



Cybercrime legislation – country profile

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

This profile has been prepared within the framework of the EU/COE Joint Project on Regional Cooperation against Cybercrime in South-eastern Europe in view of sharing information on cybercrime legislation and assessing the current state of implementation of the Convention on Cybercrime under national legislation. It does not necessarily reflect official positions of the country covered or of the Council of Europe.

Comments may be sent to:

Economic Crime Division
Directorate General of Human Rights and Legal Affairs
Council of Europe, Strasbourg, France

Tel: +33-3-9021-4506
Fax: +33-3-9021-5650
Email: alexander.seger@coe.int
www.coe.int/cybercrime

Country:	“The Former Yugoslav Republic of Macedonia”
Signature of Convention:	23/11/2001
Ratification/accession:	15/09/2004
Provisions of the Convention	Corresponding provisions/solutions in national legislation <i>(pls quote or summarise briefly; pls attach relevant extracts as an appendix)</i>
Chapter I – Use of terms	
Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:	Art. 122 (amendments to the Criminal Code from 15.01.2008)

<p>For the purposes of this Convention:</p> <p>a "computer system" means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;</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>13. THE MEANING OF THE CONCEPTS IN THIS CODE</p> <p>Article 122</p> <p>(1)Criminal legislature of the Republic of Macedonia means the provisions stipulated in this Criminal Code and the provisions contained in the other laws.</p> <p>(2)The territory of the Republic of Macedonia means the territory on dry land, the water surfaces inside its borders, as well as the airspace above them.</p> <p>(3)The term military person means: military officers and assistant officers, professional soldiers, soldiers serving their military duty, cadets of the Military Academy, persons in charge of training and educating the officers, persons from the reserve composition, while they are called to perform rights and obligations in the field of defense regarding the performance of their military duty, as well as civil persons on duty in the Army of the Republic of Macedonia.</p> <p>(4) An official person, when marked as a perpetrator of a crime, is considered to be:</p> <p>a) The President of the Republic of Macedonia, the appointed Ambassadors and other representatives of the Republic of Macedonia abroad and also appointed persons by the President of the Republic of Macedonia, elected or appointed official in and by the Parliament of the Republic of Macedonia, in the Government of the Republic of Macedonia, in the State administration, courts, the Public Prosecution Office, The Judicial Council of the republic of Macedonia, the Council of Public prosecutors of the Republic of Macedonia, and other bodies and organizations conducting professional, administrative and other activities within the rights and duties of the Republic, in the local self-government units, as well as persons who permanently or temporarily conduct official duty in these bodies and organizations.</p> <p>b) a civil servant performing expert, normative-legal, executive, administrative-supervisory works and administrative works in accordance with the Constitution and the law.</p> <p>c) an authorized person within a legal entity which by law or by some other enacted regulation based on the law is entrusted with performing public authority, when the performed the duty fall within the framework of that authority.</p> <p>d) a person performing certain official duties, based on the authorization given by law or by some other enacted regulations based on the law.</p> <p>e)a military person, when considering crimes in which an official person is pointed out as the perpetrator; and</p>
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f) a representative of a foreign country or an international organization in the Republic of Macedonia.

(5) A foreign official, when indicated as perpetrator of a crime, shall be considered a person who in a foreign country, international organization or public institution, conducts some of the activities or duties specified in items a) to e) from paragraph 4.

(6) A legal entity shall mean: the Republic of Macedonia, units of local self-government, political parties, public enterprises, companies, institutions and other associations, funds, financial organizations, and other organizations specified by law, which are registered as legal entities, and other communities and organizations to which have been recognized as having the property of a legal entity. A foreign legal entity shall mean: a public enterprise, institution, fund, bank, company or any other form of organization in accordance with the laws of a foreign country pertaining to the performance of economic, financial, banking, trade, service or other activities, and which has a headquarters in another country or a branch office in the Republic of Macedonia or has been founded as an international association, fund, bank or institution.

(7) A responsible person within a legal entity shall be considered to be a person within the legal entity, who considering his/her function or based on special authorization in the legal entity, is entrusted with a certain circle of matters which concern the execution of legal regulations, or regulations that are enacted on the basis on a law or a general act of the legal entity, in the management, use and disposition of property, the management of the production or some other economic process, or the supervision over them. An official person is also considered to be a responsible person, when this concerns crimes where a responsible person is found to be perpetrator, and which crimes are not foreseen in the chapter on crimes against official duty, i.e. crimes by an official person foreseen in some other chapter of this Code. When this code specifically stipulates, a responsible person shall also be considered the person who performs a special function or an authorization or is entrusted to independently perform certain operations within the foreign legal entity, as well as the person which is a representative of the foreign legal entity within the Republic of Macedonia.

