

**Cybercrime legislation – country profile**

**ESTONIA**

*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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| <b>Country:</b>   | <b>Estonia</b>   |
| Signature of Convention:  | 23.11.2001   |
| Ratification/accession:   | 12.05.2003   |
| <b>Provisions of the Convention</b>   | <b>Corresponding provisions/solutions in national legislation</b><br><i>(pls quote or summarise briefly; pls attach relevant extracts as an appendix)</i>    |
| <b>Chapter I – Use of terms</b>   |  |
| <b>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</b><br>For the purposes of this Convention:<br>a “computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs | <i>National law including Penal Code (PC) uses the definitions of the Convention. Penal Code does not define these terms separately.</i><br><br>Constitution |

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| <p>automatic processing of data;</p> <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>§ 3- The state authority shall be exercised solely pursuant to the Constitution and laws which are in conformity therewith. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system. Laws shall be published in the prescribed manner. Only published laws have obligatory force</p> <p>§ 123- The Republic of Estonia shall not enter into international treaties which are in conflict with the Constitution.<br/>If laws or other legislation of Estonia are in conflict with international treaties ratified by the Riigikogu, the provisions of the international treaty shall apply.</p>   |
| <p><b>Chapter II – Measures to be taken at the national level</b></p>   |   |
| <p><b>Section 1 – Substantive criminal law</b></p>  |   |
| <p><i>Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems</i></p>   |   |
| <p><b>Article 2 – Illegal access</b></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, 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><b>PC Article 217</b></p> <p><b>§ 217. Unlawful use of computer system</b></p> <p>(1) Unlawful access to a computer system by way of removal or circumvention of a code, password or other protective measure is punishable by a pecuniary punishment or up to 3 years' imprisonment.</p> <p>(2) The same act:</p> <p>1) if it causes significant damage, or</p> <p>2) is committed by using a computer system containing a state secret, classified foreign information or information prescribed for official use only, or</p> <p>3) a computer system of a vital sector has been accessed, -</p> <p>is punishable by a pecuniary punishment or up to 5 years' imprisonment.</p> <p>(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.</p> |
| <p><b>Article 3 – Illegal interception</b></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</p>   | <p><b>PC Article 137</b></p> <p><b>137. Unauthorised surveillance</b></p> <p>(1) A person without the lawful right to engage in surveillance who observes</p>   |

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| <p>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 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>another person in order to collect information relating to such person shall be punished by a pecuniary punishment or up to 3 years' imprisonment.<br/>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p>   |
| <p><b>Article 4 – Data interference</b><br/>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.<br/>2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p> | <p><b>PC Article 206, 208</b><br/><b>§ 206. Interference in computer data</b><br/>(1) Illegal alteration, deletion, damaging or blocking of data or programmes within computer systems, or illegal uploading of data or programmes into computer systems is punishable by a pecuniary punishment or up to three years of imprisonment.<br/>(2) The same act, if committed against a computer system of a vital sector or if significant damage has been caused thereby is punishable by a pecuniary punishment or up to five years of imprisonment.<br/>(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.<br/><br/><b>§ 208. Dissemination of spyware, malware or computer viruses</b><br/>(1) Dissemination of spyware, malware or computer viruses is punishable by a pecuniary punishment or up to 3 years' imprisonment.<br/>(2) The same act, if committed:<br/>1) at least twice, or<br/>2) causes significant damage<br/>is punishable by a pecuniary punishment or up to 5 years' imprisonment.<br/>(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.<br/>(4) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of an object which was the direct object of the commission of an offence provided for in this section.<br/><br/><b>237. Acts of terrorism</b><br/>(1) Commission of a criminal offence against international security, against the person or against the environment, or a criminal offence dangerous to the public</p> |

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|  | <p>posing a threat to life or health, or the manufacture, distribution or use of prohibited weapons, the illegal seizure, damaging or destruction of property to a significant extent or interference with computer data or hindrance of operation of computer systems as well as threatening with such acts, if committed with the purpose to force the state or an international organisation to perform an act or omission, or to seriously interfere with or destroy the political, constitutional, economic or social structure of the state, or to seriously interfere with or destroy the operation of an international organisation, or to seriously terrorise the population is punishable by five to twenty years' imprisonment, or life imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by compulsory dissolution.</p> <p>(3) For the criminal offence provided in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.</p>                                      |
| <p><b>Article 5 – System interference</b><br/> 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><b>PC Article 207,237</b><br/> <b>§ 207. Hindering of operation of computer system</b><br/> (1) Illegal interference with or hindering of the operation of a computer system by way of uploading, transmitting, deleting, damaging, altering or blocking of data is punishable by a pecuniary punishment or up to three years of imprisonment.<br/> (2) The same act, if significant damage is caused thereby or the operation of a computer system of a vital sector or the provision of public services is hindered thereby is punishable by a pecuniary punishment or up to five years' imprisonment<br/> (3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.</p> <p><b>237. Acts of terrorism</b><br/> (1) Commission of a criminal offence against international security, against the person or against the environment, or a criminal offence dangerous to the public posing a threat to life or health, or the manufacture, distribution or use of prohibited weapons, the illegal seizure, damaging or destruction of property to a</p> |

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|   | <p>significant extent or interference with computer data or hindrance of operation of computer systems as well as threatening with such acts, if committed with the purpose to force the state or an international organisation to perform an act or omission, or to seriously interfere with or destroy the political, constitutional, economic or social structure of the state, or to seriously interfere with or destroy the operation of an international organisation, or to seriously terrorise the population is punishable by five to twenty years' imprisonment, or life imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by compulsory dissolution.</p> <p>(3) For the criminal offence provided in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.</p>  |
| <p><b>Article 6 – Misuse of devices</b></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 and without right:</p> <p>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 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</p> | <p><b>PC Article 216<sup>1</sup></b></p> <p><b>§ 216<sup>1</sup>. Preparation of computer-related crime</b></p> <p>(1) A person who, for the purposes of committing the criminal offences provided in §§ 206, 207, 208, 213 or 217 of this Code prepares, possesses, disseminates or makes available in any other manner a device, program, password, protective code or other data necessary for accessing a computer system, or uses, disseminates or makes available in any other manner the information necessary for the commission of the criminal offences specified in this section shall be punished by a pecuniary punishment or up to three years of imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> <p>(3) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of an object which was the direct object of the commission of an offence provided for in this section.</p> |

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| <p>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><i>Title 2 – Computer-related offences</i></p>   |  |
| <p><b>Article 7 – Computer-related forgery</b></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><b>PC Article 344</b></p> <p><b>§ 344. Counterfeiting of documents, seals or blank document forms</b></p> <p>(1) Counterfeiting a document, seal or blank document form on the basis of which it is possible to obtain rights or release from obligations is punishable by a pecuniary punishment or up to one year of imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p>                                |
| <p><b>Article 8 – Computer-related fraud</b></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 causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> <li>a any input, alteration, deletion or suppression of computer data;</li> <li>b any interference with the functioning of a computer system,</li> </ul> <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>     | <p><b>PC Article 213</b></p> <p><b>§ 213. Computer-related fraud</b></p> <p>(1) A person who receives proprietary benefits through unlawful entry, alteration, deletion, damaging or blocking of computer programs or data or other unlawful interference with a data processing operation shall be punished by a pecuniary punishment or up to 5 years' imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> |
| <p><i>Title 3 – Content-related offences</i></p>  |  |
| <p><b>Article 9 – Offences related to child pornography</b></p>   | <p><b>PC Articles 177, 178</b></p>   |

