

Cybercrime legislation – country profile

BULGARIA

This profile has been prepared within the framework of the Council of Europe’s capacity building projects on cybercrime in view of sharing information and assessing the current state of implementation of the Convention on Cybercrime under domestic legislation. It does not necessarily reflect official positions of the country covered or of the Council of Europe.

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Country:	Bulgaria
Signature of Convention:	23.11.2001
Ratification/accession:	07.04.2005
Provisions of the Convention	Corresponding provisions/solutions in national legislation <i>(pls quote or summarise briefly; pls attach relevant extracts as an appendix)</i>
Chapter I – Use of terms	
Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”: For the purposes of this Convention: a “computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;	Art. 93 items 21, 22, 23 of the Penal Code /PC/ and § 1 (2) Additional provisions of the Penal Procedure Code /PPC/ Additional provisions Explanation of some words Art. 93. The words and expressions below have been used in this Code in the

<p>b "computer data" means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;</p> <p>c "service provider" means:</p> <p>i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and</p> <p>ii any other entity that processes or stores computer data on behalf of such communication service or users of such service;</p> <p>d "traffic data" means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration, or type of underlying service</p>	<p>following context:</p> <p>21. (New, SG No. 92/2002, amended, SG No. 38/2007) A "computerized system" is any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data.</p> <p>22. (New, SG No. 92/2002, amended, SG No. 38/2007) "Computerized data" is any representation of facts, information or concepts in a form suitable for automatic processing, including computer programs.</p> <p>23. (New, SG No. 92/2002) A "provider of computerized information services" is any individual or entity that provides opportunities for communication by means of a computer system or that processes or stores computer data with regard to the above communication service or its users.</p> <p>Penal Procedure Code Additional provisions: § 1. (2) For the purposes of this Code "data concerning traffic" shall mean all data related to a message going through a computer system which have been generated as an element of a communications chain indicating the origin, destination, route, hour, date, size and duration of the connection or of the main service</p>
<p>Chapter II – Measures to be taken at the national level Section 1 – Substantive criminal law</p>	
<p><i>Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems</i></p>	
<p>Article 2 – Illegal access Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>Art.216 (3), (5), (6) and Art. 319a of the PC</p> <p>Section VII.Destruction and Damaging</p> <p>Art. 216. (3) (New, SG No. 92/2002) Where an individual, through acquiring illegal access to a computer relevant to an enterprise, establishment, legal entity or individual, destroys or causes harm to the property of another, shall be punished by deprivation of liberty from one to six years and a fine of up to BGN ten thousand (5) (Supplemented, SG No. 62/1997, renumbered from Paragraph 3, SG No. 92/2002, amended and supplemented, SG No. 26/2004) If considerable damages have been caused or other grave consequences have set in or if the act has been committed by a person under Article 142, paragraph (2),</p>

	<p>subparagraphs 6 and 8, or where the act is associated with the destruction or damaging of telecommunication network elements, the punishment shall be deprivation of liberty for up to ten years, and the court may also rule deprivation of rights under Article 37, paragraph 1, sub-paragraphs 6 and 7.</p> <p>(6) (Amended, SG No. 10/1993, renumbered from Paragraph 4, amended, SG No. 92/2002) If the act under paragraphs (1), (2), (3) and (5) has been committed through negligence, the punishment shall be deprivation of liberty for up to two years or a fine of BGN one hundred to three thousand.</p> <p>Chapter Nine - A (New, SG No. 92/2002) Cybercrime Article 319a</p> <p>(1) (Amended, SG No. 38/2007) Anyone who copies, uses or obtains access to computer data in a computer system without permission, where such is required, shall be punished by a fine of up to BGN three thousand.</p> <p>(2) Where the act under par. 1 has been committed by two or more people, who have previously agreed so to do, the punishment shall be deprivation of liberty of up to one year or a fine of up to BGN three thousand.</p> <p>(3) (Supplemented, SG No. 38/2007) Where the act under par. 1 is repeated or is with regard to data for creation of an electronic signature, the punishment shall be deprivation of liberty of up three years or a fine of up to BGN five thousand.</p> <p>(4) (Amended, SG No. 26/2004, supplemented, SG No. 38/2007) Where acts under paragraphs 1-3 have been committed with regard to information that qualifies as a secret of the State or to another information protected by the law, the punishment shall be deprivation of liberty from one to three years, unless severer punishment has been envisaged.</p> <p>(5) Where grave consequences have occurred as a result of the acts under par. 4, punishment shall be of one to eight years.</p>
<p>Article 3 – Illegal interception Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer</p>	<p>Art. 171 (1), p.3 and (3) of the PC</p> <p>Chapter three. CRIME AGAINST THE RIGHTS OF THE CITIZENS Section V - Violation of the Inviolability of Correspondence Article 171</p> <p>(1) (Amended, SG. No. 28/1982, SG No. 10/1993) A person who contrary to</p>

<p>system carrying such computer data. A Party may require that the offence be committed with dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>the law:</p> <ol style="list-style-type: none"> 1. opens, falsifies, hides or destroys a letter, telegram, sealed papers, package and the like of another person; 2. takes another person's, although opened, letter or telegram for the purpose of obtaining knowledge of their contents, or for the same purpose delivers another person's letter or telegram to someone else; 3. (new, SG No. 92/2002) becomes aware of the content of an electronic message not addressed to him/her or prevents such a message from reaching its original addressee. <p>shall be punished by deprivation of liberty for up to one year or by a fine from BGN one hundred to three hundred.</p> <p>(2) If the act was perpetrated by an official who availed himself of his official position, the punishment shall be deprivation of liberty for up to two years, and the court may also rule deprivation of the right under Article 37 (1), subparagraph 6.</p> <p>(3) (Supplemented, SG No. 92/2002) A person who, by use of special technical means, unlawfully obtains information not addressed to him, communicated over the telephone, telegraph, computer network or another telecommunication means, shall be punished by deprivation of liberty for up to two years.</p> <p>(4) (New, SG No. 38/2007) Where the act under paragraph 3 has been committed with a venal goal in mind or considerable damages have been caused, the punishment shall be deprivation of liberty for up to three years and a fine of up to BGN five thousand.</p>
<p>Article 4 – Data interference</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right.</p> <p>2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p>	<p>Art. 319b and Art. 319c, Art. 319e of the PC</p> <p>Article 319b</p> <p>(1) (Amended, SG No. 38/2007) Anyone who, without consent by a person administering or using a computer system, installs, modifies, deletes or destroys a computer program or computer data, where the occurrence is not considered insignificant, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.</p> <p>(2) Where significant damage or other grave consequences have occurred as a result of an act under par. 1, the punishment shall be a deprivation of liberty of up to two years and a fine of up to BGN three thousand.</p> <p>(3) Where the act under par. 1 has been committed in view of obtaining a</p>

	<p>material benefit, the punishment shall be deprivation of liberty from one to three years and a fine of up to BGN five thousand.</p> <p>Article 319c (1) (Supplemented, SG No. 38/2007) Anyone who commits the act under art. 319b with regard to data that are provided electronically or upon magnet, electronic, optic or other carriers by virtue of the law shall be punished by deprivation of liberty of up to two years and a fine of up to BGN three thousand. (2) Where the act under par. 1 was intended to prevent the fulfilment of an obligation, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN five thousand.</p> <p>Article 319e (1) (Amended, SG No. 26/2004, SG No. 38/2007) Anyone who discloses passwords or codes for access to a computer system or to computer data, and personal data or information which qualifies as secret of the State or another secret protected by the law are thus revealed, shall be punished by deprivation of liberty of up to one year. (2) (Supplemented, SG No. 38/2007) With regard to an act under par. 1, committed with a venal goal in mind, or where it has caused considerable damage or other grave consequences have occurred, punishment shall be deprivation of liberty of up to three years.</p>
<p>Article 5 – System interference Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data</p>	<p>Art. 319b, Art. 319c and Art. 319d of the PC</p> <p>Article 319b (1) (Amended, SG No. 38/2007) Anyone who, without consent by a person administering or using a computer system, installs, modifies, deletes or destroys a computer program or computer data, where the occurrence is not considered insignificant, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand. (2) Where significant damage or other grave consequences have occurred as a result of an act under par. 1, the punishment shall be a deprivation of liberty of up to two years and a fine of up to BGN three thousand. (3) Where the act under par. 1 has been committed in view of obtaining a material benefit, the punishment shall be deprivation of liberty from one to</p>

	<p>three years and a fine of up to BGN five thousand.</p> <p>Article 319c (1) (Supplemented, SG No. 38/2007) Anyone who commits the act under art. 319b with regard to data that are provided electronically or upon magnet, electronic, optic or other carriers by virtue of the law shall be punished by deprivation of liberty of up to two years and a fine of up to BGN three thousand. (2) Where the act under par. 1 was intended to prevent the fulfilment of an obligation, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN five thousand.</p> <p>Article 319d (1) (Amended, SG No. 38/2007) Anyone who introduces a computer virus in a computer system or in a computer network, shall be punished by a fine of up to BGN three thousand. (2) (New, SG No. 38/2007) The punishment under par. 1 shall be imposed also on that person who introduces another computer program which is intended to disrupt the work of a computer system or a computer network or to discover, erase, delete, modify or copy computer data without permission, where such is required, as long as it is not a gravior crime. (3) (Renumbered from Paragraph 2 and amended, SG No. 38/2007) Where considerable damage has occurred as a result of the act under paras. 1 and 2 or it has been repeated, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN one thousand.</p>
<p>Article 6 – Misuse of devices 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right: a the production, sale, procurement for use, import, distribution or otherwise making available of:</p> <p>i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;</p> <p>ii a computer password, access code, or similar data by which the whole</p>	<p>Art. 319e of the PC (partially)</p> <p>Article 319e (1) (Amended, SG No. 26/2004, SG No. 38/2007) Anyone who discloses passwords or codes for access to a computer system or to computer data, and personal data or information which qualifies as secret of the State or another secret protected by the law are thus revealed, shall be punished by deprivation of liberty of up to one year. (2) (Supplemented, SG No. 38/2007) With regard to an act under par. 1, committed with a venal goal in mind, or where it has caused considerable damage or other grave consequences have occurred, punishment shall be</p>

<p>or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.</p> <p>3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.</p>	<p>deprivation of liberty of up to three years.</p>
<p><i>Title 2 – Computer-related offences</i></p>	
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<p>Art. 319b and Art. 319c of the PC</p> <p>Article 319b</p> <p>(1) (Amended, SG No. 38/2007) Anyone who, without consent by a person administering or using a computer system, installs, modifies, deletes or destroys a computer program or computer data, where the occurrence is not considered insignificant, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.</p> <p>(2) Where significant damage or other grave consequences have occurred as a result of an act under par. 1, the punishment shall be a deprivation of liberty of up to two years and a fine of up to BGN three thousand.</p> <p>(3) Where the act under par. 1 has been committed in view of obtaining a material benefit, the punishment shall be deprivation of liberty from one to three years and a fine of up to BGN five thousand.</p>

	<p>Article 319c (1) (Supplemented, SG No. 38/2007) Anyone who commits the act under art. 319b with regard to data that are provided electronically or upon magnet, electronic, optic or other carriers by virtue of the law shall be punished by deprivation of liberty of up to two years and a fine of up to BGN three thousand. (2) Where the act under par. 1 was intended to prevent the fulfilment of an obligation, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN five thousand.</p>
<p>Article 8 – Computer-related fraud Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>Art. 212a and Art. 319b (2) of the PC Article 212a (New, SG No. 92/2002) (1) (Amended, SG No. 38/2007) Where an individual, in view of providing a benefit to him-/herself or another, brings or maintains misleading representations in someone through introducing, modifying, deleting, or erasing computerized data or through the use of an electronic signature of another causes him/her or another harm, shall be punished for computer fraud by deprivation of liberty from one to six years and a fine of up to BGN six thousand (2) (Amended, SG No. 38/2007) The same form and amount of punishment shall be imposed to the individual who, without being entitled thereto, introduces, modifies, or erases computerized data in order to unduly obtain something, that should not go to him.</p> <p>Article 319b (2) Where significant damage or other grave consequences have occurred as a result of an act under par. 1, the punishment shall be a deprivation of liberty of up to two years and a fine of up to BGN three thousand.</p>
<p><i>Title 3 – Content-related offences</i></p>	
<p>Article 9 – Offences related to child pornography 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> a producing child pornography for the purpose of its distribution 	<p>Art. 159 (2) - (5) of the PC Chapter two. OFFENCES AGAINST THE PERSON Section VIII. Debauchery</p>