(8) When an official or responsible person is pointed out as the perpetrator, all the persons listed in paragraphs 4, 5, and 7 8 may be perpetrators of these crimes unless the legal features of the particular crime suggest that the perpetrator can be only one of these persons.

(9) A person performing works of public interests shall be considered to be the person who performs functions, duties or works of public, or general interest, such as: teacher, tutor, physician, social worker, journalist, notary, lawyer, or any other person who performs these works independently or within a legal entity which performs activities of public interest, or general interest, in accordance with the law.

(10) Elections and voting shall mean the elections for representatives of the citizens in the Parliament of the Republic of Macedonia and in the local self-government, for the President of the Republic of Macedonia, and the declaration of the citizens at a referendum.

(11) A document is any object that is suitable or designated to serve as proof of a fact that is of value for the legal relations. A public document is a document issued by a competent authority, organization, or a person performing works of public interest based on a law or another regulation based on the law.

(12) Money is means of payment in cash, in denomination or electronic money, which pursuant to law are circulating in the Republic of Macedonia or in a foreign country. .

(13) Marks of value also means foreign marks of value.

(14) Securities are: shares, bonds or other securities which are transacted on the basis of law of the Republic of Macedonia in the Republic of Macedonia or in a foreign country.

(15) Payment cards shall mean any type of means of payment issued by bank or other financial institutions, which contain electronic data for persons and electronically generated numbers, which enable performance of any type of financial transactions.

(16) Proceeds of crime means any property or benefit obtained directly or indirectly by committing the crime, including proceeds of crime committed abroad, under the condition that at the time when the crime was committed, it was considered a crime under the laws of the country where it was committed and a crime under the laws of the Republic of Macedonia.

(17) A movable object also means any produced or collected energy which provides light, heat or movement, as well as the telephone impulse and other means of transfer of voice, picture or text, over a certain distance or computer services.

(18) A force shall also mean the use of hypnosis and stunning instruments for the purpose of bringing a person, against his/her will into an state of unconsciousness or to incapacitate him/her to offer resistance.

- (19) A social authority shall mean the centres for social work and other agencies that are founded by law to perform a social activity.
- (20) A motor vehicle shall mean any vehicles of transportation with a motor engine, in land, water and air traffic.
- (21) Family violence shall mean abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations.
- (22) A victim of a criminal offence shall imply every person who suffered some kind of damage, including physical or mental injuries, emotional suffering, material loss or other violation or endangerment of the person's fundamental rights and freedoms, as a consequence of the crime committed.
A child victim of a criminal offence shall imply a juvenile, under 18 years of age.
- (23) The term "several persons" shall mean at least three persons or more who associated in order to commit crimes.
- (24) Child pornography shall imply a pornographic material that visually depicts obvious sex activities with under age persons, or obvious sexual activities with a person who looks like a juvenile, or realistic photographs that depict obvious sexual activities with a juvenile.
- (25) The term "family" shall mean the spouse, unmarried partner, children, parents, brothers and sisters, and other relatives with whom the person lives in a family union.
- (26) A computer system shall imply any type of device or a group of interconnected devices, out of which, one or several of them, perform automatic processing of data, according to a certain program.
- (27) Computer data shall imply presentation of facts, information or concepts of a kind that is appropriate for processing through a computer system, including the appropriate program, necessary to activate the computer system.
- (28) A group, gang or other criminal association or an organization shall mean at least three persons which have formed an association for the purpose of committing crimes, including the organizer of the association.
- (29) Court, judge and court procedure shall also mean an international court whose competence is recognized by the Republic of Macedonia, a judge a procedure before that court.
- (30) Drunkenness shall mean a state of alcohol in the blood exceeding 1.5

gram per one thousand (‰).

(31) An explosive or other deadly device shall mean any type of weapon or explosive or flammable device, which can cause death, bodily harm or significant material damage, through physical injury, emitting and spreading harmful chemical materials, biological agents, toxic and similar substances, or radiation of radioactive materials, as well as any weapon or device created for that purpose.

(32) Public place shall mean buildings, parts of buildings, yards, structures where any commercial, cultural, official, educational, recreational and other activity is performed, as well as public roads, open spaces, water surfaces and other places open and accessible to an unlimited number of people.

(33) A smaller material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of the officially announced average one-half monthly salary in the economy of the Republic of Macedonia, at the time when the crime was committed.

(34) A larger material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of five average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(35) A significant material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of 50 average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(36) A property gain, value or damage of a large scale shall mean a gain, value or damage that corresponds to the amount of 250 average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(37) A net daily income shall mean a net compensation in the form of a salary or other compensations in addition to the salary pertaining to the working relation, as well as other net incomes from the performance of activities, effectuation of property and property rights. The net daily income shall be obtained after deducting the taxes or other liabilities specified by law. If the court can not determine the net daily income in this way or if the determination of the net income will cause a significant delay in the procedure, the net daily income shall be calculated on the basis of the daily earnings according to the average salary in the Republic of Macedonia for the last three months before the judgment has been passed.

