

## DATA MAILBOXES IN THE CZECH REPUBLIC – USEFUL OR USELESS?

by

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*This article evaluates the impact of data mailboxes – a new legal and technical initiative introduced to the Czech Republic with effect from 1<sup>st</sup> July 2009. In this article we emphasize both the theoretical context of data mailboxes and their practical aspect for private entities. We also evaluate the process of implementation of data mailboxes into the Czech environment, as well as raising the issue whether data mailboxes provide the basis for complete digitalization of public delivery of data.*

### KEYWORDS

*Data mailboxes, data boxes, electronic conversion of documents, digitalization, electronization, public administration, e-government*

### 1. INTRODUCTION

The Czech Republic introduced a unique and courageous project concerning digitalization of public administrative offices. Since 1st July 2009, two new initiatives have been in force: data mailboxes and electronic conversion of documents. Since 1st November 2009 both initiatives have been practically used.

Skepticism is always rampant among both scholars and practitioners in the Czech Republic when Czech governmental bodies introduce a unique project which has not been tested on a global level. The lack of evaluation of real impact on private entities is usually the main reproach addressed to Czech governmental bodies. This article therefore evaluates the initial impact of data mailboxes primarily on private entities and points to first experiences from a practical point of view. It also attempts to answer whether the declared skepticism of scholars and practitioners was justified and whether data mailboxes are useful or useless in the private sector, as well as

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whether such Czech project contributes to development of electronic communications between private entities in the future and, perhaps, even globally.

## 2. NEW OBLIGATION IN THE LEGAL WORLD

Generally, all obligations in the Czech Republic must be determined by law on the basis of codes.<sup>1</sup> Thousands of legal obligations currently exist in the Czech legal system, however until the new Act No. 300/2008 Coll. on data mailboxes and authorized conversion of the documents (“Code”) occurred, there was no explicit obligation for any private entity to use electronic systems in any way. Simply, if a private entity did not wish to use electronic systems and communicate electronically, it was not forced to do so. Newly, Section 17 of the Code states that:

*“Should the character of the document allow it, the governmental authorities deliver to other governmental authority through data mailbox, if they do not deliver in place. Should the character of the document allow it and if the individual, self-employed or legal entity, has its data mailbox accessible, governmental authorities deliver to such person through data mailbox, if they do not deliver by public notice or in place.”*

The Code, in its Section 6, established the obligation for every public administration body to maintain a data mailbox and to deliver data, to all its addressees possessing a data mailbox, in electronic form to their data mailbox. Public administration consists of all public offices providing public services to both citizens and other subjects in the state. In the Czech Republic there exist two parts of public administration; state administration, including offices which are part of the state itself and self-government, including local offices separated from the state. The obligatory delivery system covers both.

Public authority bodies are not persons in the sense of constitutional law and are not protected by personal data protection acts. Therefore, a full catalogue of public authority bodies having data mailboxes that may be used for delivery is provided to all subjects using data mailboxes. However, such catalogue is not in the form of yellow pages: it is possible to search for the institution by name only in the data mailbox; no list of institutions is accessible to a data mailbox holder. The use of data mailboxes by public authorities is limited. Every public authority may execute its activities only in the form explicitly mentioned by law. If the public administration body executes activities not explicitly allowed by law it acts *ultra vires* and breaks

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<sup>1</sup> Section 4 (1) Resolution of the Presidium of the Czech National Council of 16 December 1992 on the declaration of the Charter of Fundamental Rights and Freedoms as a part of the constitutional order of the Czech Republic, Constitutional Act No. 2/1993 Sb., as amended.

the law by executing these activities. This also includes use of the data mailbox system, which may be used only inside the limits set by law.

Simultaneously, according to Section 5 of the Code, a data mailbox of a legal entity is established automatically free of charge to a legal entity established by code, legal entity registered in the Commercial Register, or organizational department of a foreign legal entity registered in the Commercial Register. In practice, this means that the Code newly established an obligation to administer a data mailbox and receive messages from public authorities electronically for more than 376,500 private entities.<sup>2</sup> Private entities having this obligation include corporations founded by law and corporations recorded in the Commercial Register, along with notaries, executors, insolvency administrators and other subjects who exercise public authority (the last mentioned groups have their data mailbox obligatorily without regard to the fact whether they are physical persons, since they are representatives of the state). Attorneys-in-law have an exemption, since their data mailboxes are only facultative up to 1st January 2012; from this day on their data mailboxes will also be obligatory. Facultative establishment of data mailboxes also covers physical persons and self-employed individuals. For those, however, who are obligated to maintain data mailboxes, such obligation concerning electronic delivery for all private companies without exemptions is unique in the world.