<p>through a computer system;</p> <p>b offering or making available child pornography through a computer system;</p> <p>c distributing or transmitting child pornography through a computer system;</p> <p>d procuring child pornography through a computer system for oneself or for another person;</p> <p>e possessing child pornography in a computer system or on a computer-data storage medium.</p> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <p>a a minor engaged in sexually explicit conduct;</p> <p>b a person appearing to be a minor engaged in sexually explicit conduct;</p> <p>c realistic images representing a minor engaged in sexually explicit conduct</p> <p>3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	<p>(2) (New, SG No. 38/2007) A person who distributes through Internet a pornographic material, shall be punished by deprivation of liberty of up to two years and a fine of BGN one thousand to three thousand.</p> <p>(3) (Renumbered from paragraph 2 and amended, SG No. 38/2007) An individual who displays, presents, offers, sells, rents or distributes in another manner a pornographic material to a person who has not turned 16 years of age, shall be punished by deprivation of liberty of up to three years and a fine of up to BGN five thousand (5,000).</p> <p>(4) (Amended, SG No. 75/2006, renumbered from Paragraph 3 and amended, SG No. 38/2007) Regarding acts under paras. 1-3, where a person who has not turned 18 years of age, or a person who looks like such a person, has been used in the creation of a pornographic material, the punishment shall be deprivation of liberty of up to six years and a fine of up to BGN eight thousand (8,000).</p> <p>(5) (Renumbered from paragraph 4 and amended, SG No. 38/2007) Where acts under paras. 1 - 4 have been committed at the orders or in implementing a decision of an organized criminal group, punishment shall be deprivation of liberty from two to eight years and a fine of up to BGN ten thousand (10,000), the court being also competent to impose confiscation of some or all the possessions of the perpetrator.</p> <p>Art. 93 items 28 of the Penal Code (New, SG No. 38/2007) "Pornographic material" is an indecent, unacceptable or incompatible with the public moral material which depicts in an open manner a sexual conduct. Such a conduct shall be a conduct which expresses real or simulated sexual intercourses between persons from the same or the opposite sex, sodomy, masturbation, sexual sadism or masochism, or lascivious demonstration of the sexual organs of a person.</p>
<p><i>Title 4 – Offences related to infringements of copyright and related rights</i></p>	
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971</p>	<p>Art. 172a of the PC</p> <p>Section VII. Crime against the intellectual property (Title, amend., SG 50/95)</p> <p>Article 172a</p>

<p>revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.</p>	<p>(New, SG No. 50/1995)</p> <p>(1) (Amended, SG No. 62/1997, amended, SG No. 75/2006) A person who makes records, reproduces, distributes, broadcasts or transmits, or makes any other use the object of a copyright or neighbouring right without the consent of the owner of holder of such right as required by law, shall be punished by deprivation of liberty for up to five years and a fine of up to BGN 5,000.</p> <p>(2) (Amended, SG No. 62/1997, amended, SG No. 75/2006) Anyone who, without consent from the person required by law, detains material carriers containing the object of copyright or a neighbouring right, amounting to a large-scale value, or who detains a matrix for the reproduction of such carriers, shall be punished by deprivation of liberty from two to five years and a fine of BGN 2,000 to BGN 5,000.</p> <p>(3) (Amended, SG No. 62/1997, amended, SG No. 75/2006) If the act under Paragraphs (1) and (2) has been repeated or considerable damaging consequences have occurred, the punishment shall be deprivation of liberty from one to six years and a fine of BGN 3,000 to BGN 10,000.</p> <p>(4) (New, SG No. 75/2006) Where the act under para 2 amounts to a particularly large-scale value, the punishment shall be deprivation of liberty from two to eight years and a fine of BGN 10,000 to BGN 50,000.</p> <p>(5) (Renumbered from Paragraph 4, SG No. 75/2006) For minor cases the perpetrator shall be punished under the administrative procedure in compliance with the Copyright and Neighbouring Rights Act.</p> <p>(6) (Renumbered from Paragraph 5, amended, SG No. 75/2006) The object of the crime shall be appropriated in favour of the state, irrespective of the fact whose property it is.</p>
<p><i>Title 5 – Ancillary liability and sanctions</i></p>	
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of</p>	<p>Art. 18 and Art. 20-22 of the PC</p> <p>Article 18</p> <p>(1) An attempt shall be the commenced perpetration of intentional crime, whereas the act has not been completed or, although completed, the consequences dangerous to society provided by the law and desired by the perpetrator have not occurred.</p> <p>(2) For an attempt, the perpetrator shall be punished by the punishment provided for completed crime, with due consideration taken of the degree of implementation of the intent and the reasons because of which the crime</p>

this Convention.

3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.

remained unaccomplished.

(3) For an attempt, the perpetrator shall not be punished where of his own accord:

- a) he has given up the completion of the crime, or
- b) he has averted the occurrence of criminal consequences.

Section III Complicity

Article 20

(1) Accomplices in the perpetration of intentional crime shall be: perpetrators, abettors and accessories.

(2) A perpetrator shall be a person who took part in the perpetration itself of the crime.

(3) An abettor shall be a person who intentionally incited another to commit a crime.

(4) An accessory shall be a person who intentionally facilitated the perpetration of a crime through advice, explanations, promises to render assistance after the act, removal of obstacles, supply of means or in any other way.

Article 21

(1) All accomplices shall be punished by the punishment provided for the perpetrated crime, with due consideration of the nature and degree of their participation.

(2) Abettors and accessories shall be held responsible only for what they have intentionally abetted or by what they have assisted the perpetrator.

(3) Where because of certain personal characteristics or attitude of the perpetrator the law treats the perpetrated act as a crime, liable for this crime shall be both the abettor and the accessory with respect of whom such circumstances do not exist.

(4) The special circumstances, due to which the law excludes, reduces or increases the punishment for some of the accomplices, shall not be taken into account for the remaining accomplices with respect to whom such circumstances do not exist.

Article 22

(1) The abettor and the accessory shall not be punished, if of their own accord

	<p>they have given up further participation and hindered the perpetration of the act or averted the occurrence of criminal consequences.</p> <p>(2) In such cases the provisions of Article 19 shall apply, respectively.</p>
<p>Article 12 – Corporate liability</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:</p> <ol style="list-style-type: none"> a a power of representation of the legal person; b an authority to take decisions on behalf of the legal person; c an authority to exercise control within the legal person. <p>2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.</p> <p>3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.</p> <p>4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.</p>	<p>Art. 83a of the Law on Administrative Offences and Sanctions</p> <p>Chapter four. Administrative punitive sanctions to legal persons and sole entrepreneurs (title amended SG 790/05)</p> <p>Art. 83a. (new – SG 79/05) (1) To a person who has enriched themselves or would enrich from a crime under Art. 108a, 109, 110 (preparation to terrorism), 142 – 143a, 159-159c, 209 – 212a, 213a, 214, 215, 225c, 242, 250, 252, 253, 254, 254b, 256, 257, 280, 283, 301 – 307, 319a-319f, 320 – 321a and 354a-354c of the Penal Code, as well as from crimes committed under assignment or in execution of a decision of an organized criminal group, whereas they have been committed by:</p> <ol style="list-style-type: none"> 1. a person empowered to form the will of the legal person; 2. a person, who represents the legal person; 3. a person elected as a controlling or a supervising body of the legal person, or 3. a worker or employee to whom the legal person has assigned certain work, whereas the crime is committed at or in connection with this work, a property sanction in amount to 1 000 000, but not less than of the value of the benefit, when it is of property nature, and if the benefit is not of property nature or its amount cannot be evaluated, the sanction shall be from 5 000 to 100 000 BGN. <p>(2) The property sanction shall be imposed to the legal person also whereas the persons under Para 1, item 1, 2 and 3 have abetted or assisted the commitment of the envisaged acts, as well as if the acts had stopped on the phase of attempt.</p> <p>(3) The property sanction shall be imposed not depending on the realization of the criminal liability of the perpetrator of the criminal act under Para 1.</p> <p>(4) The benefit or its equivalent value shall be expropriated in favour of the state, if it is not a subject to retrieval or recovery, or to deprivation under the order of the Penal Code.</p> <p>(5) To the state, state bodies and the bodies of local administration as well as to the international organizations the property sanction under Para 1 shall not</p>

	be imposed.
<p>Article 13 – Sanctions and measures</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.</p>	<p>For art. 13(1) of Convention on Cybercrime - Art. 171 (1), item 3 and (3), Art. 172a, Art. 159, Art. 212a, Art. 216 (3), Art. 319a to Art. 319 e of the PC</p> <p>Chapter three.CRIME AGAINST THE RIGHTS OF THE CITIZENS Section V. Infringing the inviolability of the correspondence</p> <p>Art. 171. (1) (Amended, SG. No. 28/1982, SG No. 10/1993) A person who contrary to the law: 3. (new, SG No. 92/2002) becomes aware of the content of an electronic message not addressed to him/her or prevents such a message from reaching its original addressee. shall be punished by deprivation of liberty for up to one year or by a fine from BGN one hundred to three hundred. (3) (Supplemented, SG No. 92/2002) A person who, by use of special technical means, unlawfully obtains information not addressed to him, communicated over the telephone, telegraph, computer network or another telecommunication means, shall be punished by deprivation of liberty for up to two years.</p> <p>Section VII. Crime against the intellectual property (Title, amend., SG 50/95)</p> <p>Article 172a (New, SG No. 50/1995) (1) (Amended, SG No. 62/1997, amended, SG No. 75/2006) A person who makes records, reproduces, distributes, broadcasts or transmits, or makes any other use the object of a copyright or neighbouring right without the consent of the owner of holder of such right as required by law, shall be punished by deprivation of liberty for up to five years and a fine of up to BGN 5,000. (2) (Amended, SG No. 62/1997, amended, SG No. 75/2006) Anyone who, without consent from the person required by law, detains material carriers containing the object of copyright or a neighbouring right, amounting to a large-scale value, or who detains a matrix for the reproduction of such carriers, shall be punished by deprivation of liberty from two to five years and a fine of BGN 2,000 to BGN 5,000.</p>

(3) (Amended, SG No. 62/1997, amended, SG No. 75/2006) If the act under Paragraphs (1) and (2) has been repeated or considerable damaging consequences have occurred, the punishment shall be deprivation of liberty from one to six years and a fine of BGN 3,000 to BGN 10,000.

(4) (New, SG No. 75/2006) Where the act under para 2 amounts to a particularly large-scale value, the punishment shall be deprivation of liberty from two to eight years and a fine of BGN 10,000 to BGN 50,000.

(5) (Renumbered from Paragraph 4, SG No. 75/2006) For minor cases the perpetrator shall be punished under the administrative procedure in compliance with the Copyright and Neighbouring Rights Act.

(6) (Renumbered from Paragraph 5, amended, SG No. 75/2006) The object of the crime shall be appropriated in favour of the state, irrespective of the fact whose property it is.

Article 159

(Amended, SG No. 28/1982, SG No. 10/1993, SG No. 62/1997, SG No. 92/2002)

(1) (Amended, SG No. 38/2007) A person who produces, displays, presents, broadcasts, distributes, sells, rents or otherwise circulates a pornographic material, shall be punished by deprivation of liberty of up to one year and a fine of BGN one thousand (1,000) to three thousand (3,000).

(2) (New, SG No. 38/2007) A person who distributes through Internet a pornographic material, shall be punished by deprivation of liberty of up to two years and a fine of BGN one thousand to three thousand.

(3) (Renumbered from paragraph 2 and amended, SG No. 38/2007) An individual who displays, presents, offers, sells, rents or distributes in another manner a pornographic material to a person who has not turned 16 years of age, shall be punished by deprivation of liberty of up to three years and a fine of up to BGN five thousand (5,000).

(4) (Amended, SG No. 75/2006, renumbered from Paragraph 3 and amended, SG No. 38/2007) Regarding acts under paras. 1-3, where a person who has not turned 18 years of age, or a person who looks like such a person, has been used in the creation of a pornographic material, the punishment shall be deprivation of liberty of up to six years and a fine of up to BGN eight thousand (8,000).

(5) (Renumbered from paragraph 4 and amended, SG No. 38/2007) Where acts under paras. 1 - 4 have been committed at the orders or in implementing

a decision of an organized criminal group, punishment shall be deprivation of liberty from two to eight years and a fine of up to BGN ten thousand (10,000), the court being also competent to impose confiscation of some or all the possessions of the perpetrator.

(6) (Renumbered from paragraph 5 and amended, SG No. 38/2007) A person who possesses or provides for himself or for another person through a computer system or in another manner a pornographic material in whose creation a person who has not turned 18 years of age has been used or a person who looks like such a person, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.

(7) (Renumbered from paragraph 6, SG No. 38/2007) The object of criminal activity shall be expropriated to the benefit of the State, and where it is not found or has been disposed of, its money equivalent shall be awarded.

Chapter five. CRIME AGAINST THE PROPERTY (Title, amend., SG 10/93)

Section IV. Fraud

Article 212a (New, SG No. 92/2002)

(1) (Amended, SG No. 38/2007) Where an individual, in view of providing a benefit to him-/herself or another, brings or maintains misleading representations in someone through introducing, modifying, deleting, or erasing computerized data or through the use of an electronic signature of another causes him/her or another harm, shall be punished for computer fraud by deprivation of liberty from one to six years and a fine of up to BGN six thousand

(2) (Amended, SG No. 38/2007) The same form and amount of punishment shall be imposed to the individual who, without being entitled thereto, introduces, modifies, or erases computerized data in order to unduly obtain something, that should not go to him.

Section VII. Destruction and Damaging

3) (New, SG No. 92/2002) Where an individual, through acquiring illegal access to a computer relevant to an enterprise, establishment, legal entity or individual, destroys or causes harm to the property of another, shall be punished by deprivation of liberty from one to six years and a fine of up to BGN ten thousand

Chapter nine."A" Cybercrime(New, SG 92/02)

Article 319a

(1) (Amended, SG No. 38/2007) Anyone who copies, uses or obtains access to computer data in a computer system without permission, where such is required, shall be punished by a fine of up to BGN three thousand.

(2) Where the act under par. 1 has been committed by two or more people, who have previously agreed so to do, the punishment shall be deprivation of liberty of up to one year or a fine of up to BGN three thousand.

(3) (Supplemented, SG No. 38/2007) Where the act under par. 1 is repeated or is with regard to data for creation of an electronic signature, the punishment shall be deprivation of liberty of up three years or a fine of up to BGN five thousand.

(4) (Amended, SG No. 26/2004, supplemented, SG No. 38/2007) Where acts under paragraphs 1-3 have been committed with regard to information that qualifies as a secret of the State or to another information protected by the law, the punishment shall be deprivation of liberty from one to three years, unless severer punishment has been envisaged.