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| <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 and without right, the following conduct:</p> <ul style="list-style-type: none"> <li>a producing child pornography for the purpose of its distribution through a computer system;</li> <li>b offering or making available child pornography through a computer system;</li> <li>c distributing or transmitting child pornography through a computer system;</li> <li>d procuring child pornography through a computer system for oneself or for another person;</li> <li>e possessing child pornography in a computer system or on a computer-data storage medium.</li> </ul> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <ul style="list-style-type: none"> <li>a a minor engaged in sexually explicit conduct;</li> <li>b a person appearing to be a minor engaged in sexually explicit conduct;</li> </ul> <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><b>§ 177. Use of minors in manufacture of pornographic works</b></p> <p>(1) Use of a person of less than 14 years of age as a model or actor in the manufacture of a pornographic or erotic picture, picture, film or other work, and use of a person of less than 18 years of age as a model or actor in the manufacture of a pornographic picture, film or other work is punishable by a pecuniary punishment or up to 5 years' imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> <p><b>§ 178. Manufacture of works involving child pornography or making child pornography available</b></p> <p>(1) A person who manufactures, stores, hands over, displays or makes available in any other manner pictures, writings or other works or reproductions of works depicting a person of less than 18 years of age in a pornographic situation, or person of less than 18 years of age in a pornographic or erotic situation shall be punished by a pecuniary punishment or up to 3 years' imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> |
| <p><i>Title 4 – Offences related to infringements of copyright and related rights</i></p>  |  |
| <p><b>Article 10 – Offences related to infringements of copyright and related rights</b></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 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</p>   | <p><b>PC Articles 219, 222, 222<sup>1</sup>, 223, 224, 225, 225<sup>1</sup>, 227</b></p> <p><b>§ 219. Violation of authorship</b><br/>A person who discloses a work, performance of a work, an invention, industrial design or a layout-design of an integrated circuit of another in his or her own name shall be punished by a pecuniary punishment or up to 3 years' imprisonment</p> <p><b>§ 222. Manufacture of pirated copy</b></p>  |

rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.

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.

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.

(1) Reproduction, with the intention of distribution, of a work or an object of copyright without the permission of the author of the work, the holder of the copyright or the holder of the related rights is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(3) The court shall confiscate the object which was the direct object of commission of an offence provided for in this section.

**§ 222<sup>1</sup>. Possession of unlawfully reproduced computer programmes**

(1) Unlawful physical use or possession of a computer programme for commercial purposes is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(3) The court shall confiscate the object which was the direct object of commission of an offence provided for in this section.

**§ 223. Unlawful direction of works or objects of related rights towards public**

(1) Unlawful public performance, showing, transmission, re-transmission or making available to the public or a work or an object of related rights for commercial purposes is punishable by a pecuniary punishment or up to one year of imprisonment.

(2) The same act, if performed by using a pirated copy, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

(4) The court shall confiscate the object which was the direct object of the offence provided for in subsection (2) of this section.

**§ 224. Trade in pirated copies**

(1) Trade in pirated copies, if a punishment for a misdemeanour has been imposed on the offender for the same act, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

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|   | <p>(3) The court shall confiscate the object which was the direct object of commission of an offence provided for in this section.</p> <p><b>§ 225. Removal of technical means of protection preventing violation of copyright and related rights</b></p> <p>(1) Unlawful removal of a of technical means of protection preventing violation of copyright and related rights, or manufacture, transfer or possession, or advertising for commercial purposes of a device or equipment intended for removal of such means of protection is punishable by a pecuniary punishment or up to 3 years' imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> <p>(3) The court shall confiscate the object which was the direct object of commission of an offence provided for in this section.</p> <p><b>§ 225<sup>1</sup>. Illegal receipt of information society services and broadcasting</b></p> <p>(1) Manufacture for commercial purposes, transfer, installation, maintenance, possession or advertising of equipment or software enabling illegal access to fee-charging information society services or pay-TV or pay-radio programmes or broadcasts, or services enabling access to such services, programmes and broadcasts is punishable by a fine of up to 300 fine units.</p> <p>(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.</p> <p><b>§ 227. Trade in counterfeit goods</b></p> <p>(1) Trade in counterfeit goods is punishable by a pecuniary punishment or up to 3 years' imprisonment.</p> <p>(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.</p> <p>(3) The court shall confiscate the object which was the direct object of commission of an offence provided for in this section.</p> |
| <i>Title 5 – Ancillary liability and sanctions</i>  |  |
| <p><b>Article 11 – Attempt and aiding or abetting</b></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><b>PC Articles 20, 21, 22, 25, 26</b></p> <p><b>§ 20. Offender</b><br/>Offenders are principal offenders and accomplices.</p> <p><b>§ 21. Principal offender</b></p> <p>(1) Principal offender is a person who commits an offence unaided or by taking</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 this Convention.

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

advantage of another person.

(2) If at least two persons agree to commit an offence jointly, each of them shall be held liable as a principal offender (joint principal offenders). An offence is deemed to be a joint offence also if an act committed by several persons jointly and in agreement comprises the necessary elements of an offence.

**§ 22. Accomplice**

(1) Accomplices are abettors and aiders.

(2) An abettor is a person who intentionally induces another person to commit an intentional unlawful act.

(3) An aider is a person who intentionally provides physical, material or moral assistance to an intentional unlawful act of another person.

(4) Unless otherwise provided by § 24 of this Code, a punishment shall be imposed on an accomplice pursuant to the same provision of law which prescribes the liability of the principal offender.

(5) In the case of an aider, the court may apply the provisions of § 60 of this Code.

**§ 25. Attempt**

(1) An attempt is an intentional act the purpose of which is to commit an offence.

(2) An attempt is deemed to have commenced at the moment when the person, according to the person's understanding of the act, directly commences the commission of the offence.

(3) If an act is committed by taking advantage of another person, the attempt is deemed to have commenced at the moment when the person loses control over the events or when the intermediary directly commences the commission of the offence according to the person's understanding of the act.

(4) In the case of a joint offence, the attempt is deemed to have commenced at the moment when at least one of the persons directly commences the commission of the offence according to the agreement of the persons.

(5) In the case of an omission, the attempt is deemed to have commenced at the moment when the person fails to perform an act which is necessary for the prevention of the consequences which constitute the necessary elements of an offence.

(6) In the case of an attempt, the court may apply the provisions of § 60 of this

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|   | <p>Code.</p> <p><b>§ 26. Impossible attempt</b></p> <p>(1) An attempt is impossible if it cannot be completed due to the unsuitability of the object or subject of the offence or due to the unsuitability of the object or method used to commit the offence.</p> <p>(2) The court may release a person from punishment or apply the provisions of § 60 of this Code if due to his or her mental infirmity the person does not understand that the attempt is impossible.</p>   |
| <p><b>Article 12 – Corporate liability</b></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> <ul style="list-style-type: none"> <li>a a power of representation of the legal person;</li> <li>b an authority to take decisions on behalf of the legal person;</li> <li>c an authority to exercise control within the legal person.</li> </ul> <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><b>PC Article 14</b></p> <p><b>14. Liability of legal persons</b></p> <p>(1) In the cases provided by law, a legal person shall be held responsible for an act which is committed by a body or senior official thereof in the interest of the legal person.</p> <p>(2) Prosecution of a legal person does not preclude prosecution of the natural person who committed the offence.</p> <p>(3) The provisions of this Act do not apply to the state, local governments or to legal persons in public law.</p>       |
| <p><b>Article 13 – Sanctions and measures</b></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><b>PC Articles 44, 45, 46</b></p> <p><b>44. Pecuniary punishment</b></p> <p>(1) For a criminal offence, the court may impose a pecuniary punishment of 30 to 500 daily rates.</p> <p>(2) The court shall calculate the daily rate of a pecuniary punishment on the basis of the average daily income of the convicted offender. The court may reduce the daily rate due to special circumstances, or increase the rate on the basis of the standard of living of the convicted offender. The daily rate applied</p> |