It ensues from current Czech statistics that 95.6 % of companies with more than ten employees own at least one computer with internet connection.<sup>3</sup> This statistic, however, does not include companies with less than ten employees and data provides that the smaller a company is the chance of it having internet connection is decreased.<sup>4</sup> For comparison, in the second quarter of 2008, only 42 % of Czech households had internet connection.<sup>5</sup> The Code however has forced all private entities to use computers to administer their data mailbox (which can be performed only by computer with internet connection). Since using a data mailbox for example in an internet café might, due to technical restrictions, be somewhat difficult, the new obligation to administer the data mailbox might therefore (with little exaggeration) also be interpreted as an obligation to own a computer with

<sup>2</sup> The number of private entities was extracted from Peterka, J. Datové schránky: začíná čištění dat, <http://www.lupa.cz/clanky/datove-schranky-zacina-cistení-dat/> [Accessed 11 June 2010].

<sup>3</sup> Czech Statistical Office. IT v podnicích ČR – podle velikosti a odvětví podniků (leden 2009), [http://www.czso.cz/csu/redakce.nsf/i/1\\_it\\_v\\_podnicich\\_cr\\_vysledky\\_za\\_leden\\_2009/\\$File/1\\_it\\_podniky\\_cz\\_2009.xls#5\\_ICT!A1](http://www.czso.cz/csu/redakce.nsf/i/1_it_v_podnicich_cr_vysledky_za_leden_2009/$File/1_it_podniky_cz_2009.xls#5_ICT!A1) (Statistics for January 2009) [Accessed 11 June 2010].

<sup>4</sup> Czech Statistical Office. IT v podnicích ČR – podle velikosti a odvětví podniků (leden 2009), [http://www.czso.cz/csu/redakce.nsf/i/1\\_it\\_v\\_podnicich\\_cr\\_vysledky\\_za\\_leden\\_2009/\\$File/1\\_it\\_podniky\\_cz\\_2009.xls#5\\_ICT!A1](http://www.czso.cz/csu/redakce.nsf/i/1_it_v_podnicich_cr_vysledky_za_leden_2009/$File/1_it_podniky_cz_2009.xls#5_ICT!A1) (Statistics for January 2009) [Accessed 11 June 2010].

<sup>5</sup> Czech Statistical Office. *Informační technologie v českých domácnostech*, [http://www.czso.cz/csu/redakce.nsf/i/informacni\\_techologie\\_v\\_ceskych\\_domacnostech](http://www.czso.cz/csu/redakce.nsf/i/informacni_techologie_v_ceskych_domacnostech) [Accessed 11 June 2010].

internet connection; which could be considered quite a courageous request from a legal viewpoint.

### 3. COMMUNICATION THROUGH DATA MAILBOXES

The communication of private entities with public administration has, however, not been limited to personal communication, even before the implementation of the Code. According to various codes, private entities could officially communicate with public administrative bodies electronically – by e-mail using authorized electronic signature,<sup>6</sup> or through special virtual portals.<sup>7</sup> Some state administration bodies also used e-mail without authorized electronic signature or special unauthorized portals, mainly for informal communication such as requests.<sup>8</sup> Newly, communication via data mailbox is given priority over all distant communication.<sup>9</sup>

A data mailbox generally serves as a certified e-mailbox accessible through internet portal via PIN code received from Ministry of Interior. Officially it is defined in Section 2 of the Code as electronic site disposal that is intended for (i) delivery by governmental authorities, (ii) execution of acts towards governmental authorities; and (iii) for delivery of documents by individuals, self-employed and legal entities. However, data messages from a data mailbox might be sent only to a data mailbox of those who are listed as holders of a data mailbox.

The key change introduced by the Code is the change of delivery confirmation. All documents from Czech public authorities to a company are now deemed to be delivered upon access to the data mailbox; however, at the latest on the 10th day following delivery of a document to the data mailbox - save for certain cases when such substitute delivery may be excluded. The same delivery rules apply when a data mailbox has not yet been accessed but has already been established. This means that, once you have established a data mailbox, and as explained above, this occurred automatically in case of many private entities, even if you do not administer your data mailbox, data messages sent to your data mailbox are legally deemed to be delivered.