(5) Where grave consequences have occurred as a result of the acts under par. 4, punishment shall be of one to eight years.

Article 319b

(1) (Amended, SG No. 38/2007) Anyone who, without consent by a person administering or using a computer system, installs, modifies, deletes or destroys a computer program or computer data, where the occurrence is not considered insignificant, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.

(2) Where significant damage or other grave consequences have occurred as a result of an act under par. 1, the punishment shall be a deprivation of liberty of up to two years and a fine of up to BGN three thousand.

(3) Where the act under par. 1 has been committed in view of obtaining a material benefit, the punishment shall be deprivation of liberty from one to three years and a fine of up to BGN five thousand.

Article 319c

(1) (Supplemented, SG No. 38/2007) Anyone who commits the act under art. 319b with regard to data that are provided electronically or upon magnet,

electronic, optic or other carriers by virtue of the law shall be punished by deprivation of liberty of up to two years and a fine of up to BGN three thousand.

(2) Where the act under par. 1 was intended to prevent the fulfilment of an obligation, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN five thousand.

Article 319d

(1) (Amended, SG No. 38/2007) Anyone who introduces a computer virus in a computer system or in a computer network, shall be punished by a fine of up to BGN three thousand.

(2) (New, SG No. 38/2007) The punishment under par. 1 shall be imposed also on that person who introduces another computer program which is intended to disrupt the work of a computer system or a computer network or to discover, erase, delete, modify or copy computer data without permission, where such is required, as long as it is not a gravior crime.

(3) (Renumbered from Paragraph 2 and amended, SG No. 38/2007) Where considerable damage has occurred as a result of the act under paras. 1 and 2 or it has been repeated, the punishment shall be deprivation of liberty of up to three years and a fine of up to BGN one thousand.

Article 319e

(1) (Amended, SG No. 26/2004, SG No. 38/2007) Anyone who discloses passwords or codes for access to a computer system or to computer data, and personal data or information which qualifies as secret of the State or another secret protected by the law are thus revealed, shall be punished by deprivation of liberty of up to one year.

(2) (Supplemented, SG No. 38/2007) With regard to an act under par. 1, committed with a venal goal in mind, or where it has caused considerable damage or other grave consequences have occurred, punishment shall be deprivation of liberty of up to three years.

For art. 13(2) of Convention on Cybercrime – Art. 83a of the Law on Administrative Offences and Sanctions

Chapter four. Administrative punitive sanctions to legal persons and sole entrepreneurs (title amended SG 790/05)

	<p>Art. 83a. (new – SG 79/05) (1) To a person who has enriched themselves or would enrich from a crime under Art. 108a, 109, 110 (preparation to terrorism), 142 – 143a, 159-159c, 209 – 212a, 213a, 214, 215, 225c, 242, 250, 252, 253, 254, 254b, 256, 257, 280, 283, 301 – 307, 319a-319f, 320 – 321a and 354a-354c of the Penal Code, as well as from crimes committed under assignment or in execution of a decision of an organized criminal group, whereas they have been committed by:</p> <ol style="list-style-type: none"> 1. a person empowered to form the will of the legal person; 2. a person, who represents the legal person; 3. a person elected as a controlling or a supervising body of the legal person, or 3. a worker or employee to whom the legal person has assigned certain work, whereas the crime is committed at or in connection with this work, a property sanction in amount to 1 000 000, but not less than of the value of the benefit, when it is of property nature, and if the benefit is not of property nature or its amount cannot be evaluated, the sanction shall be from 5 000 to 100 000 BGN. <p>(2) The property sanction shall be imposed to the legal person also whereas the persons under Para 1, item 1, 2 and 3 have abetted or assisted the commitment of the envisaged acts, as well as if the acts had stopped on the phase of attempt.</p> <p>(3) The property sanction shall be imposed not depending on the realization of the criminal liability of the perpetrator of the criminal act under Para 1.</p> <p>(4) The benefit or its equivalent value shall be expropriated in favour of the state, if it is not a subject to retrieval or recovery, or to deprivation under the order of the Penal Code.</p> <p>(5) To the state, state bodies and the bodies of local administration as well as to the international organizations the property sanction under Para 1 shall not be imposed.</p>
<p>Section 2 – Procedural law</p>	
<p>Article 14 – Scope of procedural provisions</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.</p> <p>2 Except as specifically provided otherwise in Article 21, each Party shall</p>	<p>The investigation and prosecution of cybercrimes in Bulgaria are conducted according to the general principles of Penal Procedure Code (PPC). In addition, with regard to the techniques for establishing evidences there are special provisions adopted, concerning the investigation of cyber crimes as referred to Art. 159, Art.160, Art. 162</p>

apply the powers and procedures referred to in paragraph 1 of this article to:

- a the criminal offences established in accordance with Articles 2 through 11 of this Convention;
- b other criminal offences committed by means of a computer system; and
- c the collection of evidence in electronic form of a criminal offence.

3 a Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20.

b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system:

- i is being operated for the benefit of a closed group of users, and
- ii does not employ public communications networks and is not connected with another computer system, whether public or private,

that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in Articles 20 and 21

**(6), Art. 163, Art. 165 of the Penal Procedural Code.
Powers to conduct criminal investigations on cybercrimes.**

Section V. Searches and seizures

Obligation to hand over objects, papers, computerised data, data about subscribers to computer information service and traffic data

Article 159 Upon request of the court or the bodies of pre-trial proceedings, all institutions, legal persons, officials and citizens shall be obligated to preserve and hand over all objects, papers, computerized data, including traffic data, that may be of significance to the case.

Grounds for and purpose of the search

Article 160 (1) Should there be sufficient reasons to assume that in certain premises or on certain persons objects, papers or computerized information systems containing computerized data may be found, which may be of significance to the case, searches shall be conducted for their discovery and seizure.

(2) A search may also be conducted for the purpose of finding a person or a body.

Persons present in the course of searches and seizures

Article 162 (6) Where searches and seizures concern computerized information systems and software applications, these shall be conducted in presence of an expert- technical assistant.

Conducting searches and seizures

Article 163

(1) Searches and seizures shall be performed in daytime, except where they can suffer no delay.

(2) Before proceeding with a search and seizure, the respective body shall submit the authorisation therefore, and shall ask the objects, papers, and computerized information systems containing computerized data sought to be shown to him/her.

(3) The body performing the search shall have the right to forbid those present to contact other persons or each other, as well as to leave the premises until completion of the search.

(4) No actions may be undertaken during searches and seizures, which are not

necessitated by their purposes. Premises and storerooms shall only be forcefully opened in the case of refusal to be opened, unnecessary damage being avoided.

(5) Where in the course of searches and seizures circumstances of the intimate life of citizens are revealed, measures shall be taken as necessary so that they are not be made public.

(6) The objects, papers and computerized information systems containing computerized data seized shall be shown to the certifying witnesses and the other attending persons. Where necessary, these shall be wrapped and sealed at the location where they had been seized.

(7) Seizure of computerized data shall be operated through record on paper or another carrier. In case of a paper carrier, each page shall be signed by the persons under Article 132, para 1. In other cases the carrier shall be sealed with a note stating: the case, the body performing the seizure, the location, date, and names of all individuals present under Article 132, para 1 who shall sign it.

(8) Carriers prepared in pursuance of para 7 will only be unsealed with the authorisation of the prosecutor for the needs of the investigation, which shall be carried out in presence of certifying witnesses and an expert- technical assistant. In court proceedings carriers shall be unsealed upon decision of the court by an expert technical assistant.

Interception and seizure of correspondence

Article 165 (1) Interception and seizure of correspondence shall be allowed only where this is necessary for disclosure or prevention of serious crime.

(2) Interception and seizure of correspondence in pre-trial proceedings shall be performed upon request of the prosecutor with the authorisation of a judge from the respective first instance court or a judge from the court in the area of which the action is taken.

(3) In court proceedings search and seizure of correspondence shall be performed by a decision of the court which is trying the case.

(4) The interception and seizure of correspondence shall be carried out in pursuance of Article 162, paras 1 - 4.

(5) The provisions of paragraphs 1 - 4 shall also apply to searches and seizures of electronic mail.

Art. 78-80 item 7 in connection with Art. 8 and Art. 9 (1) item 2 of the Regulation for the Implementation of the Ministry of Interior Act

Section III GENERAL DIRECTORATE OF COMBATING ORGANISED CRIME

Article 78 The General Directorate of Combating Organised Crime is a specialised structural unit of the General Police Directorate, and carries out operational investigation, information and analytical activities aimed to prevent, intercept, detect and investigate into criminal offences, to detect local and transnational criminal structures, and to put them under surveillance.

Article 79 (1) In order to carry out their activities, the bodies of the General Directorate of Combating Organised Crime shall:

1. Carry out operational investigation, detect, monitor and control crime groups organisations, and relations between them, by proposing solutions concerning the tactical organisation of operations and the gathering of information by the Regional Police Directorates;
2. Directly participate in the prevention, interception and detection of crimes;
3. Carry out an investigation by using under-cover police, carry out controlled supplies and confidential purchases;
4. Perform police registration and identification of persons in the order established by the minister of interior;
5. Request information from the automated centralised information systems and libraries, collect, process and analyse the incoming information concerning organised criminal structures, their specialisation, their management and relations with other criminal associations in the country and abroad, the criminal offences perpetrated by the members of such groups, and the profile of their victims, in order to uncover the criminal activities in the course of the investigation;
6. Study and evaluate the methods and tactics used by the police in the struggle against organised crime, and formulate proposals aiming to improve the organisation of work;
7. Develop draft normative acts and other important documents regulating the struggle against organised crime;
8. Gather, analyse and provide information concerning the status and dynamics of the organised crime, evaluate the risks and threats of organised crime, and make forecasts to identify the strategic tendencies in the development of programmes for effective crime prevention;

	<p>9. Work in teams set up jointly with other competent public bodies;</p> <p>10. Carry out co-ordinated action jointly with the respective services of other states, pursuant to the international agreements to which the Republic of Bulgaria is a Party;</p> <p>(2) In order to detect organised criminal activities of local and transnational criminal groups and organisations, the General Directorate of Combating Organised Crime shall carry out an investigation of grave crimes related to:</p> <ol style="list-style-type: none"> 1. the formation, management and participation in criminal structures established for the purpose of obtaining benefits, property or financial means; 2. the use of corruption mechanisms and pressure with a view to making profit and preventing penal procedures; 3. the use of violence or threat by criminal structures in order to eliminate competitors, to force officials to cooperate with or assist criminal structures against the law; 4. money laundering, and their subsequent use in legal activities. <p>Article 80 The activities under Article 79 shall be exercised independently or jointly with other specialised bodies in the following areas:</p> <ol style="list-style-type: none"> 7. cyber-crimes or crimes perpetrated in or using computer networks or systems; <p>Part Two STRUCTURE AND MANAGEMENT OF THE SYSTEM Chapter One STRUCTURE</p> <p>Article 8 The National Police Service (NPS) shall consist of:</p> <ol style="list-style-type: none"> 1. The General Police Directorate (GPD); 2. Regional Police Directorates (RPDs) <p>Article 9 (1) The following structures shall be established within the General Police Directorate:</p> <ol style="list-style-type: none"> 2. General Directorate of Combating Organised Crime (GDCOC);
<p>Article 15 – Conditions and safeguards</p> <p>1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and</p>	<p>Art. 30 to 34 of the Constitution of the Republic of Bulgaria; Limited scope and specific procedure envisaged for the use of special intelligence means – Section VIII “Special Intelligence Means” (Art. 172 at seq.) of the Penal Procedure Code; Art. 138-146 of the Ministry of Interior Act</p>

liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.

2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, *inter alia*, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.

3 To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.

Part III Obligation of Republic of Bulgaria, in respect of requesting Party

Admittance of extradited person

Art. 30. (1) The extradited in Republic of Bulgaria person shall be admitted under the provisions provided in Article 26.

(2) The person extradited shall be immediately sentenced in places for serving the term of imprisonment, or in a place for executing the detention. The competent authority under Article 23 shall be immediately informed.

Legal proceedings against person surrendered by a Party - Rule of specialty

Art. 31. (1) A person who has been extradited shall not be proceeded against any other offence than that for which he was extradited, except in the following cases:

1. When the Party which surrendered him consents on legal proceedings for other offence committed prior to his surrender;
2. when that person, having had an opportunity to leave the territory of the Republic of Bulgaria where he has been surrendered, has not done so within 45 days of his final discharge, or has returned to its territory after leaving it.

(2) A request for the consent under paragraph 1, point. 1 shall be applied to the other party by the competent body under Article 23 and in accordance with the provisions of Article 9, paragraph 3.

(3) If the person surrendered has committed or has been sentenced for other offence, the criminal procedure for that offence or the execution of the imposed punishment shall be suspended to the day of the answer receipt of the requested Party.

(4) When the description of the offence is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by to be an offence, that would allow extradition. In that case the required under paragraph 1 - 3 consent form the Party that surrender the person shall be excluded.

Re-extradition to a third state

Art. 32. The extradition shall not be carried out without the consent of the State, surrendered the person to Republic of Bulgaria, if a third State requests extradition of a person who is not Bulgarian national, in respect of offences committed before his surrender, different in constituent elements from the

offences under which the person have been extradited in Republic of Bulgaria,

Ostensible Extradition

Art. 33. Surrender of the person shall not be granted in respect: of a transfer, expel, mutual surrender at the state boarder that shall concealed the extradition.

Expenses

Art. 34. (1) Expences incurred on the territory of Republic of Bulgaria, as a requested Party by reason of extradition shall be born by it and reciprocal.