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|   | <p>shall not be less than the minimum daily rate. The minimum daily rate shall be fifty kroons.</p> <p>(3) Average daily income shall be calculated on the basis of the income subject to income tax received by the convicted offender during the year immediately preceding the year in which criminal proceedings were commenced against the convicted offender or, if the data pertaining to such year are not available, during the year preceding such year, less the income tax.</p> <p>(4) Daily rates shall be calculated in full kroons.</p> <p>(5) If at the time of commission of an act, the person is less than 18 years of age, the court may impose a pecuniary punishment of thirty up to two hundred and fifty daily rates. A pecuniary punishment shall not be imposed on a person of less than 18 years of age if he or she does not have any independent income.</p> <p>(6) A pecuniary punishment may be imposed as a supplementary punishment together with imprisonment unless imprisonment has been substituted by community service.</p> <p>(7) A pecuniary punishment shall not be imposed as a supplementary punishment together with a fine to the extent of assets.</p> <p>(8) In case of a legal person, the court may impose a pecuniary punishment of fifty thousand to two hundred and fifty million kroons on the legal person. A pecuniary punishment may be imposed on a legal person also as a supplementary punishment together with compulsory dissolution.</p> <p><b>§ 45. Imprisonment</b></p> <p>(1) For a criminal offence, the court may impose imprisonment for a term of thirty days to twenty years, or life imprisonment.</p> <p>(2) Imprisonment for a term of more than ten years or life imprisonment shall not be imposed on a person who at the time of commission of the criminal offence is less than 18 years of age.</p> <p><b>§ 46. Compulsory dissolution of legal person</b></p> <p>A court may impose the compulsory dissolution on a legal person who has committed a criminal offence if commission of criminal offences has become part of the activities of the legal person.</p> |
| <p><b>Section 2 – Procedural law</b></p>  |   |
| <p><b>Article 14 – Scope of procedural provisions</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be</p> | <p><b>Article is covered by general principles and regulations of the Criminal Procedure Code (CPC).</b></p>  |

necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.

2 Except as specifically provided otherwise in Article 21, each Party shall 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

**Article 15 – Conditions and safeguards**

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 liberties, including rights arising pursuant to obligations it has undertaken

***Constitution of Estonia Articles 26, 33, 43***  
***CPC Articles 9, 64, 65, 110, 111, 112, 114, 121***  
***Constitution of Estonia***

**§ 26** - Everyone has the right to the inviolability of private and family life. State agencies, local governments, and their officials shall not interfere with the private or family life of any person, except in the cases and pursuant to

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.

procedure provided by law to protect health, morals, public order, or the rights and freedoms of others, to combat a criminal offence, or to apprehend a criminal offender.

**§ 33** - The home is inviolable. No one's dwelling, real or personal property under his or her control, or place of employment shall be forcibly entered or searched, except in the cases and pursuant to procedure provided by law, to protect public order, health or the rights and freedoms of others, to combat a criminal offence, to apprehend a criminal offender, or to ascertain the truth in a criminal procedure.

**§ 43** - Everyone has the right to confidentiality of messages sent or received by him or her by post, telegraph, telephone or other commonly used means. Exceptions may be made by court authorisation to combat a criminal offence, or to ascertain the truth in a criminal procedure, in the cases and pursuant to procedure provided by law.

#### ***Criminal Procedure Code***

#### **§ 9. Safeguarding of personal liberty and respect for human dignity**

(1) A suspect may be detained for up to forty-eight hours without an arrest warrant issued by a court.

(2) A person under arrest shall be immediately notified of the court's decision on arrest in a language and manner which he or she understands.

(3) Investigative bodies, Prosecutors' Offices and courts shall treat the participants in a proceeding without defamation or degradation of their dignity. No one shall be subjected to torture or other cruel or inhuman treatment.

(4) In a criminal proceeding, it is permitted to interfere with the private and family life of a person only in the cases and pursuant to the procedure provided for in this Code in order to prevent a criminal offence, apprehend a criminal offender, ascertain the truth in a criminal matter or secure the execution of a court judgment.

#### **§ 64. General conditions for collection of evidence**

(1) Evidence shall be collected in a manner which is not prejudicial to the honour and dignity of the persons participating in the collection of the evidence, does not endanger their life or health or cause unjustified proprietary damage. Evidence shall not be collected by torturing a person or using violence against

him or her in any other manner, or by means affecting a person's memory capacity or degrading his or her human dignity.

(2) If it is necessary to undress a person in the course of a search, physical examination or taking of comparative material, the official of the investigative body, the prosecutor and the participants in the procedural act, except health care professionals and forensic pathologists, shall be of the same sex as the person.

(3) If technical equipment is used in the course of collection of evidence, the participants in the procedural act shall be notified thereof in advance and the objective of using the technical equipment shall be explained to them.

(4) Investigative bodies and Prosecutors' Offices may involve impartial specialists in the collection of evidence and the specialists may be heard as witnesses.

(5) If necessary, participants in a procedural act shall be warned that pursuant to § 214 of this Code disclosure of information relating to pre-trial proceedings is prohibited.

(6) The general conditions for the collection of evidence by surveillance activities are listed in §§ 110–112 of this Code.

**§ 65. Evidence obtained from foreign states**

Evidence collected in a foreign state pursuant to the legislation of such state may be used in a criminal proceeding conducted in Estonia unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of Estonian criminal procedure.

**§ 110. Admissibility of surveillance activities in collection of evidence**

(1) Evidence may be collected by surveillance activities in a criminal proceeding if collection of the evidence by other procedural acts is precluded or especially complicated and the object of the criminal proceeding is a criminal offence in the first degree or an intentionally committed criminal offence in the second degree for which at least up to three years' imprisonment is prescribed as punishment.

(1<sup>1</sup>) Evidence may be collected by the surveillance activities specified in § 117 of this Code as a single inquiry on the conditions provided for in subsection (1) of this section in criminal proceedings commenced pursuant to § 120, 156, 157, 179 and 180, subsection 206 (1), § 207, subsection 208 (1), subsection 217 (1), §§ 245, 247, 249, 275, 305 and 323<sup>1</sup>, subsection 377 (1) and § 398 of the Penal

Code. For the purposes of this section, single inquiry is an inquiry for obtaining the information specified in subsection 117 (1) concerning a particular telephone call, a particular electronic mail, a particular electronic commentary or another communication session related to the forwarding of a single message.

(2) Evidence may be collected by the surveillance activities provided for in subsection (1) of this section also on the basis of an international request for assistance.

**§ 111. Evidence obtained by surveillance activities**

Information obtained by surveillance activities is evidence if such information has been obtained in compliance with the requirements of law.

**§ 112. General conditions for collection of evidence by surveillance activities**

(1) Surveillance activities shall not endanger the life, health or property of persons or the environment.

(2) Evidence is collected by surveillance activities by the Police Board and the Security Police Board on their own initiative or at the request of an investigative body. The Police Board collects evidence by surveillance activities directly or through the bodies administered by the Police Board. Evidence is collected by the surveillance activities specified in §§ 115 and 117 of this Code also by the Tax and Customs Board and Border Guard Administration.