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<sup>6</sup> For example, delivery to Czech courts in civil procedure pursuant to Section 42 (3) of Act No. 7/2009 Sb., an Amendment to Act No. 99/1963 Sb., Civil Procedure Code, as amended.

<sup>7</sup> For example, applications to the Czech Social Security Administration. Vide Ministry of Interior. Portál veřejné správy - Elektronická podání – Vítejte, <https://bezpecne.podani.gov.cz/default.aspx> [Accessed 11 June 2010].

<sup>8</sup> Financial Arbitrator of the Czech Republic. Finanční arbitr - Průvodce podáním návrhu | Finanční arbitr České republiky, <http://www.finarbitr.cz/cs/financni-arbitr-pruvodce-podanim-zadosti.html#form> [Accessed 11 June 2010].

<sup>9</sup> Art. I Section 45 (2) of Act No. 7/2009 Sb., an Amendment to Act No. 99/1963 Sb., Civil Procedure Code, as amended, or Section 19 (1) of Act No. 500/2004 Sb., Administrative Procedure Code, as amended.

#### 4. INITIAL PROBLEMS FOR PRIVATE ENTITIES

It makes sense that every new project should be consulted and tested before it is launched. When launching data mailboxes, the state administration, however, did not provide any “trial period”. As it transpired, several days before the data mailboxes became obligatory for more than several thousand private entities the system was still collapsing.<sup>10</sup> Working with data mailboxes also means working with electronic documents, but many officers of public administration had not been trained how to use such documents and did not understand what an electronic document meant from a legal perspective and did not know how to administer them. Such unpreparedness of the system and their users was not the only issue that arose within the launching process. The implementation process also had not fully considered private entities, nor had any testing process (including feedback by business subjects). This meant that addressees of data messages were not involved in the process of establishment of the new system and information channels between state administration and business chambers remained mostly silent.

Governmental bodies became aware of language issues in the delivery of PIN codes to access data mailboxes to Executives residing in foreign countries. Moreover, the PIN codes were firstly sent to the Executive(s) of companies in the form of personal delivery to the seat of the companies, which is quite often only a virtual space or place of administration of the company. Interestingly, the envelopes with the PIN code did not mention the name of the company - only the name of the Executive. This was reported to be a significant issue in larger office buildings where numerous companies were seated together, as it was difficult to match the Executive to the relevant company. The Executive(s) had, however, the possibility to receive PIN codes at the contact places of the state administration (“CzechPOINT”) personally. This is practical for an executive who resides in the Czech Republic, but for foreign Executive(s) it may be considered impractical to have to fly to the Czech Republic or visit a Czech Embassy with established Czech-POINT and wait in line to receive the envelope with PIN code.

However, companies do not have to administer the data mailbox themselves. They may empower a third person to administer certain or all acts regarding the data mailbox - the so called “administrator” or an “empowered person.” Basically, there are two possible methods to empower such person - a company can either perform this through the data mailbox

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<sup>10</sup> Pokorný, M. *Datové schránky kolabovaly*, <http://hn.ihned.cz/c1-38813610-datove-schranky-kolabovaly> [Accessed 11 June 2010].

(if it is already in possession of the PIN code), or it is required to send a documentary request to Ministry of Interior.

Another issue arose with regard to accessing of data mailboxes. Many private entities claimed that the generated PIN code they received did not work. The problem was an oversight in the PIN codes database, remedied only by generation of a new PIN code.

Several other issues of a technical nature arose. First being phishing – an identical web page was created to mirror the web page for accessing data mailboxes, to illegally acquire accession data. Second, foreigners unable to comprehend Czech language could not log in, since the system is provided only in Czech language. Third, the system is not very user friendly – to access a data mailbox, plugin 602xml must be installed on the computer. This issue may be demanding for larger companies, since it needs to be installed by a person with administrator's rights and these rights belong usually to IT departments of a company only. Moreover, 602xml plugin is updated from time to time and it is necessary for a person possessing administrator's rights to reinstall the plugin following each update.

These initial data mailbox issues meant that certain private entities could not access their data mailbox, even if data messages had already been delivered to it. The Code fortunately includes an "escape clause" and Article 17 (4) states that the person having established a data mailbox may request non-effectiveness of delivery. We assume that this clause perfectly fits to the situation that occurred in the initial implementation stage for data mailboxes.