(2) Expenses incurred by reason of transit through the territory of Republic of Bulgaria by reason of extradition shall be born by the requesting Party.

Section VIII Special intelligence means

Material objective forms of evidence prepared with the use of special intelligence means

Article 172 (1) Pre-trial bodies may use the following special intelligence means: technical means - electronic and mechanical devices and substances that serve to document operations of the controlled persons and sites, as well as operational techniques - observation, interception, shadowing, penetration, marking and verification of correspondence and computerised information, controlled delivery, trusted transaction and investigation through an officer under cover.

(2) Special intelligence means shall be used where this is required for the investigation of serious criminal offences of intent under Chapter one , Chapter two , Sections I, II, IV, V, VIII, and IX, Chapter five , Sections I - VII, Chapter six , Section II - IV, Chapter eight , Chapter nine "a" , Chapter eleven , Sections I - IV, Chapter twelve , Chapter thirteen , and Chapter fourteen , as well as with regard to criminal offences under Article 219 , para 4, proposal 2, Article 220 , para 2, Article 253 , Article 308, paras 2, 3 , and 5, sentence two, Article 321 , Article 321a, Article 356k . and 393 of the Special Part of the Criminal Code, where the irrelevant circumstances cannot be established in any other way or this would be accompanied by exceptional difficulties.

(3) Computer information service providers shall be under the obligation to provide assistance to the court and pre-trial authorities in the collection and

recording of computerized data through the use of special technical devices only where this is required for the purposes of detecting crimes under paragraph 2

(4) The special intelligence means of controlled delivery and trusted transaction may be used to collect material evidence, whereas under cover officers shall be interrogated as witnesses.

(5) The materials under paragraphs 1-4 shall be enclosed with the case file.

Chapter Eleven INVESTIGATIVE WORK
Section I Principles of Investigative Work

Article 138. (1) Investigative work is an activity carried out by MoI for protection of national security and public order in the Republic of Bulgaria, of the life, health, rights and freedoms and the property of the citizens against criminal encroachment.

(2) The activity under paragraph (1) shall be carried out by the investigative and technical structural units of MoI by overt and covert means and ways, in compliance with their competences, under terms and procedure, determined by law, an act of the Council of Ministers and the Minister of Interior.

(3) The activity under paragraph (1) is carried out in conformity with the Constitution and the laws, respecting the rights and freedoms of citizens and their personal dignity, as well as applying the principle of secrecy, while combining of overt and covert methods and means.

Article 139. The investigative work is aimed at:

1. detecting, preventing and curbing crimes and other violations related to the national security and public order;
2. establishing the identity of persons who contemplate, perpetrate or had perpetrated criminal activity;
3. investigation of persons, who hide from criminal prosecution, convicts who evade penalty under felony sentences, as well as of missing persons;
4. obtaining information regarding activities, representing a threat to national security and public order;
5. preparing and keeping material evidence and submitting it to the respective judiciary authorities.

Article 140. (1) Investigative work is carried out by:

1. taking explanations from citizens;

2. checking in information databases data about persons involved in criminal activities;

3. taking samples for comparative analysis;

4. marking objects and sites;

5. examination of objects and documents;

6. carrying out surveillance;

7. identification of persons and objects;

8. breaking into and scrutinizing premises, buildings, installations, vehicles and sections of areas;

9. monitoring of postal, telegraph and other correspondence;

10. monitoring telephone calls;

11. collecting information from technical communication channels;

12. operative infiltration;

13. operative experiments;

14. verbal and written admonitions seeking to curb breaches of the rule of law;

15. operative examination of collected data and documentation thereof;

16. making controlled deliveries and confidential transactions;

17. carrying out documentary counterchecks.

18. control of the radio frequency spectrum;

19. issuance and use of identity documents with changed basic data regarding undercover operatives;

20. setting up and use of not-for-profit legal entities or of commercial companies under terms and procedure, established by a law, to provide cover for investigation activities, involving undercover operatives or when conducting undercover operations under pursuant to item 16.

(2) The activities under paragraph (1) are carried out through specific methods and techniques, as well as through using special investigative techniques and citizens who have volunteered to support the functions of the bodies of MoI.

Article 141. The terms and conditions of using special investigative techniques are determined by a law.

Article 142. (1) Deployment of undercover operatives may be ordered only by employees of the MoI, designated by the Minister of Interior.

(2) The procedure of conducting the activities under paragraph (1) is prescribed by ordinance of the Council of Ministers.

Article 143. (1) Only the specialized bodies of MoI authorized by virtue of this Act, may work with voluntary collaborators.

(2) The Minister of Interior regulates by his instruction the organization of cooperation with the citizens in support of the functions of the MoI.

(3) The recruitment and activities of the persons under paragraph (1) take place in conformity with the following principles:

1. voluntary manner of enlistment, service and release;
2. protection during and on occasion of the cooperation;
3. preserving in secret the identity and other personal data, as well as of their activity.

(4) Data of persons who have agreed to assist voluntarily the bodies of MoI may be provided to the court and the prosecutor's office only with the written consent of the persons in relation to a specific case of criminal proceedings and in compliance with the provisions of the Classified Information Protection Act.

Article 144. Investigative work is carried out on the following grounds:

1. receipt of data about persons contemplating, perpetrating or having perpetrated illegal activities, where there is not enough evidence to open or initiate criminal proceedings;
2. receipt of data about events or activities causing a threat to national security or the public order;
3. investigating persons, hiding from the bodies of the criminal prosecution or who have evaded service of punishment, imposed by sentences in felony cases
4. search for missing persons and identification of unidentified corpses;
5. request from the bodies of the preliminary proceedings and the court;
6. request from state bodies and organizations, according to their lawful competences;
7. fulfilment of international treaties, to which the Republic of Bulgaria is party.

Article 145. Material evidence, prepared and collected in the course of the investigative work, is submitted to the respective judiciary bodies under terms and procedure, established by law.

Article 146. In the course of investigative work it is inadmissible to harm the life, health, dignity and the property of citizens, as well as to pollute or damage the environment.

Article 16 – Expedited preservation of stored computer data

1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification.

2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person’s possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed.

3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law.

4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

**Art. 125, Art. 159, Art.162 (6), Art.163, Art. 172 (3) PPC
Chapter fourteen TECHNIQUES FOR ESTABLISHING EVIDENCE**

Section III. Types of objective forms of evidence

Preparation and attachment to the case file of material evidence

Article 125 (1) Where material evidence cannot be separated from the place, where it was found, and also in other cases specified by this Code, the following shall be prepared: photographs, slides, films, video tapes, sound-recordings, recordings on carriers of computerized data, layouts, schemes, casts or prints thereof.

(2) The court and the authorities entrusted with pre-trial proceedings shall also collect and inspect the objective forms of evidence prepared with the use of special intelligence means in the hypotheses herein set forth.

(3) The materials under the paragraphs 1 and 2 shall be enclosed with the case file.

Persons who shall prepare objective forms of material evidence

Section V. Searches and seizures

Obligation to hand over objects, papers, computerised data, data about subscribers to computer information service and traffic data

Article 159 Upon request of the court or the bodies of pre-trial proceedings, all institutions, legal persons, officials and citizens shall be obligated to preserve and hand over all objects, papers, computerized data, including traffic data, that may be of significance to the case.

Persons present in the course of searches and seizures

Article 162 (6) Where searches and seizures concern computerized information systems and software applications, these shall be conducted in presence of an expert- technical assistant.

Conducting searches and seizures

Article 163 (1) Searches and seizures shall be performed in daytime, except where they can suffer no delay.

(2) Before proceeding with a search and seizure, the respective body shall submit the authorisation therefore, and shall ask the objects, papers, and computerized information systems containing computerized data sought to be shown to him/her.

(3) The body performing the search shall have the right to forbid those present to contact other persons or each other, as well as to leave the premises until completion of the search.

(4) No actions may be undertaken during searches and seizures, which are not necessitated by their purposes. Premises and storerooms shall only be forcefully opened in the case of refusal to be opened, unnecessary damage being avoided.

(5) Where in the course of searches and seizures circumstances of the intimate life of citizens are revealed, measures shall be taken as necessary so that they are not be made public.

(6) The objects, papers and computerized information systems containing computerized data seized shall be shown to the certifying witnesses and the other attending persons. Where necessary, these shall be wrapped and sealed at the location where they had been seized.

(7) Seizure of computerized data shall be operated through record on paper or another carrier. In case of a paper carrier, each page shall be signed by the persons under Article 132, para 1. In other cases the carrier shall be sealed with a note stating: the case, the body performing the seizure, the location, date, and names of all individuals present under Article 132, para 1 who shall sign it.

(8) Carriers prepared in pursuance of para 7 will only be unsealed with the authorisation of the prosecutor for the needs of the investigation, which shall be carried out in presence of certifying witnesses and an expert- technical assistant. In court proceedings carriers shall be unsealed upon decision of the court by an expert technical assistant.

Section VIII Special intelligence means

Material objective forms of evidence prepared with the use of special intelligence means

Article 172 (3) Computer information service providers shall be under the obligation to provide assistance to the court and pre-trial authorities in the collection and recording of computerized data through the use of special technical devices only where this is required for the purposes of detecting crimes under paragraph 2

**Art. 55, Art. 56, Art. 148 Ministry of Interior Act
Chapter Seven NATIONAL POLICE SERVICE**

	<p>Section II Legal Powers of Official Bodies</p> <p>Article 55. (1) Police bodies may issue orders to state bodies, organizations, legal entities and citizens, whenever required for fulfilment of the functions, assigned to them. The orders shall be given verbally or in writing. (2) Should it be impossible to issue orders verbally or in writing, they may be conveyed through actions, the meaning of which is understandable for the persons they concern. (3) In fulfilment of the functions of control of road traffic safety, the orders may be conveyed by actions or signs, as stipulated by act. (4) The orders of a police body are obligatory unless they would force a person to commit an obvious crime or a violation. (5) Orders issued in writing may be appealed against in accordance with the Administrative Procedure Code.</p> <p>Article 56. (1) Police bodies issue a verbal or written warning to persons, in regard to whom sufficient data exist and they lead to suspicion that he/she would commit a crime or a violation of public order. (2) Written warnings are included in a notice to the person informing him/her of the liability related to the respective crime or violation of the public order. (3) The notice of warning is issued in the presence of the person and one witness, and signed by the police body, the person and the witness after being read by them. Should the person refuse to sign the notice, the fact is certified by signature of the witness. In cases of domestic violence a copy of the notice of warning would be made available to the victim upon request.</p> <p>Article 148. (1) The bodies carrying out investigative work, issue compulsory instructions to state bodies, organizations, legal entities and citizens, within their competences. (2) State bodies and organizations must provide to the bodies under paragraph (1) access to official premises, technical junctions and other property of theirs.</p>
<p>Article 17 – Expedited preservation and partial disclosure of traffic data</p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available</p>	<p>Section V. Searches and seizures</p> <p>Obligation to hand over objects, papers, computerised data, data about subscribers to computer information service and traffic data</p> <p>Article 159 Upon request of the court or the bodies of pre-trial proceedings, all institutions, legal persons, officials and citizens shall be obligated to preserve and hand over all objects, papers, computerized data, including traffic data, that</p>

<p>regardless of whether one or more service providers were involved in the transmission of that communication; and</p> <p>b ensure the expeditious disclosure to the Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>may be of significance to the case.</p> <p>Art. 55, Art. 56, Art. 148 Ministry of Interior Act Chapter Seven NATIONAL POLICE SERVICE Section II Legal Powers of Official Bodies</p> <p>Article 55. (1) Police bodies may issue orders to state bodies, organizations, legal entities and citizens, whenever required for fulfilment of the functions, assigned to them. The orders shall be given verbally or in writing. (2) Should it be impossible to issue orders verbally or in writing, they may be conveyed through actions, the meaning of which is understandable for the persons they concern. (3) In fulfilment of the functions of control of road traffic safety, the orders may be conveyed by actions or signs, as stipulated by act. (4) The orders of a police body are obligatory unless they would force a person to commit an obvious crime or a violation. (5) Orders issued in writing may be appealed against in accordance with the Administrative Procedure Code.</p> <p>Article 56. (1) Police bodies issue a verbal or written warning to persons, in regard to whom sufficient data exist and they lead to suspicion that he/she would commit a crime or a violation of public order. (2) Written warnings are included in a notice to the person informing him/her of the liability related to the respective crime or violation of the public order. (3) The notice of warning is issued in the presence of the person and one witness, and signed by the police body, the person and the witness after being read by them. Should the person refuse to sign the notice, the fact is certified by signature of the witness. In cases of domestic violence a copy of the notice of warning would be made available to the victim upon request.</p> <p>Article 148. (1) The bodies carrying out investigative work, issue compulsory instructions to state bodies, organizations, legal entities and citizens, within their competences. (2) State bodies and organizations must provide to the bodies under paragraph (1) access to official premises, technical junctions and other property of theirs.</p>
<p>Article 18 – Production order</p> <p>1 Each Party shall adopt such legislative and other measures as may be</p>	<p>Art. 159, Art. 172 (3) PPC</p>

necessary to empower its competent authorities to order:

- a a person in its territory to submit specified computer data in that person's possession or control, which is stored in a computer system or a computer-data storage medium; and
- b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider's possession or control.

2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

3 For the purpose of this article, the term "subscriber information" means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:

- a the type of communication service used, the technical provisions taken thereto and the period of service;
- b the subscriber's identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;
- c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.

Obligation to hand over objects, papers, computerised data, data about subscribers to computer information service and traffic data

Article 159 Upon request of the court or the bodies of pre-trial proceedings, all institutions, legal persons, officials and citizens shall be obligated to preserve and hand over all objects, papers, computerized data, including traffic data, that may be of significance to the case.