(3) The permission of a preliminary investigation judge is necessary for the collection of evidence by the surveillance activities specified in §§ 116, 118 and 119 of this Code. The permission of a prosecutor who directs the proceedings is necessary for the collection of evidence by the surveillance activities specified in §§ 115 and 117 of this Code.

(4) If the conduct of surveillance activities is requested by another investigative body, the body which conducts the activities shall give written notification of the compliance with the request to the investigative body and, if necessary, send the photographs, films, audio and video recordings and other data recordings made in the course of the surveillance activities to the investigative body together with the surveillance report.

(5) A member of the Riigikogu or a rural municipality or city council, a judge, prosecutor, advocate, minister of religion or an official elected or appointed by the Riigikogu may be involved in surveillance activities with his or her consent

and with the permission of a preliminary investigation judge only if a criminal offence is directed against him or her or a person close to him or her.

**§ 114. Grant of permission for surveillance activities**

(1) A preliminary investigation judge shall immediately review a reasoned request for the conduct of surveillance activities submitted by a prosecutor who directs the proceedings and grant or refuse to grant permission for the conduct of the surveillance activities by a ruling.

(2) Permission for surveillance activities is granted for up to two months and the permission may be extended by up to two months at a time at the request of a prosecutor who directs the proceedings.

(3) If covert entry into a dwelling or any other building or a vehicle, computer, computer system or computer network is necessary for the conduct of surveillance activities specified in §§ 115, 118 or 119 of this Code or in order to install or remove technical appliances necessary for the surveillance activities, separate permission shall be requested therefore pursuant to the procedure provided for in subsections (1)–(2) of this section.

(4) In cases of urgency, surveillance activities specified in §§ 116, 118 and 119 of this Code may be conducted without the permission specified in subsection (1) of this section on the basis of an order of the head of the Police Board, Central Criminal Police or the Security Police Board or an official appointed by him or her. The Prosecutor’s Office shall immediately notify a preliminary investigation judge of the surveillance activities conducted and the judge shall decide on the admissibility of the activities and the grant of permission for continuation of the surveillance activities by a ruling.

**§ 121. Submission of information collected by surveillance activities for examination**

(1) A body which has conducted surveillance activities or the investigative body which requested the conduct of the surveillance activities shall immediately give notification of such activities to the person with regard to whom the activities were conducted and the persons whose private or family life was violated by the activities. With the permission of the prosecutor, conduct of the surveillance activities need not be given notification of until the corresponding bases cease to exist if this may:

1) damage the rights and freedoms of another person which are guaranteed by

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|   | <p>law;</p> <p>2) endanger the right of a person who has been recruited for surveillance activities to maintain the confidentiality of co-operation;</p> <p>3) endanger the life, health, honour, dignity and property of an employee of a surveillance agency, a person who been recruited for surveillance activities or another person who has been engaged in surveillance activities and of persons connected with them;</p> <p>4) prejudice a criminal proceeding or induce crime.</p> <p>(2) At the request of a person specified in subsection (1) of this section, he or she is permitted to examine the materials of the surveillance activities conducted with regard to him or her, and the photographs, films, audio and video recordings and other data recordings obtained as a result of the surveillance. With the permission of the prosecutor, the following information may need not be submitted until the corresponding bases cease to exist:</p> <p>1) information concerning the private life of other persons;</p> <p>2) information the submission of which may damages the rights and freedoms of another person which are guaranteed by law;</p> <p>3) information which contains state secrets or secrets of another person that are protected by law;</p> <p>4) information the submission of which may endanger the right of a person who has been recruited for surveillance activities to maintain the confidentiality of co-operation;</p> <p>5) information the submission of which may endanger the life, health, honour, dignity and property of an employee of a surveillance agency, a person who been recruited for surveillance activities or another person who has been engaged in surveillance activities and of persons connected with them;</p> <p>6) information the submission of which may prejudice a criminal proceeding or induce crime;</p> <p>7) information which cannot be separated or disclosed without information specified in clauses 1)-6) of this subsection becoming evident.</p> |
| <p><b>Article 16 – Expedited preservation of stored computer data</b></p> <p>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,</p> | <p><b><i>CPC Article 215</i></b></p> <p><b><i>Regulation is covered by the general powers of police and prosecutor.</i></b></p> <p><b>§ 215. Obligation to comply with orders and demands of investigative</b></p>  |

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| <p>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.</p> <p>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.</p> <p>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.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p> | <p><b>bodies and Prosecutors' Offices</b></p> <p>(1) The orders and demands issued by investigative bodies and Prosecutors' Offices in the criminal proceedings conducted thereby are binding on everyone and shall be complied with throughout the territory of the Republic of Estonia.</p> <p>(2) An investigative body conducting a criminal proceeding has the right to submit written requests to other investigative bodies for the performance of specific procedural acts and for other assistance. Such requests of investigative bodies shall be complied with immediately.</p> <p>(3) A preliminary investigation judge may impose a fine of up to sixty minimum daily rates on a participant in a proceeding, other persons participating in criminal proceedings or persons not participating in the proceedings who have failed to perform an obligation provided for in subsection (1) of this section by a court ruling at the request of a Prosecutor's Office. The suspect and the accused shall not be fined.</p> |
| <p><b>Article 17 – Expedited preservation and partial disclosure of traffic data</b></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 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><b>CPC Article 215</b><br/><i>Regulation is covered by the general powers of police and prosecutor.</i></p> <p><b>§215. Obligation to comply with orders and demands of investigative bodies and Prosecutors' Offices</b></p> <p>(1) The orders and demands issued by investigative bodies and Prosecutors' Offices in the criminal proceedings conducted thereby are binding on everyone and shall be complied with throughout the territory of the Republic of Estonia.</p> <p>(2) An investigative body conducting a criminal proceeding has the right to submit written requests to other investigative bodies for the performance of specific procedural acts and for other assistance. Such requests of investigative bodies shall be complied with immediately.</p> <p>(3) A preliminary investigation judge may impose a fine of up to sixty minimum daily rates on a participant in a proceeding, other persons participating in criminal proceedings or persons not participating in the proceedings who have</p>        |

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|  | <p>failed to perform an obligation provided for in subsection (1) of this section by a court ruling at the request of a Prosecutor’s Office. The suspect and the accused shall not be fined.</p>   |
| <p><b>Article 18 – Production order</b><br/> 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:<br/> 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<br/> 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.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p> <p>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:<br/> a the type of communication service used, the technical provisions taken thereto and the period of service;<br/> 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;<br/> c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.</p> | <p><b>CPC Article 215</b><br/> <i>Regulation is covered by the general powers of police and prosecutor.</i><br/> <b>§ 215. Obligation to comply with orders and demands of investigative bodies and Prosecutors’ Offices</b><br/> (1) The orders and demands issued by investigative bodies and Prosecutors’ Offices in the criminal proceedings conducted thereby are binding on everyone and shall be complied with throughout the territory of the Republic of Estonia.<br/> (2) An investigative body conducting a criminal proceeding has the right to submit written requests to other investigative bodies for the performance of specific procedural acts and for other assistance. Such requests of investigative bodies shall be complied with immediately.<br/> (3) A preliminary investigation judge may impose a fine of up to sixty minimum daily rates on a participant in a proceeding, other persons participating in criminal proceedings or persons not participating in the proceedings who have failed to perform an obligation provided for in subsection (1) of this section by a court ruling at the request of a Prosecutor’s Office. The suspect and the accused shall not be fined.</p> |
| <p><b>Article 19 – Search and seizure of stored computer data</b><br/> 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:<br/> a a computer system or part of it and computer data stored therein; and<br/> b a computer-data storage medium in which computer data may be stored<br/> in its territory.</p>   | <p><b>CPC Articles 91, 126</b><br/> <b>§ 91. Search</b><br/> (1) The objective of a search is to find an object to be confiscated or used as physical evidence, a document, thing or person necessary for the adjudication of a criminal matter, property to be seized for the purposes of compensation for damage caused by a criminal offence or of confiscation, or a body, or to apprehend a fugitive in a building, room, vehicle or enclosed area.</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.