## 5. WHAT WE GET FROM DATA MAILBOXES

According to Section 18 (2) of the Code, acts on data mailboxes have the same consequences as acts in writing and signed. For example, a submission to a court may be sent to the court through a data mailbox and does not need to be signed. The document that is sent together with a data message through data mailbox may however be signed by an authorized electronic signature. Such signature is however facultative and, for the purposes of the data message itself, apart from security, it does not have any further consequences. Such signature is recommendable when a document sent through data mailbox shall be further used and shall be recognized as a document signed by sender.

As indicated above, acts made through a data mailbox are composed of two parts - data message (*stricto sensu*) and attached document. Data message (in xml format) serves as a receipt, showing the sender and recipient and subject of data message and is affixed with time stamp showing the ex-

act time of sending and delivery. Data messages remain in the data mailbox even after 90 days of delivery when all documents are deleted by Czech Post. However, without a document attached to a data message, they are virtually useless. They can only prove the sender, recipient and confirm that some document was attached to the data message and, as per the time stamp, also time of sending and delivery of data message.

The second part of acts made through data mailboxes are documents that contain the information aimed to be delivered through the data mailbox. Public administration bodies send mostly documents in PDF files (if there is no objective reason to send the document in different format) and these documents should be signed by electronic signature; this ensures that they can be still used as originals after exporting from data mailbox. The documents are, however, as opposed to a data message, not subject to time stamping. Therefore, when documents are separated from a data message their delivery cannot be proven.

Issues currently exist with missing electronic signatures of documents in data messages produced by public administration bodies, making them unable to be verified after exporting from the data mailbox system. This negative practice is fortunately being improved with time, as many public administration bodies start to use automated systems for sending files into data messages and these systems automatically add electronic signature of their current users. However, there is another option for ensuring that the document was signed by certain person besides simply having the document signed by electronic signature - authorized conversion of documents. This is another new instrument introduced by the Code which enables the full transformation of a document contained in a data message or data file into a document in paper form, or a document in paper form to a document contained in data message or data file. It also enables verification of the conformity of those documents and affixing of a verification clause; whereas for both documents the original and transferred document have the same legal effect. The electronic conversion of documents is ensured by the CzechPOINT offices. Unfortunately, issues have arisen for CzechPOINT offices with verifying the real creator of the electronic versions of the document – the CzechPOINT office does not attest the paper document was created by a particular public administration body - it simply verifies whether the electronic signature contained in the electronic document (for example PDF) is a valid electronic signature. This practice should definitely be reviewed in order to make the authorized conversion fully usable.

Electronic documents may be delivered to CzechPOINT via two methods - through data storage (suitable for electronic documents from data mailbox, since connectivity between data mailbox and data storage is established), or personally on CD/DVD. Documents in paper form must be delivered as original documents or verified copies of documents (for example by a notary or Registrar Office).

Documents in paper form may not be created through authorized conversion from the whole data message (including data message and the attached electronic document) exported outside the data mailbox system. This feature should be subject to further discussion since we see no reason why a document in paper form may be created from a PDF document, but may not be created from a signed XML document (containing the same PDF document inside).

## **6. COST-EFFECTIVENESS OR INEFFECTIVENESS**

The positive contribution of each new legal instrument shall always be measured by its cost-effectiveness. The explanatory report attached to the Code however does not contain any detailed analysis based on costs. Costs nevertheless are the main factor for private entities whether to use data mailboxes or not, when using them facultatively, e.g. for sending data messages to state administration (as they are still able to use hard copy submissions), or to communicate through data mailboxes between themselves.

After only a month of real existence of any instrument it would be bold to formulate a conclusion on cost-(in) effectiveness, but certain circumstantial evidence may provide clues. Private entities, when mailing a registered letter, paid at least CZK 26 (approximately EUR 1) for this Czech Post service. Sending a data message through a data mailbox is free for sending to public authorities and otherwise CZK 15.04 (approximately EUR 0.6) plus a monthly fee (starting at CZK 20 for sending more than 50 messages per month and up to CZK 50 when sending less than ten messages per month). For a company sending 100 letters to public administration and 100 letters to other companies a month, this would represent a cost saving of CZK 3,676 a month. Moreover, representatives of such company do not have to waste time in queues at Czech Post, providing also a reduction in down-time.