Article 172 (3) Computer information service providers shall be under the obligation to provide assistance to the court and pre-trial authorities in the collection and recording of computerized data through the use of special technical devices only where this is required for the purposes of detecting crimes under paragraph 2

**Art. 55, Art. 56 , Art. 148 (1) Ministry of Interior Act
Section II Legal Powers of Official Bodies**

Article 55. (1) Police bodies may issue orders to state bodies, organizations, legal entities and citizens, whenever required for fulfilment of the functions, assigned to them. The orders shall be given verbally or in writing.

(2) Should it be impossible to issue orders verbally or in writing, they may be conveyed through actions, the meaning of which is understandable for the persons they concern.

(3) In fulfilment of the functions of control of road traffic safety, the orders may be conveyed by actions or signs, as stipulated by act.

(4) The orders of a police body are obligatory unless they would force a person to commit an obvious crime or a violation.

(5) Orders issued in writing may be appealed against in accordance with the Administrative Procedure Code.

Article 56. (1) Police bodies issue a verbal or written warning to persons, in regard to whom sufficient data exist and they lead to suspicion that he/she would commit a crime or a violation of public order.

(2) Written warnings are included in a notice to the person informing him/her of the liability related to the respective crime or violation of the public order.

(3) The notice of warning is issued in the presence of the person and one witness, and signed by the police body, the person and the witness after being read by them. Should the person refuse to sign the notice, the fact is certified by

	<p>signature of the witness. In cases of domestic violence a copy of the notice of warning would be made available to the victim upon request.</p> <p>Article 148. (1) The bodies carrying out investigative work, issue compulsory instructions to state bodies, organizations, legal entities and citizens, within their competences. (2) State bodies and organizations must provide to the bodies under paragraph (1) access to official premises, technical junctions and other property of theirs.</p>
<p>Article 19 – Search and seizure of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> a a computer system or part of it and computer data stored therein; and b a computer-data storage medium in which computer data may be stored <p style="padding-left: 40px;">in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; d render inaccessible or remove those computer data in the accessed computer system. <p>4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who</p>	<p>Art. 159, Art. 160 (1), Art. 165 (5), PPC</p> <p>Obligation to hand over objects, papers, computerised data, data about subscribers to computer information service and traffic data</p> <p>Article 159 Upon request of the court or the bodies of pre-trial proceedings, all institutions, legal persons, officials and citizens shall be obligated to preserve and hand over all objects, papers, computerized data, including traffic data, that may be of significance to the case.</p> <p>Grounds for and purpose of the search</p> <p>Article 160 (1) Should there be sufficient reasons to assume that in certain premises or on certain persons objects, papers or computerized information systems containing computerized data may be found, which may be of significance to the case, searches shall be conducted for their discovery and seizure.</p> <p>Interception and seizure of correspondence</p> <p>Article 165 (5) The provisions of paragraphs 1 - 4 shall also apply to searches and seizures of electronic mail.</p>

has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.

5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Article 20 – Real-time collection of traffic data

1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:

- a collect or record through the application of technical means on the territory of that Party, and
- b compel a service provider, within its existing technical capability:
 - i to collect or record through the application of technical means on the territory of that Party; or
 - ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system.

2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.

3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Reservation

Article 21 – Interception of content data

1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:

Art. 172 PPC

Section VIII Special intelligence means

Material objective forms of evidence prepared with the use of special

<p>a collect or record through the application of technical means on the territory of that Party, and</p> <p>b compel a service provider, within its existing technical capability: i to collect or record through the application of technical means on the territory of that Party, or ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.</p> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>intelligence means</p> <p>Article 172 (1) Pre-trial bodies may use the following special intelligence means: technical means - electronic and mechanical devices and substances that serve to document operations of the controlled persons and sites, as well as operational techniques - observation, interception, shadowing, penetration, marking and verification of correspondence and computerised information, controlled delivery, trusted transaction and investigation through an officer under cover.</p> <p>(2) Special intelligence means shall be used where this is required for the investigation of serious criminal offences of intent under Chapter one , Chapter two , Sections I, II, IV, V, VIII, and IX, Chapter five , Sections I - VII, Chapter six , Section II - IV, Chapter eight , Chapter nine "a" , Chapter eleven , Sections I - IV, Chapter twelve , Chapter thirteen , and Chapter fourteen , as well as with regard to criminal offences under Article 219 , para 4, proposal 2, Article 220 , para 2, Article 253 , Article 308, paras 2, 3 , and 5, sentence two, Article 321 , Article 321a, Article 356k . and 393 of the Special Part of the Criminal Code, where the irrelevant circumstances cannot be established in any other way or this would be accompanied by exceptional difficulties.</p> <p>(3) Computer information service providers shall be under the obligation to provide assistance to the court and pre-trial authorities in the collection and recording of computerized data through the use of special technical devices only where this is required for the purposes of detecting crimes under paragraph 2</p> <p>(4) The special intelligence means of controlled delivery and trusted transaction may be used to collect material evidence, whereas under cover officers shall be interrogated as witnesses.</p> <p>(5) The materials under paragraphs 1-4 shall be enclosed with the case file.</p>
<p>Section 3 – Jurisdiction</p>	
<p>Article 22 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <p>a in its territory; or</p> <p>b on board a ship flying the flag of that Party; or</p>	<p>Art. 3- 6 of the Penal Code</p> <p>Art. 3. (1) The Penal Code shall apply for every crime committed on the territory of the Republic of Bulgaria.</p> <p>(2) The issue of the responsibility of foreigners having immunity with respect of the criminal jurisdiction of the Republic of Bulgaria shall be resolved according to the norms of the international law adopted by it.</p>

<p>c on board an aircraft registered under the laws of that Party; or d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.</p> <p>2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.</p> <p>3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<p>Art. 4. (1) The Penal Code shall apply for the Bulgarian citizens and for the crimes committed by them abroad. (2) (amend. - SG, 75/06, in force from 13.10.2006) A citizen of the Republic of Bulgaria cannot be delivered to other state or international court for the purposes of punitive prosecution, unless this is provided in international agreement, which has been ratified, promulgated and entered into force for the Republic of Bulgaria.</p> <p>Art. 5. The Penal Code shall also apply for foreigners who have committed crime of general nature abroad, affecting the interests of the Republic of Bulgaria or of a Bulgarian citizen.</p> <p>Art. 6. (1) The Penal Code shall also apply regarding foreigners who have committed crime abroad against the peace and mankind, thus affecting the interests of another country or foreign citizens. (2) The Penal Code shall also apply for other crimes committed by foreigners abroad wherever stipulated by an international agreement party to which is the Republic of Bulgaria.</p>
<p>Chapter III – International co-operation</p>	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include</p>	<p>Law on Extradition and European Arrest Warrant (Art. 2, Art. 4, Art. 6 to Art. 34)</p> <p>Extradition</p> <p>Art. 2 Extradition means surrender of a person and shall be granted to person continuously living on a territory of a country:</p> <ol style="list-style-type: none"> 1. against whom the competent authorities of the requesting Party or International Court are proceeding for an offence; 2. who is wanted by the judicial authorities of the requesting Party or by International Court for the carrying out of a sentence for imprisonment; 3. if a person is wanted by the competent authorities of the requesting Party or by International Court for the carrying out of detention order. <p>Application</p> <p>Art. 4. (1) This law shall be applied only if there is an international agreement</p>

such offences as extraditable offences in any extradition treaty to be concluded between or among them.

3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article.

4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.

5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.

6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.

b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure

under which Bulgaria is a Part. If unsettled matters, the provisions of this Law shall supplement the International agreement.

(2) In case of non existence of International agreement the law is applied under multilateral agreement. Minister of Law is responsible for the interaction.

(3) This law shall be applied on request for international inquiry through International Criminal Police (Interpol) on detention and extradition.

Chapter two EXTRADITABLE CONDITIONS. RENUNCIATION FOR EXTRADICTION

Exclusion of extradition over claimed person

Art. 6. (1) Extradition shall not be granted over for offences in respect of:

1. Bulgarian citizen, except when the extradition is a matter of international agreement in force, under which Republic of Bulgaria is a part;
2. if the person claimed is, granted with political asylum in Republic of Bulgaria;
3. if the person claimed is a foreigner and become immune from prosecution or punishment under the criminal jurisdiction of Republic of Bulgaria;
4. if the person claimed is excluded from criminal responsibility under the Bulgarian legislation.

(2) The Bulgarian nationality, the granted political asylum or the immune from prosecution or punishment under the criminal jurisdiction of Republic of Bulgaria shall be determined as at the time of receipt of the request for extradition.

Conditions on which extraditable offences are not granted

Art. 7. Extradition shall not be granted:

1. if the offence in respect of which extradition is requested is regarded as a political offence or as an offence connected with a political offence. This paragraph shall not apply for offences which under a Law or international agreement under which Republic of Bulgaria is a part shall not be considered as political offence;
2. for offences under military law which are not offences under ordinary criminal law;
3. if the person claimed shall be proceeded in the requested country before a special court or against him shall be executed an offence sentenced by such court;

4. if the request on extradition has been made for the purpose of prosecution or punishing a person on account of his race, religion, nationality, ethnical affiliation, gender, civic status, political opinion, or that that person's position may be prejudiced for any of these reasons;
5. if in the requested Party the person claimed shall be resort to violence, put to torture, undergo humiliation or severe punishment or in accordance with the International Law in the criminal procedure and through the execution of offence his personal rights are not guaranteed;
6. when the person claimed according to the Bulgarian or the requesting country legislation, become immune by reason of laps of time from prosecution or punishment;
7. if final judgement has been passed by the competent authorities of Republic of Bulgaria upon the person claimed in respect of offences for which extradition is requested;
8. if the offence for which extradition is requested is punishable by death or death penalty is enforced under the law of the requesting Party, extradition may be refused unless the requesting Party gives such assurance as the requested country considers sufficient that the death-penalty will not be carried out, not provided by the law or commute with other.

Conditions on which extraditable offences might be refused

Art. 8. Extradition might be refused:

1. where the offence for which it is requested is regarded under the competence of Bulgarian court;
2. where for the same offence the criminal procedure in Republic of Bulgaria is abandoned;
3. where in Republic of Bulgaria a prosecution is pending against the person claimed for the offence for which extradition is requested;
4. when a extradition is requested of a person for the purpose of carrying out a sentence imposed by a decision rendered against him in absentia and the person was not informed for the persecution, extradition shall be granted if the requesting Party gives an assurance considered sufficient to guarantee to the person claimed the right to a retrial which safeguards the rights to defense;
5. when the offence for which extradition is requested has been committed outside the territory of the requesting Party, if the law of the Republic of Bulgaria does not allow prosecution for the same category of offence.

Chapter three EXTRADITION PROCEDURE

Part I Extradition on request of another country

Request for extradition

Art. 9. (1) The request for extradition shall be in writing applied to the Ministry of Justice of Republic of Bulgaria through the competent authority of the requesting country.

(2) The request might be communicated through the diplomatic channel through International Criminal Police (Interpol). Other means of communication may be arranged by direct agreement between the requesting Party and Republic of Bulgaria.

(3) The request shall be supported by:

1. the original or an authenticated copy of the conviction and sentence or detention order, or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting Party;
2. a statement of the offences for which extradition is requested. The time and place of their commission, their legal descriptions, damages scope if there are such, and a reference to the relevant legal provisions, including lapse of time shall be set out;
3. Accurate description of the person claimed, together with any other information which will help to establish his identity and nationality;
4. In case of request for extradition of a convicted person, supplementary information on the part of unserved term of imprisonment shall be applied;
5. Documents proving the guarantees under Article 7, paragraph 8 and Article 8, paragraph 4.

(4) The request for extradition and the supporting documents shall be written on the official language of the requesting Party. Except, if in an International agreement any other requirements are not provided, translation into Bulgarian language shall be applied.

Verification of the request for extradition

Art. 10. (1) The Minister of Justice or duly authorized by him official shall verify the request for extradition and the supported to it documents.

(2) If the request and the supported documents are not in comply with Article 9, the Minister of Justice or the authorized by him person shall refer them back to

the requesting Party and shall grounded reasons for the return.

Conflicting requests

Art. 11. If extradition is requested concurrently by more than one State either for the same offences or for different offences, the Minister of Justice shall immediately inform the competent authorities of the requesting Parties on the numbers of the requests for extradition.

Transmitting of the request for extradition and the supported documents to the Supreme Cassation Prosecution

Art. 12. (1) The Minister of Justice shall transmit immediately to the Supreme Cassation Prosecution the request for extradition and the supported documents or the request for provisional arrest, after complete the verification under Article 10.

(2) In case of more than one request for extradition the Supreme Casation Prosecution confirms the series with the Ministry of Law.

Provisional arrest

Art. 13. (1) In case of urgency, before applying the request for extradition, the competent authorities of the requesting Party may request from the Ministry of Justice or from the Supreme Casation Prosecution provisional arrest of the person sought.

(2) The request for provisional arrest shall state the detention order, the conviction and sentence order and the intention of the requesting Party to apply for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed as well as description of the person sought.

(3) If a country with which Republic of Bulgaria has not a written agreement for extradition applies a request for provisional arrest, the Minister of Justice shall inform The Supreme Casation Prosecution for consensual obligations.

(4) A request for provisional arrest shall be sent to the competent authorities of the requested party either through the diplomatic channel or direct by post, telegraph, fax, or through the International Criminal Police Organisation (Interpol) or by any other means affording evidence in writing or accepted by the requested Party.