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:

- 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.

4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who 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.

(2) A search shall be conducted on the basis of an order of a Prosecutor's Office or a court ruling. The search of a notary's office or advocate's law office shall be conducted at the request of a Prosecutor's Office and on the basis of an order of a preliminary investigation judge or on the basis of a court ruling.

(3) In cases of urgency, an investigative body may conduct a search on the basis of an order of the investigative body without the permission of a Prosecutor's Office, but in such case the Prosecutor's Office shall be notified of the search within twenty-four hours and the Prosecutor's Office shall decide on the admissibility of the search.

(4) A search warrant shall set out:

- 1) the objective of the search;
- 2) the reasons for the search.

(5) A person may be searched without a search warrant:

- 1) in the event of detention of a suspect or arrest;
- 2) if there is reason to believe that the object to be found is concealed by the person at the place of the search.

(6) If a search is conducted, the search warrant shall be presented for examination to the person whose premises are to be searched or to his or her adult family member, or a representative of the legal person or the state or local government agency whose premises are to be searched, and he or she shall sign the warrant to that effect. In the absence of the appropriate person or representative, the representative of the local government shall be involved.

(7) A notary's office or an advocate's law office shall be searched in the presence of the notary or advocate. If the notary or advocate cannot be present at the search, the search shall be conducted in the presence of the person substituting for the notary or another advocate providing legal services through the same law office, or if this is not possible, any other notary or advocate.

(8) If a search is conducted, the person shall be asked to hand over the object specified in the search warrant or to show where the body is hidden or the fugitive is hiding. If the proposal is not complied with or if there is reason to believe that the person complied with the proposal only partly, a search shall be conducted.

**126. Measures applicable to physical evidence and confiscated property**

(1) Highly perishable physical evidence which cannot be returned to its lawful

possessor shall be granted to a state or local government health care of social welfare institution free of charge, transferred, or destroyed in the course of the criminal proceeding on the basis of an order or ruling of the body conducting the proceedings. The money received from the sale shall be transferred into public revenues.

(2) Property subject to confiscation the lawful possessor of which has not been ascertained may be confiscated in the course of the criminal proceeding at the request of a Prosecutor's Office and on the basis of a court ruling.

(2<sup>1</sup>) The property seized in order to secure confiscation may be transferred with the consent of the owner of the property and at the request of the Prosecutor's Office on the basis of an order of a preliminary investigation judge. Property may be transferred without the consent of the owner if this is necessary for prevention of decrease in the value of the property. The amount received from transfer shall be seized.

(3) An order or ruling of the body conducting a proceeding or a court judgment shall prescribe the following measures applicable to physical evidence:

1) a thing bearing evidentiary traces of criminal offence, a document, or an impression or print made of evidentiary traces of a criminal offence may be stored together with the criminal matter, included in the criminal file or stored in the physical evidence storage facility or any other room in the possession of the body conducting the proceeding or in a forensic institution;

2) other physical evidence the ownership of which has not been contested shall be returned to the owner or lawful possessor thereof;

3) physical evidence of commercial value the owner or lawful possessor of which has not been ascertained shall be transferred into state ownership;

4) things of no value and pirated or counterfeit goods shall be destroyed or, in the cases provided by law, recycled;

5) objects which were used for staging a criminal offence shall be returned to the owners or lawful possessors thereof;

6) property which was obtained by the criminal offence and the return of which is not requested by the lawful possessor shall be transferred into state ownership or transferred in order to cover the costs of the civil action.

(4) If the ownership relations pertaining to physical evidence specified in clause (3) 2) of this section are not apparent, the measures applicable to the physical

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|   | <p>evidence in the pre-trial proceeding shall be decided by a ruling of the preliminary investigation judge at the request of the Prosecutor's Office.</p> <p>(5) Subsections (1)–(3) of this section are applied also with regard to objects confiscated in a criminal proceeding which are not physical evidence.</p> <p>(6) The procedure for the transfer and destruction of confiscated property and physical evidence transferred into state ownership and for the refund of the money received from the transfer to the lawful possessor of the property from the budget shall be established by the Government of the Republic.</p> <p>(7) The procedure for registration, storage, transfer and destruction of physical evidence and seized property and for evaluation, transfer and destruction of highly perishable physical evidence by the bodies conducting the proceedings shall be established by the Government of the Republic.</p> |
| <p><b>Article 20 – Real-time collection of traffic data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p> <ul style="list-style-type: none"> <li>a collect or record through the application of technical means on the territory of that Party, and</li> <li>b compel a service provider, within its existing technical capability: <ul style="list-style-type: none"> <li>i to collect or record through the application of technical means on the territory of that Party; or</li> <li>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.</li> </ul> </li> </ul> <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 traffic data associated with specified communications transmitted 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</p> | <p><b>CPC Article 117</b></p> <p><b>§117. Collection of information concerning messages transmitted through commonly used technical communication channels</b></p> <p>(1) Upon collection of information concerning messages transmitted by the public telecommunications network, information is collected from the operator of the electronic communications network or the provider of the postal or electronic communications service in order to ascertain the fact that a message has been transmitted, the duration and manner of transmission of the message, and the personal data and location of the sender or receiver.</p> <p>(2) Information collected pursuant to the procedure provided for in subsection (1) of this section shall be recorded in the surveillance report.</p>  |

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| <p>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><b>Article 21 – Interception of content data</b></p> <p>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:</p> <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:</p> <p>    i to collect or record through the application of technical means on the territory of that Party, or</p> <p>    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><b>CPC Article 118</b></p> <p><b>§118. Wire tapping or covert observation of information transmitted through technical communication channels or other information</b></p> <p>(1) Information obtained by wire-tapping or covert observation of messages or other information transmitted by the public electronic communications network shall be recorded and entered in the surveillance report.</p> <p>(2) Information recorded upon wire-tapping or covert observation shall be entered in the surveillance report in so far as is necessary for the adjudication of the criminal matter.</p> <p>(3) Information communicated by a person specified in § 72 of this Code which is subject to wire-tapping or covert observation shall not be used as evidence if such information contains facts which have become known to the person in his or her professional activities, unless the person has already given testimony with regard to the same facts or if the facts have been disclosed in any other manner.</p> |
| <p><b>Section 3 – Jurisdiction</b></p>   |  |
| <p><b>Article 22 – Jurisdiction</b></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><b>PC Articles 6 – 9</b></p> <p><b>6. Territorial applicability of penal law</b></p> <p>(1)The penal law of Estonia applies to acts committed within the territory of Estonia.</p> <p>(2)The penal law of Estonia applies to acts committed on board of or against ships or aircraft registered in Estonia, regardless of the location of the ship or aircraft at the time of commission of the offence or the penal law of the country</p>   |