Postage savings are not the only factor to be considered when planning future expenses for use of a data mailbox. As explained above, not all private entities possess a computer and internet. Therefore, some private entities may experience high initial acquisition costs of computer and internet connection. Larger companies may also need to invest time and costs in updat-



ing their current system to implement an internal electronic file system, in order for data messages to be distributed to the appropriate departments.

Delivery of messages to a data mailbox is a completely different situation to that of delivery of a letter to a private letter-box. A letter delivered to a private letter-box stays there – as long as your neighbor does not steal it from your letter-box! This does not happen with a data mailbox - 90 days after delivery all documents will be deleted no matter whether they have been accessed or not. Czech Post however came up with the commercial offer of the so-called “data safebox”. Data messages can be stored in the data safebox for one year for CZK 1,200 (up to 100 data messages). For CZK 48,000 annually up to 5,000 data messages may be stored in the data mailbox.<sup>11</sup> It follows from the above that the minimum amount necessary to pay for the data safebox service, given the data safebox was at its full capacity of 48,000 messages, would be approximately 1 CZK per 1 MB of virtual space for storage of data messages! This figure would be even higher if the data safebox was not at full capacity.

Obviously, the 100 data messages option for storing in the data safebox would not be sufficient for public administration bodies, which send thousands of messages annually.<sup>12</sup> It implies the need for a nomenclature service (information system) for processing all documents handled by the public administration body and storing them in a safe place (although it is subject to further discussion whether data messages stored in a nomenclature service of the public administration body may be used as proof of delivery for both civil and administrative procedures, in case these data messages have already been deleted from the data messages system itself.

Also, administration of a data mailbox may be time consuming and, therefore, also cost-consuming. An example of insolvency administrator may be self-illustrating. If an insolvency administrator is also a self-employed attorney-at-law also possessing his own data mailbox as an individual, he is required to log into three separate mailboxes to read his data messages (personal data mailbox, attorney-at-law data mailbox, insolvency administrator data mailbox). These data mailboxes, although belonging to the same person, are not in any form connected. The practice has also shown that public administration bodies cannot differentiate between these data mailboxes and can easily send data messages to the incorrect data

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<sup>11</sup> Czech Post. Datový trezor, <http://www.cpost.cz/cz/sluzby/datove-schranky/datovy-trezor-id27741/> [Accessed 11 June 2010].

<sup>12</sup> We believe that a larger data safebox should be offered by Czech Post because, according to experience of majority of people, for classic mailboxes, the amount of 100 messages for one mailbox would seem very low and unreasonable. This capacity will quickly become insufficient.

mailbox. Legally, this means that the addressee cannot miss any time limitation given by any decision sent to the data mailbox.

Sometimes the situation also occurs when public administration bodies select a person with the same name as the addressee as the recipient of a data message. For example John Doe (attorney-in-law residing in Prague) is the presumed recipient of a data message but the data message is sent to John Doe (completely different person not having legal practice, residing in Brno).<sup>13</sup> The main reason for these situations is the interface of the data mailbox system offered to public administration bodies, which is not based on birth numbers or ID numbers of the companies, but rather uses the names.

## 7. DATA MAILBOXES AFTER 1 JANUARY 2010

According to the code, individuals, self-employed individuals or legal entities were, after 1 January 2010, allowed to deliver data messages to a data mailbox of another individual, self-employed individual or legal entity. This service is available after confirmation of a request sent to Czech Post. The delivery between these private entities, however, differs from delivery to public authorities. The document is not delivered after accessing an addressee (at latest 10th day), but is delivered when its handover is confirmed to the sender by the addressee, through the data mailbox. Such service, compared to delivery to public authorities, is paid for (subject to confirmation of delivery to the sender). Moreover, in case of this form of delivery, the time stamp indicating the time of delivery is not issued.

Incomprehensibly the Code contains a legisvacancy term according to which, from 1 January to 1 July 2010, only invoices and other requests for payment can be sent *vis-à-vis* private entities. We should note that the data mailbox system contains no document type check for data messages sent between private individuals. Therefore, the limitation on invoices and other requests for payment is practically impossible to verify. We believe that this limitation should be removed from the legal regulation even before 1 July 2010.