(5) After determining the identity of the person and his location on the territory of Republic of Bulgraia The Supreme Casation Prosecution shall remand the said

person in custody for a period of 72 hours. He shall direct the request for provisional arrest with the supported documents to the District Prosecutor on the territory of which the person is.

(6) In the period under paragraph 5. The District Prosecutor shall provide a legal counsel and interpreter to the person, if he speaks not Bulgarian language and assigned to the District Court a request for provisional arrest.

(7) (Amended SG No. 86/2005) In accordance with Article 64, paragraph 3 and 5 of the Criminal Procedure Code the District Court shall examine the request for the provisional arrest and shall sentence an assignment. The assignment shall define the provisional arrest of the person said, or any other legal measure of duress that shall serve the participation of the person said in the extradition procedure. The provisional arrest could not extend for more than 40 days or for any other period defined under an International agreement, signed by Republic of Bulgaria.

(8) Within a period of three days, the court assignment under Article 7 could be protested to the relevant Court of Appeal.

(9) The Supreme Casation Prosecution shall immediately inform the Minister of Justice and the requesting Party on the applied legal measure.

(10) (Amended SG No. 86/2005) On request of the person in custody, within the period as per Article 7, the District Court might change the provisional arrest to other legal procedure measure of duress. In accordance with Article 65 of the Criminal Procedure Code this procedure measure shall provide participation of the said person in the extraction procedure. The assignment of the District Court may be protested before the relevant Court of Appeal in a period of three days.

(11) Provisional arrest shall be terminated by the Prosecutor if, within the defined by the Court period for provisional arrest Republic of Bulgaria has not received the request for extradition and the documents mentioned in Article 9, paragraph 3.

(12) The release of the person asked shall not prejudice re-arrest and extradition If a request for extradition is received subsequently after expire period under Article 7.

Prosecution procedures after the receive of the request for extradition

Art. 14. (1) On the request for extradition the Supreme Casation Prosecution shall constitute a case file. If, more than one requests are applied they shall be combined in one.

(2) Even when the defined by the Court under Article 13, paragraph 7 period for provisional arrest has expired, or any other legal measure that ensures the participation of the person said in the extradition procedure was applied. The Supreme Casation Prosecution shall remand the said person in custody within a period of up to 72 hours.

(3) The case file and the obligatory onus shall be assigned to the relevant District Prosecutor, in the region where the person said is.

(4) Within the period under paragraph 2, the District Prosecutor shall:

1. nominate to the person said a professional legal counsel and representation and interpreter, in case he speaks not Bulgarian language;
2. introduce to the person said and his defender the case file documents and take written evidences form the person said;
3. inform the person said on his right to declare before the Court his consent for immediate extradition;
4. make a proposal before the relevant District Court to remand the said person in custody pending receipt that the procedure for extradition has been duly concluded;
5. Introduce the case file in the relevant District Court.

Procedure on Remand in Custody

Art. 15. (1) (Amended, SG No. 86/2005) In accordance with the provisions of Article 64, paragraph 3 and 5 of the Criminal Procedure Code and in cases provided by article 14, paragraph 4, point 4, The District Court shall immediately examine the request on remand in custody.

(2) The person said shall appear before the court on the obligation of the Prosecutor. The participation of a legal counsel and interpreter in the court session is obligatory.

(3) The assignment of the District Court might be protested in a period of three days before the relative Court of Appeal.

Proceedings before court on extradition

Art. 16. (1) After receiving the case file for the request on extradition, the District Court shall constitute court proceedings and shall put down the sitting of the court not later than 7 days from the day of receipt.

(2) According to the provisions provided in Art. 6 the Justice may abandon the procedure on extradition.

(3) The justice shall pass a decision and appoint the sitting of the court and shall

judge on the custody of the person said.

First instance proceedings

Art. 17. (1) The request for extradition shall be considered in public sitting of the Court with three juries' members and a prosecutor.

(2) The Court shall provide the person said with professional legal counsel and representation and with the services of an interpreter, if he speaks not Bulgarian language. The Court shall inform the person said on his right to declare his consent for immediate extradition and shall inform him on the extradition consequences.

(3) The Court might request necessary supplementary information from the requesting Party and may fix a time-limit for the receipt thereof.

(4) In the court sitting the jury shall listen to the prosecutor, the person said and his counsel for the defender.

(5) The Court shall take in consideration:

1. Availability of the requirements provided by Article 5 and 6 and good reason grounds to refuse the requested extradition under Article 7 and 8;
2. Good reason grounds for extradition adjournment or temporary extradition.

(6) If for one and the same person, for one or more different offences number of requests for extradition are applied, the Court shall make its decision having regard to: the place the offences were committed, the nationality of the person said, the relative seriousness of the committed offences, the succession of the committed offences. The Court shall take into consideration the opportunity for eventual subsequent extradition in another requesting Party, the respective dates of the requests, and the possibility for consensual obligations. The request for extradition applied by an International Criminal Court, shall be prior to the others.

(7) The Court shall make order either for extradition of the person said or shall refuse the extradition. After the procedure provided for in 4 the Court shall announce the record instantly.

(8) With the order the Court shall pass judgement on hand over of all belongings, documents and papers found with the person said and associated with the criminal act to the requesting Party. The property shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.

Postpone of the extradition. Temporary extradition

Art. 18. (1) The Court may after making the order for extradition postpone the surrender of the person claimed, in order that against him on the territory of Republic of Bulgaria there is a pending criminal procedure or sentence in force for an offence other than that for which extradition is requested.

(2) If, the postpone of the extradition provided in paragraph 1 may serve lapse of time from criminal prosecution in the requesting Party or seriously impede it, The Court may order provisional extradition of the person claimed, on condition after covering the procedures on which the requested extradition was admitted, the person said should be returned back to Republic of Bulgaria.

Procedures in consent for prompt extradition

Art. 19. (1) During the court session the person said may consent on prompt extradition. The Court shall ask him whether his consent is voluntarily and does he assume the consequences of it.

(2) As the Court convinces that the consent of the person said is given voluntarily inscribes that fact in the protocol. The protocol shall be signed by the person said and his defender.

(3) In absence of evidences provided in Article 7 for traverse of extradition, the Court shall pass prompt extradition of the person said in a period of 24 hours. The record is final.

(4) In a period of 24 hours authenticated copy of the order under paragraph 3 shall be send to the Minister of Justice, for: notification of the requesting Party and to the Supreme Casation Prosecution for issue of decree for execution of the extradition.

Procedure before the Court of Appeal

Art. 20. (1) The decision of the District Court is a matter of protest in a period of seven days after promulgation before the Court of Appeal under litigation on behalf of the person sought his legal counsel or under prosecutors protest.

(2) The court shall sit under the litigation or the protest in a period of 10 days from the day of lodgment under the provisions provided in Article 17.

(3) The decision of the Court of Appeal is final.

(4) In a period of 24 hours authenticated copy of the order shall be send to the Minister of Justice, for: notification of the requesting Party and to the Supreme Casation Prosecution for issue of decree for execution of the extradition.

Traverse for extradition

Art. 21. (1) The Minister of Justice shall inform the requesting Party on traverse for extradition.

(2) If the offence is justifiable before the Bulgarian court, the case file shall be lodge to the relevant prosecutor. In case of evidences the prosecutor shall proceed a prosecution.

(3) In case of evidences the traverse for extradition of a foreigner convicted in a third Party, or in respect of offence shall not be a reason for a criminal prosecution in Bulgaria.

Extradition on request of International Court

Art. 22. In case of request for extradition on behalf of International Court, the provisions of this part shall be applied.

Part II Extradition on request of Republic of Bulgaria

Authorities requesting extradition

Art. 23. The request for extradition of a person in respect of offence justifiable before the Bulgarian Court shall be made on behalf of:

1. The Chief Prosecutor - for indicted person or convicted person with sentence in force;
2. The Minister of Justice - for accused person on request of the relevant court.

Request for extradition

Art. 24. (1) The request for extradition shall be in writing. The request shall be supported by the documents provided in Article 9, paragraph 3.

(2) The request for extradition and the supported documents shall be sending to the Ministry of Justice under the procedures provided in Article 9, paragraph 2. If the requested Party request supplementary documents they shall be send under the same procedure.

(3) In cases provided under Article 23, paragraph 1 the translation of the request for extradition and the supported documents shall be provided by the Supreme Prosecution of Cassation and by the Minister of Justice in cases under the provisions of Article 23, paragraph 1.

Provisional arrest

Art. 25. (1) In case of urgency the body under the provisions of Article 23 may before applying the request for extradition, to request the competent authorities

of the requesting Party the provisional arrest of the person sought.

(2) The request for provisional arrest shall be issued and send under the provisions of Article 13, paragraph 2 and 4.

(3) The International Criminal Police Organisation "Interpol shall issue and distribute a Bulletin" for international injuri of the person said for arrest and extradition.

Chapter four CONSEQUENCES OF THE ADMITTED EXTRADITION

Part I Obligations of Republic of Bulgaria in respect of Requested Party

Surrender of the person to be extradited

Art. 26. (1) If the request for extradition is admitted, The Supreme Casation Prosecution with the help of the National Central Bureau "Interpol" shall inform the requesting Party of the place and date of surrender.

(2) The surrender of the person said shall be executed under the decree of the Supreme Casation Prosecution. The authorities of the Ministry of Justice shall provide the security and the escort of the person said.

(3) When the surrender is executed, a protocol shall be signed. The protocol shall record: the surrender and acceptance of the person said, the authorities participated in, and any other circumstances. To the protocol shall be applied: the identity card of the person said, list with the personal belongings of the person said, statement on his health status, statement on duration of custody for the execution of the extradition.

(4) If circumstances prevent execution of surrender, the competent authorities of the two Parties shall agree on a new date for surrender. If the person claimed has not been taken over on the appointed new date he shall in any case be released after the expiry of 30 days.

Postponed and conditional surrender

Art. 27. Under the provisions, provided in Article 18, paragraph 1, the surrender of the person claimed shall be executed after the prosecution is abandoned, if the court procedure is over with a verdict of not guilty or after serve a term of imprisonment.

Re-extradition

Art. 28. (1) If by circumstances the person extradited escape a prosecution or to serve a term of imprisonment in the country he is extradited and return on

the territory of Republic of Bulgaria he may be re-extradited.

(2) Re-extradition shall be carried in respect of request of the requesting Party based on the preliminary court order. Re-extradition shall be carried in accordance with the provisions of Article 26.

Transit of extradited person

Art. 29. (1) Transit of extradited person through the territory of Republic of Bulgaria shall be granted on submission of a request by the means mentioned in Article 9, paragraph 2, on condition that the extradition for which transit is required is not inadmissible according to Article 7. The Supreme Casation Prosecution shall grant the transit of the extradited person.

(2) Transit of Bulgarian national shall be granted under the provisions of admitted extradition.

(3) If air transit is used, the following provisions shall apply:

1. when, it is intended to land, the requested Party shall submit a request for transit in advance;

2. In case of unscheduled landing, the requesting Party shall submit a request for transit immediately after the landing.

(4) The request under Article 3 shall be transferred under the provisions of Article 13. Paragraph 4 and shall have the effect of a request for provisional arrest.

(5) In case the competent Bulgarian authorities' submit a request for transit through the territory of another country, the provisions of this article shall be reciprocally applied.

Part III Obligation of Republic of Bulgaria, in respect of requesting Party

Admittance of extradited person

Art. 30. (1) The extradited in Republic of Bulgaria person shall be admitted under the provisions provided in Article 26.

(2) The person extradited shall be immediately sentenced in places for serving the term of imprisonment, or in a place for executing the detention. The competent authority under Article 23 shall be immediately informed.

Legal proceedings against person surrendered by a Party - Rule of speciality

Art. 31. (1) A person who has been extradited shall not be proceeded against

any other offence than that for which he was extradited, except in the following cases:

1. When the Party which surrendered him consents on legal proceedings for other offence committed prior to his surrender;

2. when that person, having had an opportunity to leave the territory of the Republic of Bulgaria where he has been surrendered, has not done so within 45 days of his final discharge, or has returned to its territory after leaving it.

(2) A request for the consent under paragraph 1, point. 1 shall be applied to the other party by the competent body under Article 23 and in accordance with the provisions of Article 9, paragraph 3.

(3) If the person surrendered has committed or has been sentenced for other offence, the criminal procedure for that offence or the execution of the imposed punishment shall be suspended to the day of the answer receipt of the requested Party.

(4) When the description of the offence is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by to be an offence, that would allow extradition. In that case the required under paragraph 1 - 3 consent form the Party that surrender the person shall be excluded.

Re-extradition to a third state

Art. 32. The extradition shall not be carried out without the consent of the State, surrendered the person to Republic of Bulgaria, if a third State requests extradition of a person who is not Bulgarian national, in respect of offences committed before his surrender, different in constituent elements form the offences under which the person have been extradited in Republic of Bulgaria,

Ostensible Extradition

Art. 33. Surrender of the person shall not be granted in respect: of a transfer, expel, mutual surrender at the state boarder that shall concealed the extradition.

Expenses

Art. 34. (1) Expences incurred on the territory of Republic of Bulgaria, as a requested Party by reason of extradition shall be born by it and reciprocal.

(2) Expenses incurred by reason of transit through the territory of Republic of Bulgaria by reason of extradition shall be born by the requesting Party.