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| <p>c on board an aircraft registered under the laws of that Party; or<br/> 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.<br/> 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>where the offence is committed.</p> <p><b>§ 7. Applicability of penal law by reason of person concerned</b><br/> The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act and if:</p> <ol style="list-style-type: none"> <li>1) the act is committed against a citizen of Estonia or a legal person registered in Estonia;</li> <li>3) the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act, or if the offender is an alien who has been detained in Estonia and is not extradited.</li> </ol> <p>(2) The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and the offender is a member of the Defence Forces performing his or her duties.</p> <p><b>§ 8. Applicability of penal law to acts against internationally protected legal rights</b><br/> Regardless of the law of the place of commission of an act, the penal law of Estonia shall apply to an act committed outside the territory of Estonia if the punishability of the act arises from an international agreement binding on Estonia.</p> <p><b>9. Applicability of penal law to acts against legal rights of Estonia</b><br/> Regardless of the law of the place of commission of an act, the penal law of Estonia applies to acts committed outside the territory of Estonia if according to the penal law of Estonia the act is a criminal offence in the first degree and if such act:</p> <ol style="list-style-type: none"> <li>1) causes damage to the life or health of the population of Estonia;</li> <li>2) interferes with the exercise of state authority or the defence capability of Estonia, or</li> <li>3) causes damage to the environment.</li> </ol> |
| <b>Chapter III – International co-operation</b>   |   |
| <b>Article 24 – Extradition</b>   | <b>CPC Articles 438 – 440</b>   |
| 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.

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.

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 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

## ***Law ratifying the Convention on Cybercrime Article 2***

### **433. General principles**

(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.

(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.

(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.

(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.

### **§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure**

(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.

(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.

(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

### **§ 436. Prohibition on international co-operation in criminal procedure**

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

(1) The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.

**§ 437. Division of expenses relating to international co-operation in criminal procedure**

(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.

(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:

- 1) expenses relating to the involvement of experts in Estonia;
- 2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;
- 3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.

(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.

(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:

- 1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;
- 2) are related to the transfer of a person in custody.

**§ 438. Admissibility of extradition**

Estonia as the requested state is entitled to extradite a person on the basis of a request for extradition if criminal proceedings have been initiated and an arrest warrant has been issued with regard to the person in the requesting state or if the person has been sentenced to imprisonment by a judgment of conviction which has entered into force.

**§ 439. General conditions for extradition of persons to foreign states**

(1) Extradition of a person for the purposes of continuation of the criminal proceedings concerning him or her in a foreign state is permitted if the person is suspected or accused of a criminal offence which is punishable by at least one year of imprisonment according to both the penal law of the requesting state and the Penal Code of Estonia.

(2) Extradition of a person for the purposes of execution of a judgment of conviction made with regard to him or her is permitted under the conditions provided for in subsection (1) of this section if at least four months of the sentence of imprisonment have not yet been served.

(3) If a person whose extradition is requested has committed several criminal offences and extradition is permitted for some of the criminal offences, extradition may be granted also for the other offences which do not meet the requirements specified in subsections (1) and (2) of this section.

**§ 440. Circumstances precluding or restricting extradition of persons to foreign states**

(1) In addition to the cases provided for in § 436 of this Code, extradition of a person to a foreign state is prohibited if:

1) the request for extradition is based on a political offence within the meaning of the provisions of the European Convention on Extradition and the Additional Protocols thereto;

2) the person has been finally convicted or acquitted on the same charges in Estonia;

3) according to the laws of the requesting state or Estonia, the limitation period for the criminal offence has expired or an amnesty precludes application of a punishment.

(2) Extradition of an Estonian citizen is not permitted if the request for

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|  | <p>extradition is based on a military offence within the meaning of the provisions of the European Convention on Extradition and the Additional Protocols thereto.</p> <p>(3) If death penalty may be imposed in a requesting state as punishment for a criminal offence which is the basis for the request for extradition, the person may be extradited only on the condition that the competent authority of the requesting state has assured that death penalty will not be imposed on the person to be extradited or, if death penalty was imposed before the submission of the request for extradition, the penalty will not be carried out.</p> <p>(4) A request for the extradition of a person to a foreign state may be denied if initiation of criminal proceedings on the same charges has been refused with regard to the person or if the proceedings have been terminated.</p> <p><b>Law ratifying the Convention on Cybercrime</b></p> <p><b>Article 2</b></p> <p>In the course of the process of ratification, Estonia declares the following.</p> <p>(1) Pursuant to the Article 24 paragraph 7 point a, in the absence of any extradition treaty Ministry of Justice shall be responsible for submission and reception of the extradition request and for the provisional custody.</p> <p>(2) Pursuant to the Article 27 paragraph 2 subparagraph c, the Republic of Estonia designates the Ministry of Justice as the central authority, which is responsible for sending and replying to requests for mutual assistance, execution of requests and transmission of requests to competent authorities. execution or transmission of the performance authorized by the competent authorities of.</p> <p>(3) Pursuant to the Article 35 paragraph 1, the Republic of Estonia designates Police and Border Guard Board as a point of contact.</p> |
| <p><b>Article 25 – General principles relating to mutual assistance</b></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><b>CPC Articles 433, 435 - 437</b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p>   |

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| <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>(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.</p> <p>(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.</p> <p>(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.</p> <p><b>§435. Judicial authorities competent to engage in international co-operation in criminal procedure</b></p> <p>(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.</p> <p>(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.</p> <p>(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.</p> <p><b>§ 436. Prohibition on international co-operation in criminal procedure</b></p> <p>(1)The Republic of Estonia refuses to engage in international co-operation if:</p> <ol style="list-style-type: none"> <li>1) it may endanger the security, public order or other essential interests of the Republic of Estonia;</li> <li>2) it is in conflict with the general principles of Estonian law;</li> <li>3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may</li> </ol> |
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|   | <p>deteriorate for any of such reasons.</p> <p>(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.</p> <p><b>§ 437. Division of expenses relating to international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.</p> <p>(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:</p> <ol style="list-style-type: none"> <li>1) expenses relating to the involvement of experts in Estonia;</li> <li>2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;</li> <li>3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.</li> </ol> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> |
| <p><b>Article 26 – Spontaneous information</b></p> <p>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.</p> | <p><b>CPC Article 473</b></p> <p><b>§ 473. Spontaneous information</b></p> <p>Within the framework of mutual assistance in criminal procedure, a competent judicial authority may forward to a foreign state information obtained by a procedural act performed without prior request when such information may be the reason for initiating a criminal proceeding in such foreign state or may assist in ascertaining the facts relating to a criminal offence subject to a criminal</p>  |

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| <p>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>proceeding already initiated.</p>   |
| <p><b>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</b></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 where incompatible with the law of the requested Party.</p> <p>4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:</p> <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 it considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> | <p><b><i>If there is no other applicable international treaty, the Convention can be considered as a legal basis. General principles apply.</i></b></p> <p><b><i>CPC Articles 433, 435 – 437</i></b></p> <p><b><i>Law ratifying the Convention on Cybercrime Article 2</i></b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p> <p>(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.</p> <p>(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.</p> <p>(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.</p> <p><b>§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure</b></p> <p>(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.</p> <p>(2) Courts, Prosecutors’ Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard</p> |

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 involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.

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

Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.

(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.

**§ 437. Division of expenses relating to international co-operation in criminal procedure**

(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.