Since the main unexceptionable advantage of data mailboxes – automatic delivery the 10th day after delivery of data message to data mailbox and confirmation with time stamp - is excluded in the case of delivery between private entities (the service is charged at CZK 15.04 for message, plus fixed fee amounting to CZK 20-50 a month depending on the amount of messages<sup>14</sup>), together with all inconveniences when using data mailboxes as mentioned above, we do not see any advantage for private entities to use

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<sup>13</sup> Peterka, J. Datové schránky: co dělat, když vám přijde něco omylem? – LUPA, <http://www.lupa.cz/clanky/datove-schranky-co-delat-kdyz-omylem/> [Accessed 11 June 2010].

data mailboxes for communication between themselves. Data mailboxes in this form represent only a “paid two step e-mail”, which is definitely not a step forward.

## 8. DATA MAILBOX AS A WORLD-WIDE MODEL

The system of data mailboxes is not aimed solely at Czech entities - foreign individuals and legal entities may also establish their data mailbox in the Czech Republic. It should be noted that, apart from e-mail communications, thus far, worldwide, no other open system has been introduced for certified online communications between private entities, regardless of their nationality. The system of data mailboxes is therefore the first such project and, due to its obligatory use for certain private entities (however only in the Czech Republic), it has a very strong pre-determination for universality. If webpages of data mailboxes were administered not only in Czech language and were comprehensible for foreign entities, they could be used by anyone regardless of their location – e.g. an individual from Papua New Guinea and a company from Indonesia could communicate via Czech data mailboxes. The delivery of documents and the process of delivery via a data mailbox would in any case then be governed by Czech law. The issue facing universal success of data mailboxes however starts with the author of data mailboxes. The Czech Ministry of Interior is probably not recognized as the most trustworthy institution by foreign companies and individuals. We are of the opinion that any institution which makes decisions based on local political demands does not win the favor of private entities on an international level. Therefore, data mailboxes could be truly successful on the international scene only if they were introduced by non-political independent international institutions, such as the domain name system governed by ICANN. In the past, ICANN has been connected with the United States Department of Commerce, but was proclaimed independent by the contract concluded in 2009.<sup>15</sup> Currently, ICANN is a non-political institution which is also independent from any state in the world. Data mailboxes are, however, closely connected to states and public administration of countries. If the system was used by any other state or even applied on a global level, the using states would definitely demand incorporation of their opinion on the system in its function and legal basics.

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<sup>14</sup> Czech Post. Česká pošta nabízí novou službu s názvem Poštovní datová zpráva, <http://www.cpost.cz/cz/aktualne/tiskove-zpravy/2009/ceska-posta-nabizi-novou-sluzbu-s-nazvem-postovni-datova-zprava-id29098/> [Accessed 11 June 2010].

<sup>15</sup> Vide Meyer, D. Ican gains independence from the US, <http://news.zdnet.co.uk/internet/0,1000000097,39780163,00.htm> [Accessed 11 June 2010].

It ensues from the above that the key problem of data mailboxes is that it is their exclusivity. First, they are too exclusive for, for example, bricklaying companies in the Czech Republic erecting houses in the country with no access to the internet. The obligatory use of data mailboxes is better designed for those companies which are cost-inefficient and unnecessarily demanding. Second, they are too exclusive for the Czech environment. Their non-user friendly working environment and absence of relationship with another international system of communication would make them ineffective on an international level.

It is also noteworthy that the current Czech data mailbox system has numerous performance issues. This implies that the system does not have the scalability necessary to provide a world-wide system for official delivery. Keeping in mind that the Czech Republic is currently attempting to improve the status of its public budget through the use of economy measures this upgrade would probably be considered very expensive and therefore contradictory to the necessity for budget savings.

## **9. GERMAN SYSTEM SIMILAR TO DATA MAILBOXES – A COMPARISON**

It may appear from the above text that the Czech Republic invented such an original and unique project as the Data Mailbox system as the first of its kind worldwide. There was, however, partial inspiration for the Czech legislator for this initiative. A German project, De-Mail,<sup>16</sup> currently in pilot project phase, provides a similar system to the Czech Data Mailbox system. De-Mail serves also as the state-guaranteed e-mail address to German citizens. As opposed to the legal status of Czech data mailboxes, the German project is not obligatory for private entities, but is facultative for all German subjects. It was introduced as part of the public citizen portal initiative in the European Union. A legislative proposal regarding a regulation similar to that of the Czech data mailboxes was not accepted and therefore De-Mail never become legally effective.