(38) The term "property" shall mean money or other instruments for payment, securities, deposits, other property of any kind, tangible or non-tangible,

	<p>movable or immovable, other rights to items, claims, as well as public documents and legal documents for ownership and operational assets in written or electronic form, or instruments which prove the right to ownership or interest in such property.</p> <p><i>(39) The term "items" shall mean movable or immovable items which are fully or partially used or should have been used or resulted from committing a crime.</i></p>
<p>Chapter II – Measures to be taken at the national level Section 1 – Substantive criminal law</p>	
<p><i>Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems</i></p>	
<p>Article 2 – Illegal access Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>Article 251 Article 251 - Damage and unauthorized entering in a computer system (1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years. (2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization. (3) The one that will perform the crimes stipulated in the paragraphs 1 and 2 toward a computer system, data or programs that are protected with special measures of protection or are used in the activities of the state authorities, public enterprises or public institutions or in international communications, or as a member of a group that is formed with intention to perform that crimes, shall be sentenced with imprisonment of one to five years. (4) If greater material gain is obtained with the crime stipulated in the paragraphs 1 and 2 or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of six months to five years. (5) If greater material gain is obtained with the crime stipulated in the paragraph 3 or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of one to ten years. (6) The one that, without authorization, produces, purchases, sells, holds or makes available to other, special facilities, equipment, computer programs or</p>

	<p>computer data intended or suitable for performing the crimes stipulated in the paragraphs 1 and 2, shall be sentenced with a fine or imprisonment up to one year.</p> <p>(7) The attempt for the crimes stipulated in the paragraphs 1 and 2 is punishable.</p> <p>(8) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.</p>
<p>Article 3 – Illegal interception</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 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>Amendments to the Criminal Code from 15.01.2008</p> <p>In Article 251, after the paragraph (2) a new paragraph (3) is added which states as follows:</p> <p>“(3) The sentence referred to in paragraph (1) shall be imposed to a person who without authorization intercepts, by using technical means, the transfer of computer data which are not of public nature to, outside and inside in certain computer system, including electro-magnetic emissions from the computer system supporting such computer data.</p>
<p>Article 4 – Data interference</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right.</p> <p>2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p>	<p>Art. 251(1) “a computer data or program” of Macedonian Criminal Code</p> <p>Article 251 - Damage and unauthorized entering in a computer system</p> <p>(1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>Article 251-a Production and spreading of computer viruses</p> <p>(1) The one that will produce or take from another a computer virus with intention to spread it in somebody else's computer or computer network, shall be sentenced with a fine or imprisonment up to one year.</p> <p>(2) The one that will cause damage to somebody else's computer, system, data or program using computer virus, shall be sentenced with imprisonment from six months to three years.</p> <p>(3) If grater damage is caused with the crime stipulated in the paragraph 2 or if the crime is performed by a group formed with intention for performing that crime, the perpetrator shall be sentenced with imprisonment of one to five</p>

	<p>years. (4) The attempt for the crimes stipulated in the paragraph 2 is punishable.</p>
<p>Article 5 – System interference Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data</p>	<p>Art. 251(1) “the use of a computer system” of Macedonian Criminal Code Article 251 - Damage and unauthorized entering in a computer system (1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>Article 251-a Production and spreading of computer viruses (1) The one that will produce or take from another a computer virus with intention to spread it in somebody else's computer or computer network, shall be sentenced with a fine or imprisonment up to one year. (2) The one that will cause damage to somebody else's computer, system, data or program using computer virus, shall be sentenced with imprisonment from six months to three years. (3) If grater damage is caused with the crime stipulated in the paragraph 2 or if the crime is performed by a group formed with intention for performing that crime, the perpetrator shall be sentenced with imprisonment of one to five years. (4) The attempt for the crimes stipulated in the paragraph 2 is punishable.</p>
<p>Article 6 – Misuse of devices 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right: a the production, sale, procurement for use, import, distribution or otherwise making available of: 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; ii a computer password, access code, or similar data by which the whole</p>	<p>Amendments to the Criminal Code from 15.01.2008 Art. 251 of Macedonian Criminal Code Paragraph (6) which becomes paragraph (7) is amended and states as follows: “(6) The person who without authorization produces, procures, sells, possesses or makes available for other persons special devices, means, computer password, access code and similar data which enable access to the whole or part of the computer system, computer programs or computer data meant for or suitable for perpetration of the offences referred to in paragraph (1), (2) and (3),</p>