<p>Article 25 – General principles relating to mutual assistance</p> <p>1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.</p> <p>2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.</p> <p>3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.</p> <p>4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.</p> <p>5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	<p>Section III “Mutual Legal assistance on criminal cases” of the PPC: Art. 471 –Art. 477</p> <p>Chapter thirty-six PROCEEDINGS IN RELATION TO INTERNATIONAL COOPERATION IN CRIMINAL MATTERS</p> <p>Section III International Legal Assistance in Criminal Cases</p> <p>Grounds and contents of international legal assistance</p> <p>Article 471(1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria.</p> <p>(2) International legal assistance shall comprise the following:</p> <ol style="list-style-type: none"> 1. Service of process; 2. Acts of investigation; 3. Collection of evidence; 4. Provision of information; 5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity. <p>Refusal of international legal assistance</p> <p>Article 472 International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.</p> <p>Appearance of witnesses and experts before a foreign national court</p> <p>Article 473 (1) Appearance of witnesses and experts before foreign national judicial bodies shall be allowed only if assurance is provided, that the individuals summonsed, regardless of their citizenship, shall not incur criminal liability for acts committed prior to summonsing. In the event they refuse to appear, no coercive measures may be taken in respect thereof.</p> <p>(2) The surrender of individuals remanded in custody to the purpose of being</p>
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interrogated as witnesses or experts shall be only admitted under exceptional circumstances at the discretion of a panel of the respective district court, based on papers submitted by the other country, or an international court, provided the individual consents to being surrendered, and his/her stay in another state does not extend beyond the term of his/her remand in custody.

Interrogation of individuals through a video or phone conference

Article 474 (1) The judicial body of another state may conduct the interrogation, through a video or phone conference, of an individual who appears as a witness or expert in the criminal proceedings and is in the Republic of Bulgaria, where so envisaged in an international agreement to which the Republic of Bulgaria is a party. An interrogation through a video conference involving the accused party or a suspect may only be conducted upon their consent and once the participating Bulgarian judicial authorities and the judicial authorities of the other state agree on the manner in which the video conference will be conducted. An interrogation through a video or phone conference may only be conducted where this does not stand in contradiction to fundamental principles of Bulgarian law.

(2) The request for interrogation filed by a judicial body of the other state should indicate:

1. The reason why the appearance in person of the individual is undesirable or impossible;
2. The name of the judicial body of the other state;
3. The data of individuals who shall conduct the interrogation;
4. The consent of the individual who shall be interrogated as a witness or expert through a phone conference;
5. Consent of the accused party who will take part in an interrogation hearing through a video conference.

(3) Bulgarian competent authorities in the field of criminal proceedings shall implement requests for interrogation through a video or phone conferences. A request for interrogation through a video or phone conference shall be implemented for the needs of pre-trial proceedings by the National Investigation Service. For the need of judicial proceedings, a request for interrogation through a phone conference shall be implemented by a court of equal standing at the place of residence of the individual, and for interrogation through a video conference - by the Appellate Court at the place of residence of the individual. The competent Bulgarian authority may require the requesting party to ensure

technical facilities for interrogation.

(4) The interrogation shall be directly conducted by the judicial authority of the requesting state or under its direction, in compliance with the legislation thereof.

(5) Prior to the interrogation the competent Bulgarian authority shall ascertain the identity of the person who needs to be interrogated. Following the interrogation a record shall be drafted, which shall indicate:

1. The date and location thereof;
2. The data of the interrogated individual and his or her consent, if it is required;
3. The data of individuals who took part therein on the Bulgarian side;
4. The implementation of other conditions accepted by the Bulgarian party.

(6) An individual who is abroad may be interrogated by a competent Bulgarian authority or under its direction through a video or phone conference where the legislation of said other state so admits. The interrogation shall be conducted in compliance with Bulgarian legislation and the provisions of international agreements to which the Republic of Bulgaria is a party, wherein the above means of interrogation have been regulated.

(7) The interrogation through a video or phone conference under para 6 shall be carried out in respect of pre-trial proceedings by the National Investigation Service, whereas in respect of trial proceedings - by the court.

(8) The provisions of paras 1 - 5 shall apply mutatis mutandis to the interrogation of individuals under para 6.

Procedure for submission of a request to another country or international court

Article 475

(1) A letter rogatory for international legal assistance shall contain data about: the body filing the letter; the subject and the reasoning of the letter; full name and citizenship of the individual to whom the letter refers; name and address of the individual on whom papers are to be served; and, where necessary - the indictment and a brief description of the relevant facts.

(2) A letter rogatory for international legal assistance shall be forwarded to the Ministry of Justice, unless another procedure is provided by international treaty to which the Republic of Bulgaria is a party.

Execution of request by another country or international court

Article 476

(1) Request for international legal assistance shall be executed pursuant to the

procedure provided by Bulgaria law or pursuant to a procedure provided by an international agreement to which the Republic of Bulgaria is a part. A request may also be implemented pursuant to a procedure provided for in the law of the other country or the statute of the international court, should that be requested and if it is not contradictory to the Bulgarian law. The other country or international court shall be notified of the time and place of execution of the request, should that be requested.

(2) Request for legal assistance and all other communications from the competent authorities of another state which are sent and received by fax or e-mail shall be admitted and implemented by the competent Bulgarian authorities pursuant to the same procedure as those sent by ordinary mail. The Bulgarian authorities shall be able to request the certification of authenticity of the materials sent, as well as to obtain originals by express mail.

(3) The Supreme Prosecution Office of Cassation shall set up, together with other states, joint investigation teams, in which Bulgarian prosecutors and investigative bodies will take part. An agreement with the competent authorities of the participant states shall be entered in respect of the activities, duration and composition of a joint investigation team. The joint investigation team shall comply with provisions of international agreements, the stipulations of the above agreement and Bulgarian legislation while being on the territory of the Republic of Bulgaria.

(4) The Supreme Prosecution Office of Cassation shall file requests with other states for investigation through an under-cover agent, controlled deliveries and cross-border observations and it shall rule on such requests by other states.

(5) In presence of mutuality a foreign authority carrying out investigation through an agent under cover on the territory of the Republic of Bulgaria shall be able to collect evidence in accordance with its national legislation.

(6) In urgent cases involving the crossing of the state border for the purposes of cross-border observations on the territory of the Republic of Bulgaria the Supreme Prosecution Office of Cassation shall be immediately notified. It shall make a decision to proceed with or terminate cross-border observations pursuant to the terms and conditions of the Special Intelligence Instruments Act

(7) The implementation of requests for controlled delivery or cross-border observations filed by other states shall be carried out by the competent investigation authority. It shall be able to request assistance from police, customs and other administrative bodies.

	<p>Costs for execution of request Article 477 The costs for execution of request shall be distributed between the countries in compliance with international treaties to which the Republic of Bulgaria is a party, or on the basis of the principle of reciprocity.</p>
<p>Article 26 – Spontaneous information 1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter. 2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.</p>	<p>Art. 57 (2), Ministry of Interior Act in connection with Art. 55 (6) of the Regulation for the implementation of the Ministry of Interior Act; Article 57. (2) When the measures under paragraph (1) are within the authority of other bodies or organizations, the police bodies inform them thereof in writing. Article 55 General Powers Exercised by the Police (6) For the purposes of international police co-operation, police bodies shall realise, co-ordinate and control the exchange of police and judicial information, the delivery of persons and objects on the search list, pursuant to the international agreements, treaties and arrangements to which the Republic of Bulgaria is a Party. Art. 471, (1) item 4 of the PPC Article 471(1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria. (2) International legal assistance shall comprise the following: 4. Provision of information; Chapter 7, Law on Protection of the Classified Information Chapter Seven DISCLOSURE OR EXCHANGE OF CLASSIFIED INFORMATION BY THE REPUBLIC OF BULGARIA TO, OR WITH, ANOTHER STATE OR AN INTERNATIONAL ORGANISATION Article 113 (1) The Republic of Bulgaria discloses or exchanges classified</p>

information to, or with, States or international organisations where international treaties on the protection of such information exist between the Republic of Bulgaria and such States or international organisations.

(2) Where an international treaty under paragraph 1 does not provide for the applicable law with regard to any matters not provided for thereunder, the applicable law shall be that of the party of information source.

Article 114 The decision to disclose or exchange information in pursuance of Article 113(1) shall be made by SISC on the basis of the preliminary opinion of the organisational unit which releases such information.

Article 115 (1) In accordance with the relevant international treaty, SISC and the competent information security authority of the other State or of the international organisation must, on a reciprocal basis and prior to the disclosure or exchange of information, ensure that such information will be properly protected.

(2) For the purposes of paragraph 1, the competent information security authority of the other State or of the international organisation must certify before SISC that the persons who will have access to the information disclosed or exchanged are duly cleared for access to information classified at the appropriate or at a higher level.

Article 116 With respect to classified information exchanged with, or disclosed to, the Republic of Bulgaria by an international organisation of which the Republic of Bulgaria is a member, such protection of classified information principles, norms, and procedures shall apply, as exist within such international organisation, if such an obligation derives from the Republic of Bulgaria's membership of such organisation.

The 24/7 Contact Point established to the Ministry of Interior is entitled to execute requests for mutual assistance under Art. 29

Transit of extradited person

Art. 29. (1) Transit of extradited person through the territory of Republic of Bulgaria shall be granted on submission of a request by the means mentioned in Article 9, paragraph 2, on condition that the extradition for which transit is required is not inadmissible according to Article 7. The Supreme Casation Prosecution shall grant the transit of the extradited person.

	<p>(2) Transit of Bulgarian national shall be granted under the provisions of admitted extradition.</p> <p>(3) If air transit is used, the following provisions shall apply:</p> <ol style="list-style-type: none"> 1. when, it is intended to land, the requested Party shall submit a request for transit in advance; 2. In case of unscheduled landing, the requesting Party shall submit a request for transit immediately after the landing. <p>(4) The request under Article 3 shall be transferred under the provisions of Article 13. Paragraph 4 and shall have the effect of a request for provisional arrest.</p> <p>(5) In case the competent Bulgarian authorities' submit a request for transit through the territory of another country, the provisions of this article shall be reciprocally applied.</p>
<p>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p> <p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except</p>	<p>Art. 471 and Art. 472, Art. 476 (2) PPC</p> <p>Grounds and contents of international legal assistance</p> <p>Article 471(1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria.</p> <p>(2) International legal assistance shall comprise the following:</p> <ol style="list-style-type: none"> 1. Service of process; 2. Acts of investigation; 3. Collection of evidence; 4. Provision of information; 5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity. <p>Refusal of international legal assistance</p> <p>Article 472 International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.</p>

where incompatible with the law of the requested Party.

4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:

a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or

b it considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.

5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.

6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.

8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

9 a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.

b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).

c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.

d Requests or communications made under this paragraph that do not

Execution of request by another country or international court

Article 476

(2) Request for legal assistance and all other communications from the competent authorities of another state which are sent and received by fax or e-mail shall be admitted and implemented by the competent Bulgarian authorities pursuant to the same procedure as those sent by ordinary mail. The Bulgarian authorities shall be able to request the certification of authenticity of the materials sent, as well as to obtain originals by express mail.

<p>involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.</p> <p>e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.</p>	
<p>Article 28 – Confidentiality and limitation on use</p> <p>1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:</p> <p>a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or</p> <p>b not used for investigations or proceedings other than those stated in the request.</p> <p>3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.</p> <p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	<p>Art. 472 PPC</p> <p>Refusal of international legal assistance</p> <p>Article 472 International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.</p> <p>Chapter 7 Law on Protection of the Classified Information</p> <p>Chapter Seven DISCLOSURE OR EXCHANGE OF CLASSIFIED INFORMATION</p> <p>BY THE REPUBLIC OF BULGARIA TO, OR WITH, ANOTHER STATE OR AN INTERNATIONAL ORGANISATION</p> <p>Article 113 (1) The Republic of Bulgaria discloses or exchanges classified information to, or with, States or international organisations where international treaties on the protection of such information exist between the Republic of Bulgaria and such States or international organisations.</p> <p>(2) Where an international treaty under paragraph 1 does not provide for the applicable law with regard to any matters not provided for thereunder, the applicable law shall be that of the party of information source.</p> <p>Article 114 The decision to disclose or exchange information in pursuance of Article 113(1) shall be made by SISC on the basis of the preliminary opinion of the organisational unit which releases such information.</p> <p>Article 115 (1) In accordance with the relevant international treaty, SISC and the competent information security authority of the other State or of the international organisation must, on a reciprocal basis and prior to the disclosure</p>

	<p>or exchange of information, ensure that such information will be properly protected.</p> <p>(2) For the purposes of paragraph 1, the competent information security authority of the other State or of the international organisation must certify before SISC that the persons who will have access to the information disclosed or exchanged are duly cleared for access to information classified at the appropriate or at a higher level.</p> <p>Article 116 With respect to classified information exchanged with, or disclosed to, the Republic of Bulgaria by an international organisation of which the Republic of Bulgaria is a member, such protection of classified information principles, norms, and procedures shall apply, as exist within such international organisation, if such an obligation derives from the Republic of Bulgaria's membership of such organisation.</p>
<p>Article 29 – Expedited preservation of stored computer data</p> <p>1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.</p> <p>2 A request for preservation made under paragraph 1 shall specify:</p> <ul style="list-style-type: none"> a the authority seeking the preservation; b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts; c the stored computer data to be preserved and its relationship to the offence; d any available information identifying the custodian of the stored computer data or the location of the computer system; e the necessity of the preservation; and f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data. <p>3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to</p>	<p>The 24/7 Contact Point established to the Ministry of Interior is entitled to execute requests for mutual assistance under Art. 29</p> <p>Transit of extradited person</p> <p>Art. 29. (1) Transit of extradited person through the territory of Republic of Bulgaria shall be granted on submission of a request by the means mentioned in Article 9, paragraph 2, on condition that the extradition for which transit is required is not inadmissible according to Article 7. The Supreme Casation Prosecution shall grant the transit of the extradited person.</p> <p>(2) Transit of Bulgarian national shall be granted under the provisions of admitted extradition.</p> <p>(3) If air transit is used, the following provisions shall apply:</p> <ol style="list-style-type: none"> 1. when, it is intended to land, the requested Party shall submit a request for transit in advance; 2. In case of unscheduled landing, the requesting Party shall submit a request for transit immediately after the landing. <p>(4) The request under Article 3 shall be transferred under the provisions of Article 13. Paragraph 4 and shall have the effect of a request for provisional arrest.</p> <p>(5) In case the competent Bulgarian authorities' submit a request for transit through the territory of another country, the provisions of this article shall be reciprocally applied.</p>

a request, dual criminality shall not be required as a condition to providing such preservation.