(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:

- 1) expenses relating to the involvement of experts in Estonia;
- 2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;
- 3) other essential or unavoidable expenses incurred by Estonia, to the extent

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| <p>authority.</p>  | <p>agreed upon with the requesting state.</p> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> <p><b>Law ratifying the Convention on Cybercrime</b></p> <p><b>Article 2</b></p> <p>In the course of the process of ratification, Estonia declares the following.</p> <p>(1) Pursuant to the Article 24 paragraph 7 point a, in the absence of any extradition treaty Ministry of Justice shall be responsible for submission and reception of the extradition request and for the provisional custody.</p> <p>(2) Pursuant to the Article 27 paragraph 2 subparagraph c, the Republic of Estonia designates the Ministry of Justice as the central authority, which is responsible for sending and replying to requests for mutual assistance, execution of requests and transmission of requests to competent authorities. execution or transmission of the performance authorized by the competent authorities of.</p> <p>(3) Pursuant to the Article 35 paragraph 1, the Republic of Estonia designates Police and Border Guard Board as a point of contact.</p> |
| <p><b>Article 28 – Confidentiality and limitation on use</b></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><i>If there is no other applicable international treaty, the Convention can be considered as a legal basis. General principles apply.</i></b></p> <p><b><i>CPC Articles 433, 435 – 437</i></b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p> <p>(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international</p>   |

b not used for investigations or proceedings other than those stated in the request.

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.

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.

agreements of the Republic of Estonia or the generally recognised principles of international law.

(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.

(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.

**§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure**

(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.

(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.

(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

1) it may endanger the security, public order or other essential interests of the Republic of Estonia;

2) it is in conflict with the general principles of Estonian law;

3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

(2) If a witness or expert is requested to be summoned to a foreign court, the

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|  | <p>request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.</p> <p><b>§437. Division of expenses relating to international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.</p> <p>(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:</p> <ol style="list-style-type: none"> <li>1) expenses relating to the involvement of experts in Estonia;</li> <li>2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;</li> <li>3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.</li> </ol> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> |
| <p><b>Article 29 – Expedited preservation of stored computer data</b></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> <ol style="list-style-type: none"> <li>a the authority seeking the preservation;</li> </ol> | <p><b>CPC Articles 433, 435 - 437, 460 - 464</b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p> <p>(2) International co-operation in criminal procedure shall be effected pursuant to</p>  |

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.

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 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,

the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.

(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.

(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.

**§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure**

(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.

(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.

(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

1) it may endanger the security, public order or other essential interests of the Republic of Estonia;

2) it is in conflict with the general principles of Estonian law;

3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

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| <p>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.</p>  | <p>(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.</p> <p><b>§437. Division of expenses relating to international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.</p> <p>(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:</p> <ol style="list-style-type: none"> <li>1) expenses relating to the involvement of experts in Estonia;</li> <li>2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;</li> <li>3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.</li> </ol> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> |
| <p><b>Article 30 – Expedited disclosure of preserved traffic data</b></p> <p>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.</p> | <p><b>CPC Articles 433, 435 - 437, 460 – 464, 473</b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p>  |

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| <p>2 Disclosure of traffic data under paragraph 1 may only be withheld if:</p> <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) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.</p> <p>(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.</p> <p>(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.</p> <p><b>§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure</b></p> <p>(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.</p> <p>(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.</p> <p>(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.</p> <p><b>§ 436. Prohibition on international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia refuses to engage in international co-operation if:</p> <ol style="list-style-type: none"> <li>1) it may endanger the security, public order or other essential interests of the Republic of Estonia;</li> <li>2) it is in conflict with the general principles of Estonian law;</li> <li>3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may</li> </ol> |
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|  | <p>deteriorate for any of such reasons.</p> <p>(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.</p> <p><b>§ 437. Division of expenses relating to international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.</p> <p>(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:</p> <ol style="list-style-type: none"> <li>1) expenses relating to the involvement of experts in Estonia;</li> <li>2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;</li> <li>3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.</li> </ol> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> |
| <p><b>Article 31 – Mutual assistance regarding accessing of stored computer data</b></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</p> | <p><b>CPC Articles 433, 435 - 437, 460 - 464</b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal</p>  |

of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.

3 The request shall be responded to on an expedited basis where:

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.

Court and extradition to member states of the European Union.

(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.

(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.

(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.

**§435. Judicial authorities competent to engage in international co-operation in criminal procedure**

(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.

(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.

(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race,

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|   | <p>nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.</p> <p>(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.</p> <p><b>§ 437. Division of expenses relating to international co-operation in criminal procedure</b></p> <p>(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.</p> <p>(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:</p> <ol style="list-style-type: none"> <li>1) expenses relating to the involvement of experts in Estonia;</li> <li>2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;</li> <li>3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.</li> </ol> <p>(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.</p> <p>(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:</p> <ol style="list-style-type: none"> <li>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</li> <li>2) are related to the transfer of a person in custody.</li> </ol> |
| <p><b>Article 32 – Trans-border access to stored computer data with consent or where publicly available</b></p> <p>A Party may, without the authorisation of another Party:</p> <ol style="list-style-type: none"> <li>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</li> <li>b access or receive, through a computer system in its territory, stored</li> </ol> | <p><b>General principles with regard to collection of evidences apply. CPC Articles 64, 65</b></p> <p><b>If the data is publicly available or if the lawful and voluntary consent is present then accessing and collecting the data is permitted.</b></p>   |

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| <p>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>   |   |
| <p><b>Article 33 – Mutual assistance in the real-time collection of traffic data</b></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><b>CPC Articles 433, 435 - 437, 460 - 464</b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p> <p>(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.</p> <p>(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.</p> <p>(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.</p> <p><b>§ 435. Judicial authorities competent to engage in international co-operation in criminal procedure</b></p> <p>(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.</p> <p>(2) Courts, Prosecutors' Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.</p> <p>(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality</p> |

and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.

**§437. Division of expenses relating to international co-operation in criminal procedure**

(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.

(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:

- 1) expenses relating to the involvement of experts in Estonia;
- 2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;
- 3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.

(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.

(4) The Republic of Estonia as the requesting state shall bear all expenses incurred in the requested state if the expenses:

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|  | <p>1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;</p> <p>2) are related to the transfer of a person in custody.</p>   |
| <p><b>Article 34 – Mutual assistance regarding the interception of content data</b></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><b><i>CPC Articles 433, 435 - 437, 460 - 464</i></b></p> <p><b>433. General principles</b></p> <p>(1) International co-operation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the International Criminal Court and extradition to member states of the European Union.</p> <p>(2) International co-operation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.</p> <p>(3) International co-operation in criminal procedure shall be effected pursuant to the provisions of the other chapters of this Code in so far as this is not in conflict with the provisions of this Chapter.</p> <p>(4) If adherence to the requirement of confidentiality is requested in the course of international co-operation in criminal procedure, such requirement shall be complied with to the extent necessary for the purposes of co-operation. If compliance with the confidentiality requirement is refused, the requesting state shall be immediately notified of such refusal.</p> <p><b>§435. Judicial authorities competent to engage in international co-operation in criminal procedure</b></p> <p>(1) The central authority for international co-operation in criminal procedure is the Ministry of Justice.</p> <p>(2) Courts, Prosecutors’ Offices, the Police Board, Security Police Board, Central Criminal Police, police prefectures, the Tax and Customs Board, Border Guard Administration, Competition Board and the Headquarters of the Defence Forces are the judicial authorities competent to engage in international co-operation in criminal procedure to the extent provided by law.</p> <p>(3) If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public</p> |

Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

**§ 436. Prohibition on international co-operation in criminal procedure**

(1) The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

(2) If a witness or expert is requested to be summoned to a foreign court, the request shall not be complied with if the requesting state fails to ensure compliance with the requirement of immunity on the bases provided for in § 465 of this Code.

**§437. Division of expenses relating to international co-operation in criminal procedure**

(1) The Republic of Estonia as the requesting and requested state shall bear all expenses incurred in its territory unless otherwise provided by an international agreement or a decision of the requested state.

