box, how to read data message. Using of data boxes requires the instalation of the specific complement to the browser. This complement serves for drawing and filing the forms. Data boxes are accompanied with big documentation of using, that is surely good for users, but it can be seen sometimes difficult to read it. The user have to fill his login name and password on the right internet page ([www.mojedatovaschranka.cz](http://www.mojedatovaschranka.cz)). Some similar internet addresses exist and these pages are incorrect because they serve to the speculators for phishing. And more over insufficient advertisement of this form of the communication was done.

## Conclusion

It is obvious that legislation brought the fundamental change in the field of delivering of the documents, which can be seen in the most important way in the field of the electronic communication especially among the public authorities and other addressees of public administration. In connection with the delivering of the documents in the digital form through data boxes and higher intensity of using of communication through electronic filing rooms it was necessary to set up the rules of treatment with the documents in the digital form during performance of the filing service. Also the rules for document converting had to be set up.

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\* I would like to mention that no many sources exist on this topic. Foreign sources on data boxes in the Czech Republic are not still available, respectively if exist, they originate from the Czech authors writing in foreign language.