The main advantage of De-Mail, common with data mailbox systems, is higher security than that of classic e-mails. The identity of the sender of an e-mail message cannot be guaranteed if the message is not digitally signed at the same time. De-Mail and data mailboxes provide an identity check at the moment of mailbox registration. Further, the identity is presumed to be verified by the input of PIN codes. Unfortunately, criminal activities aimed at phishing or other methods for tricking users of state-guaranteed mail-

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<sup>16</sup> secunet Security Networks AG. Citizen Portal/De-Mail, <http://www.secunet.com/en/references/reference-de-mail/> [Accessed 11 June 2010].

boxes into providing their PIN codes unintentionally for crime purposes may arise. The state obligation to solve this issue is contained in the state guarantee of these services.

In contrast to the Czech situation, the German De-Mail contains not only secured e-mail but also an identification service and document filing system. The document filing system is also included in the Czech data mailboxes system but its operational possibilities are limited, since it is accessible only through receiving an electronic document via data mailboxes and through the authorized conversion via CzechPOINT offices, or by public administration bodies. Identification service in the current Czech data mailbox system has its basics in the regulation of elementary registers of the state, which are currently not in force.<sup>17</sup>

Another major difference is in the form of addresses: De-Mail requires normal e-mail addresses for its mailboxes - for example: Markus.Meier.2@providerxy.de-mail.de.<sup>18</sup> Data mailboxes do not contain human-readable addresses - their addresses consist of a string of characters and numbers which do not have any direct meaning.

The last major difference between data mailboxes and the De-Mail system is in operating methods - a single system operator is in place for data mailboxes - Czech Post (state owned enterprise), which is allowed to outsource certain activities. The De-Mail system utilizes multiple system operators who are interconnected via methods set by the system and who must fulfill accreditation requirements - they are referred to as accredited providers.<sup>19</sup>

## 10. CONCLUSION

We have arrived at the conclusion that the existence of data mailboxes is justified and creates a major evolution in the area of official delivery of electronic data in the Czech Republic. The methods for initial introduction of data mailboxes were somewhat disputable though and both public administration and private corporations experienced numerous issues in the initial stages of use of data mailboxes. Some of these issues still exist and have not been corrected by Czech public administration and data mailboxes administrators (the Ministry of Interior and Czech Post). Data mailboxes are currently primarily aimed at the official delivery of electronic data in all kinds

<sup>17</sup> Act No. 111/2009 Sb., on Basic Registers, as amended.

<sup>18</sup> Federal Ministry of Interior. The Citizens Portal Project, [http://www.cio.bund.de/cae/servlet/contentblob/302862/publicationFile/19292/demail\\_englische\\_version\\_download.pdf;jsessionid=DCA0D9348424B7753E982FC74D9D5EB4](http://www.cio.bund.de/cae/servlet/contentblob/302862/publicationFile/19292/demail_englische_version_download.pdf;jsessionid=DCA0D9348424B7753E982FC74D9D5EB4), p. 3, [Accessed 11 June 2010].

<sup>19</sup> Federal Ministry of Interior. The Citizens Portal Project, [http://www.cio.bund.de/cae/servlet/contentblob/302862/publicationFile/19292/demail\\_englische\\_version\\_download.pdf;jsessionid=DCA0D9348424B7753E982FC74D9D5EB4](http://www.cio.bund.de/cae/servlet/contentblob/302862/publicationFile/19292/demail_englische_version_download.pdf;jsessionid=DCA0D9348424B7753E982FC74D9D5EB4), p. 2., [Accessed 11 June 2010].

of procedures and, when existing, public administration bodies must (subject to minor exemptions) use them for delivery in place of postal address delivery for all entities. Certain subjects have obligatorily data mailboxes—public administration bodies, including physical persons executing the authority of the state, corporations created by law and corporations registered in the Commercial Register, as enumerated above. However, facultatively, data mailboxes may be used by practically anyone. This does not mean that the system is a ground-breaking method for the worldwide electronic delivery of data – it is burdened with Czech administration, dependent on the current political situation and limited by state budget. These factors are definitely not positive for foreign users. We also outlined above certain issues that we deem to be subject to major improvement during the upcoming months and several points that would contribute to the system becoming more digital, rather than *prima facie* digital.

We conclude that the data mailbox initiative is still being developed and therefore deserves *pro futuro* further research and broad discussion.

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