(2) The Republic of Estonia as the requested state shall claim the following expenses from the requesting state:

- 1) expenses relating to the involvement of experts in Estonia;
- 2) expenses relating to the organisation of a hearing by telephone or video-conference in Estonia and to the attendance of the persons to be heard and the translators and interpreters unless otherwise agreed upon with the requesting state;
- 3) other essential or unavoidable expenses incurred by Estonia, to the extent agreed upon with the requesting state.

(3) On the basis of the request of a requesting state, the Estonian state may grant an advance to the experts and witnesses involved in international co-operation in criminal procedure.

(4) The Republic of Estonia as the requesting state shall bear all expenses

incurred in the requested state if the expenses:

- 1) have arisen on the bases and pursuant to the procedure provided for in subsection (2) of this section;
- 2) are related to the transfer of a person in custody.

**460. Requirements for requests for assistance**

(1) A request for assistance shall set out:

- 1) the name of the authority making the request;
- 2) the content of the request;
- 3) the name, address and, if possible, other contact details of the person with regard to whom the request is submitted;
- 4) the facts relating to and the legal assessment of the criminal offence concerning which the request is submitted.

(2) The following shall be annexed to a request for assistance:

- 1) extracts from the relevant legal acts;
- 2) a translation of the request and the supporting materials into the language of the requested state.

**§ 461. Prohibition on compliance with request for assistance**

Compliance with a request for assistance is not permitted and shall be refused on the grounds provided for in § 436 of this Code.

**§ 462. Proceedings conducted by Ministry of Justice and Public Prosecutor's Office concerning requests for assistance received from foreign states**

(1) The Ministry of Justice shall verify whether a request for assistance received from a foreign state meets the requirements. A request in compliance with the requirements shall be sent to the Public Prosecutor's Office immediately.

(2) The Public Prosecutor's Office shall verify whether compliance with the request is admissible and possible and forward the request to the competent judicial authority for execution.

(2<sup>1</sup>) In cases of urgency, a request submitted through the International Criminal Police Organisation (Interpol) or a notice in the Schengen Information System may be complied with with the consent of the Public Prosecutor's Office before the request for legal assistance is received by the Ministry of Justice.

(3) The Ministry of Justice shall forward a request for the service of a summons to the court of first instance of the residence or seat of the person for execution.

(4) If a request for assistance is submitted through Eurojust, Eurojust's National Member for Estonia shall verify whether the request for assistance meets the requirements and whether compliance with the request for assistance is admissible and possible and forward the request to the Estonian competent judicial authority for execution.

**§463. Compliance with requests for assistance received from foreign states**

(1) Requests for assistance are complied with pursuant to this Code. At the request of a foreign state, a request may be complied with pursuant to procedural provisions different from the provisions of this Code unless this is contrary to the principles of Estonian law.

(1<sup>1</sup>) If summoning of a person to court is required for compliance with a request for assistance, service of the summons shall be organised by the court.

(2) The materials received as a result of compliance with a request shall be sent to the Ministry of Justice through the Public Prosecutor's Office and the Ministry of Justice shall forward the materials to the requesting state.

(3) The materials received as a result of compliance with a request for assistance from a foreign state submitted through Eurojust shall be sent to the requesting state through Eurojust unless otherwise agreed with Eurojust.

**§ 464. Submission of requests for assistance to foreign states**

(1) Unless otherwise prescribed by an international agreement entered into by the Republic of Estonia, a request for assistance shall be submitted to the Public Prosecutor's Office which shall verify whether the request meets the requirements. The Public Prosecutor's Office shall forward requests in compliance with the requirements to the Ministry of Justice.

(2) The Ministry of Justice shall immediately make a decision on the submission of or refusal to submit a request to a foreign state and notify the judicial authority which submitted the request of such decision. Refusal to submit a request shall be reasoned.

(3) In cases of urgency, a request may be submitted also through the International Criminal Police Organisation (Interpol) and communicated concurrently through the judicial authorities specified in subsection (1) of this section. The central authority responsible for the national section of the Schengen Information System has the right to add a notice in the Schengen

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|  | <p>Information System before preparing a request for legal assistance in order to ensure application of a measure necessary for compliance with the request for legal assistance.</p> <p>(4) If the protection of a witness is requested, the measures of protection shall be agreed upon separately.</p> <p>(5) In cases of urgency, a request for assistance in criminal offences listed in subsection 491 (2) of this Code may be submitted to a Member State of the European Union through Eurojust.</p> <p>(6) In cases of urgency, Eurojust’s National Member for Estonia may prepare a request for assistance in a criminal offence the proceeding of which is to be conducted in Estonia and submit it to a foreign state.</p> <p>(7) The following are competent to submit a request for assistance to foreign states:</p> <ol style="list-style-type: none"> <li>1) in pre-trial proceedings, the prosecutor conducting the proceedings;</li> <li>2) in matters which are subject to court proceedings, the court.</li> </ol> |
| <p><b>Article 35 – 24/7 Network</b></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> <ol style="list-style-type: none"> <li>a the provision of technical advice;</li> <li>b the preservation of data pursuant to Articles 29 and 30;</li> <li>c the collection of evidence, the provision of legal information, and locating of suspects.</li> </ol> <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><b>Law ratifying the Convention on Cybercrime Article 2</b></p> <p><b>Article 2</b></p> <p>In the course of the process of ratification, Estonia declares the following.</p> <p>(1) Pursuant to the Article 24 paragraph 7 point a, in the absence of any extradition treaty Ministry of Justice shall be responsible for submission and reception of the extradition request and for the provisional custody.</p> <p>(2) Pursuant to the Article 27 paragraph 2 subparagraph c, the Republic of Estonia designates the Ministry of Justice as the central authority, which is responsible for sending and replying to requests for mutual assistance, execution of requests and transmission of requests to competent authorities. execution or transmission of the performance authorized by the competent authorities of.</p> <p>(3) Pursuant to the Article 35 paragraph 1, the Republic of Estonia designates Police and Border Guard Board as a point of contact.</p>  |

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| <p>3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.</p>  |   |
| <p><b>Article 42 – Reservations</b><br/> 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>Pursuant to Article 24, paragraph 7, subparagraph a, of the Convention, the Republic of Estonia designates the Ministry of Justice, in the absence of an extradition treaty, as the authority responsible for making or receiving requests for extradition or provisional arrest.</i><br/> <b>Period covered: 1/7/2004 -</b><br/> <i>The preceding statement concerns</i><br/> Article(s) : 24</p> <p><b>Declaration contained in the instrument of ratification deposited on 12 May 2003 - Or. Engl./Est.</b></p> <p><i>Pursuant to Article 27, paragraph 2, subparagraph c, of the Convention, the Republic of Estonia designates the Ministry of Justice as the central authority responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</i><br/> <b>Period covered: 1/7/2004 -</b><br/> <i>The preceding statement concerns</i><br/> Article(s) : 27</p> <p><b>Declaration contained in a letter from the Permanent Representative of Estonia, dated 5 October 2007, registered at the Secretariat General on 8 October 2007 - Or. Engl., up-dated by a communication from Estonia registered at the Secretariat General on 6 July 2010 - Or. Engl.</b></p> <p><i>Estonia designates as point of contact for the network 24/24-7/7:</i><br/> Bureau of Criminal Intelligence<br/> Criminal Police Department<br/> Estonian Police- and Border Guard Board<br/> Republic of Estonia<br/> Email: <a href="mailto:interpol@politsei.ee">interpol@politsei.ee</a></p> |