4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.

5 In addition, a request for preservation may only be refused if:

a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or

b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.

6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

Article 30 – Expedited disclosure of preserved traffic data

1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.

2 Disclosure of traffic data under paragraph 1 may only be withheld if:

The 24/7 Contact Point established to the Ministry of Interior is entitled to execute requests for mutual assistance under Art. 29

Transit of extradited person

Art. 29. (1) Transit of extradited person through the territory of Republic of Bulgaria shall be granted on submission of a request by the means mentioned in Article 9, paragraph 2, on condition that the extradition for which transit is required is not inadmissible according to Article 7. The Supreme Cassation Prosecution shall grant the transit of the extradited person.

<p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p>	<p>(2) Transit of Bulgarian national shall be granted under the provisions of admitted extradition.</p> <p>(3) If air transit is used, the following provisions shall apply:</p> <ol style="list-style-type: none"> 1. when, it is intended to land, the requested Party shall submit a request for transit in advance; 2. In case of unscheduled landing, the requesting Party shall submit a request for transit immediately after the landing. <p>(4) The request under Article 3 shall be transferred under the provisions of Article 13. Paragraph 4 and shall have the effect of a request for provisional arrest.</p> <p>(5) In case the competent Bulgarian authorities' submit a request for transit through the territory of another country, the provisions of this article shall be reciprocally applied.</p>
<p>Article 31 – Mutual assistance regarding accessing of stored computer data</p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <ol style="list-style-type: none"> a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation. 	<p>Art. 471 (2) of the PPC</p> <p>Grounds and contents of international legal assistance</p> <p>Article 471 (2) International legal assistance shall comprise the following:</p> <ol style="list-style-type: none"> 1. Service of process; 2. Acts of investigation; 3. Collection of evidence; 4. Provision of information; 5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity.
<p>Article 32 – Trans-border access to stored computer data with consent or where publicly available</p> <p>A Party may, without the authorisation of another Party:</p> <ol style="list-style-type: none"> a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system. 	<p>Law on the Access to Public Information</p>

<p>Article 33 – Mutual assistance in the real-time collection of traffic data</p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.</p> <p>2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.</p>	<p>Ref. to the reservation in accordance with Art. 14</p>
<p>Article 34 – Mutual assistance regarding the interception of content data</p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	<p>Section III “Mutual Legal assistance on criminal cases” of the PPC, Art.172 PPC</p> <p>Section III International Legal Assistance in Criminal Cases</p> <p>Grounds and contents of international legal assistance</p> <p>Article 471(1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria.</p> <p>(2) International legal assistance shall comprise the following:</p> <ol style="list-style-type: none"> 1. Service of process; 2. Acts of investigation; 3. Collection of evidence; 4. Provision of information; 5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity. <p>Refusal of international legal assistance</p> <p>Article 472 International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.</p>

Appearance of witnesses and experts before a foreign national court

Article 473 (1) Appearance of witnesses and experts before foreign national judicial bodies shall be allowed only if assurance is provided, that the individuals summonsed, regardless of their citizenship, shall not incur criminal liability for acts committed prior to summonsing. In the event they refuse to appear, no coercive measures may be taken in respect thereof.

(2) The surrender of individuals remanded in custody to the purpose of being interrogated as witnesses or experts shall be only admitted under exceptional circumstances at the discretion of a panel of the respective district court, based on papers submitted by the other country, or an international court, provided the individual consents to being surrendered, and his/her stay in another state does not extend beyond the term of his/her remand in custody.

Interrogation of individuals through a video or phone conference

Article 474 (1) The judicial body of another state may conduct the interrogation, through a video or phone conference, of an individual who appears as a witness or expert in the criminal proceedings and is in the Republic of Bulgaria, where so envisaged in an international agreement to which the Republic of Bulgaria is a party. An interrogation through a video conference involving the accused party or a suspect may only be conducted upon their consent and once the participating Bulgarian judicial authorities and the judicial authorities of the other state agree on the manner in which the video conference will be conducted. An interrogation through a video or phone conference may only be conducted where this does not stand in contradiction to fundamental principles of Bulgarian law.

(2) The request for interrogation filed by a judicial body of the other state should indicate:

1. The reason why the appearance in person of the individual is undesirable or impossible;
2. The name of the judicial body of the other state;
3. The data of individuals who shall conduct the interrogation;
4. The consent of the individual who shall be interrogated as a witness or expert through a phone conference;
5. Consent of the accused party who will take part in an interrogation hearing through a video conference.

(3) Bulgarian competent authorities in the field of criminal proceedings shall implement requests for interrogation through a video or phone conferences. A

request for interrogation through a video or phone conference shall be implemented for the needs of pre-trial proceedings by the National Investigation Service. For the need of judicial proceedings, a request for interrogation through a phone conference shall be implemented by a court of equal standing at the place of residence of the individual, and for interrogation through a video conference - by the Appellate Court at the place of residence of the individual. The competent Bulgarian authority may require the requesting party to ensure technical facilities for interrogation.

(4) The interrogation shall be directly conducted by the judicial authority of the requesting state or under its direction, in compliance with the legislation thereof.

(5) Prior to the interrogation the competent Bulgarian authority shall ascertain the identity of the person who needs to be interrogated. Following the interrogation a record shall be drafted, which shall indicate:

1. The date and location thereof;
2. The data of the interrogated individual and his or her consent, if it is required;
3. The data of individuals who took part therein on the Bulgarian side;
4. The implementation of other conditions accepted by the Bulgarian party.

(6) An individual who is abroad may be interrogated by a competent Bulgarian authority or under its direction through a video or phone conference where the legislation of said other state so admits. The interrogation shall be conducted in compliance with Bulgarian legislation and the provisions of international agreements to which the Republic of Bulgaria is a party, wherein the above means of interrogation have been regulated.

(7) The interrogation through a video or phone conference under para 6 shall be carried out in respect of pre-trial proceedings by the National Investigation Service, whereas in respect of trial proceedings - by the court.

(8) The provisions of paras 1 - 5 shall apply mutatis mutandis to the interrogation of individuals under para 6.

Procedure for submission of a request to another country or international court

Article 475

(1) A letter rogatory for international legal assistance shall contain data about: the body filing the letter; the subject and the reasoning of the letter; full name and citizenship of the individual to whom the letter refers; name and address of the individual on whom papers are to be served; and, where necessary - the indictment and a brief description of the relevant facts.

(2) A letter rogatory for international legal assistance shall be forwarded to the Ministry of Justice, unless another procedure is provided by international treaty to which the Republic of Bulgaria is a party.

Execution of request by another country or international court

Article 476

(1) Request for international legal assistance shall be executed pursuant to the procedure provided by Bulgaria law or pursuant to a procedure provided by an international agreement to which the Republic of Bulgaria is a part. A request may also be implemented pursuant to a procedure provided for in the law of the other country or the statute of the international court, should that be requested and if it is not contradictory to the Bulgarian law. The other country or international court shall be notified of the time and place of execution of the request, should that be requested.

(2) Request for legal assistance and all other communications from the competent authorities of another state which are sent and received by fax or e-mail shall be admitted and implemented by the competent Bulgarian authorities pursuant to the same procedure as those sent by ordinary mail. The Bulgarian authorities shall be able to request the certification of authenticity of the materials sent, as well as to obtain originals by express mail.

(3) The Supreme Prosecution Office of Cassation shall set up, together with other states, joint investigation teams, in which Bulgarian prosecutors and investigative bodies will take part. An agreement with the competent authorities of the participant states shall be entered in respect of the activities, duration and composition of a joint investigation team. The joint investigation team shall comply with provisions of international agreements, the stipulations of the above agreement and Bulgarian legislation while being on the territory of the Republic of Bulgaria.

(4) The Supreme Prosecution Office of Cassation shall file requests with other states for investigation through an under-cover agent, controlled deliveries and cross-border observations and it shall rule on such requests by other states.

(5) In presence of mutuality a foreign authority carrying out investigation through an agent under cover on the territory of the Republic of Bulgaria shall be able to collect evidence in accordance with its national legislation.

(6) In urgent cases involving the crossing of the state border for the purposes of cross-border observations on the territory of the Republic of Bulgaria the Supreme Prosecution Office of Cassation shall be immediately notified. It shall

make a decision to proceed with or terminate cross-border observations pursuant to the terms and conditions of the Special Intelligence Instruments Act (7) The implementation of requests for controlled delivery or cross-border observations filed by other states shall be carried out by the competent investigation authority. It shall be able to request assistance from police, customs and other administrative bodies.

Costs for execution of request

Article 477 The costs for execution of request shall be distributed between the countries in compliance with international treaties to which the Republic of Bulgaria is a party, or on the basis of the principle of reciprocity.

Article 172 (1) Pre-trial bodies may use the following special intelligence means: technical means - electronic and mechanical devices and substances that serve to document operations of the controlled persons and sites, as well as operational techniques - observation, interception, shadowing, penetration, marking and verification of correspondence and computerised information, controlled delivery, trusted transaction and investigation through an officer under cover.

(2) Special intelligence means shall be used where this is required for the investigation of serious criminal offences of intent under Chapter one , Chapter two , Sections I, II, IV, V, VIII, and IX, Chapter five , Sections I - VII, Chapter six , Section II - IV, Chapter eight , Chapter nine "a" , Chapter eleven , Sections I - IV, Chapter twelve , Chapter thirteen , and Chapter fourteen , as well as with regard to criminal offences under Article 219 , para 4, proposal 2, Article 220 , para 2, Article 253 , Article 308, paras 2, 3 , and 5, sentence two, Article 321 , Article 321a, Article 356k . and 393 of the Special Part of the Criminal Code, where the irrelevant circumstances cannot be established in any other way or this would be accompanied by exceptional difficulties.

(3) Computer information service providers shall be under the obligation to provide assistance to the court and pre-trial authorities in the collection and recording of computerized data through the use of special technical devices only where this is required for the purposes of detecting crimes under paragraph 2

(4) The special intelligence means of controlled delivery and trusted transaction may be used to collect material evidence, whereas under cover officers shall be interrogated as witnesses.

(5) The materials under paragraphs 1-4 shall be enclosed with the case file.

<p>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <p>a the provision of technical advice;</p> <p>b the preservation of data pursuant to Articles 29 and 30;</p> <p>c the collection of evidence, the provision of legal information, and locating of suspects.</p> <p>2 a A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.</p> <p>b If the point of contact designated by a Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.</p> <p>3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.</p>	<p>In implementation of Art. 35 of the Convention and according to the legally provided powers of the Ministry's of interior services a 24/7 Contact Point was established. It is empowered with all relevant competences in conformity with the provisions of the Convention.</p>
<p>Article 42 – Reservations</p> <p>By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.</p>	<p><i>[copied from the CoE treaty database]</i></p> <p>Reservation contained in the instrument of ratification deposited on 7 April 2005 - Or. Engl.</p> <p>In accordance with Article 14, paragraph 3, of the Convention, the Republic of Bulgaria reserves the right to apply the measures referred to in Article 20 only to serious offences, as they are defined by the Bulgarian Criminal Code.</p> <p>Period covered: 1/8/2005 -</p> <p>The preceding statement concerns Article(s) : 14</p> <p>Declaration contained in a Note verbale from the Permanent Representation of Bulgaria, dated 9 September 2005, registered at the</p>

Secretariat General on 12 September 2005 - Or. Engl.

In accordance with Article 24, paragraph 7.a, of the Convention, the Republic of Bulgaria declares that it designates the Ministry of Justice as the Central Authority responsible for making or receiving requests for extradition, and the Supreme Cassation Prosecutor's Office as the Central Authority responsible for making and receiving requests for provisional arrest.

Period covered: 12/9/2005 -

The preceding statement concerns Article(s) : 24

Declaration contained in a Note verbale from the Permanent Representation of Bulgaria, dated 9 September 2005, registered at the Secretariat General on 12 September 2005 - Or. Engl.

In accordance with Article 27, paragraph 2.c, of the Convention, the Republic of Bulgaria declares that it designates the following Central Authorities responsible for sending and answering requests for mutual assistance:

- the Supreme Cassation Prosecutor's Office - in respect of requests for mutual assistance at the stage of pre-trial proceeding;
- the Ministry of Justice - in respect of requests for mutual assistance at the stage of the trial.

Period covered: 12/9/2005 -

The preceding statement concerns Article(s) : 27

Declaration contained in a Note verbale from the Permanent Representation of Bulgaria, dated 9 September 2005, registered at the Secretariat General on 12 September 2005 - Or. Engl.

In accordance with Article 35, paragraph 1, of the Convention, the Republic of Bulgaria declares that it designates the National Service for Combating Organized Crime under the Ministry of Interior to perform the functions of point of contact for the purpose of investigations concerning cybercrime.

Period covered: 12/9/2005 -

The preceding statement concerns Article(s) : 35