<p>or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.</p> <p>3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.</p>	
<p><i>Title 2 – Computer-related offences</i></p>	
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<p>Art. 379-a(1) of Macedonian Criminal Code</p> <p>Article 379-a Computer forgery</p> <p>(1) One that unauthorized will produce, input, change, delete or make useless, with an intention to use them as real, computer data or programs which are determined or suitable to serve as evidence of facts with a value for the legal relations or one that will use such data or programs as real, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) If the crime stipulated in paragraph (1) is performed on computer data or programs that are used in the activities of the state authorities, public institutions, enterprises or other legal entities or individuals that perform activities of public interest or in the legal traffic with foreign countries or if significant damage is caused by their use, the stipulator shall be sentenced with imprisonment of one to five years.</p> <p>(3) One that unauthorized produces, purchases, sells, holds or makes available to other special devices, means, computer programs or computer data intended</p>

	<p>for or suitable for performing the crimes stipulated in paragraph 1, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(4) The attempt of the crimes stipulated in the paragraphs 1 and 3 is punishable.</p> <p>(5) The special devices, means, computer programs or data for performing of the crime shall be confiscated.</p>
<p>Article 8 – Computer-related fraud</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"> a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>Article 251-b - Computer fraud</p> <p>(1) The one that, with intention to obtain an illegal material gain, with inputting of untrue data, not inputting true data, forging electronic signature or in other way cause untrue result of the electronic processing and transfer of the data, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) If the perpetrator obtained greater material gain, he/she shall be sentenced with imprisonment of three months to five years.</p> <p>(3) If the perpetrator obtained significant material gain, he/she shall be sentenced with imprisonment of one to ten years.</p> <p>(4) The one that will perform the crime with sole intention to damage somebody else ,shall be sentenced with a fine or imprisonment up to one year.</p> <p>(5) If the crime stipulated in the paragraph 4 caused greater material damage, the perpetrator shall be sentenced with imprisonment from three months to three years.</p> <p>(6) The one that, without authorization, produces, purchases, sells, holds or makes available to other, special facilities, equipment, computer programs or computer data intended or suitable for performing the crimes stipulated in the paragraph 1, shall be sentenced with a fine or imprisonment up to one year.</p> <p>(7) The attempt for the crimes stipulated in the paragraphs 1 and 4 is punishable.</p> <p>(8) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.</p> <p>(9) For the crime stipulated in the paragraph 4, the procedure is performed upon private lawsuit.</p>
<p><i>Title 3 – Content-related offences</i></p>	
<p>Article 9 – Offences related to child pornography</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, the following conduct:</p>	<p>Article 193-a (“Production and distribution of child pornography)</p> <p>(1) The person who produces child pornography with a purpose to distribute it, emit or offer, or otherwise make the child pornography available;</p> <p>(2) The person who procures child pornography for himself/herself or for other</p>

<p>a producing child pornography for the purpose of its distribution through a computer system;</p> <p>b offering or making available child pornography through a computer system;</p> <p>c distributing or transmitting child pornography through a computer system;</p> <p>d procuring child pornography through a computer system for oneself or for another person;</p> <p>e possessing child pornography in a computer system or on a computer-data storage medium.</p> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <p>a a minor engaged in sexually explicit conduct;</p> <p>b a person appearing to be a minor engaged in sexually explicit conduct;</p> <p>c realistic images representing a minor engaged in sexually explicit conduct</p> <p>3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	<p>persons or the person who possesses child pornography;</p> <p>(3) If the offence referred to in paragraph (1) and (2) is perpetrated through a computer system or other means for mass communication, the perpetrator shall be punished with a prison sentence from three to five years.</p> <p>(5) If the offence is perpetrated by a legal person, it shall be punished with a fine."</p> <p>Article 193-b</p> <p><i>(1) The person, who, through the information-communication means, organizes a meeting or otherwise lures a minor under the age of 14 to a statutory rape or other sexual intercourse or to child pornography production, and if the direct meeting was organized out of these purposes with the minor;</i></p>
<p><i>Title 4 – Offences related to infringements of copyright and related rights</i></p>	
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 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>Art. 286(1 "...or protected invention") of Macedonian Criminal Code can be used. Art. 1, 3, 9, 13, 14, 18, 19, 156, 159, 168 of Law on Copyrights and Related rights of the Republic of Macedonia are to be consulted.</p> <p>Article 286 - Unauthorized use of another's invention or software</p> <p>(1) A person who without authorization uses, publishes, cedes or transfers another's registered or protected invention, shall be punished with a fine, or with imprisonment of up to three years.</p> <p>(2) The sentence stipulated in the paragraph (1) shall be imposed on the person</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.

that will another person's software.

(3) If the crime stipulated in the paragraph (1) is performed by a legal entity, it shall be sentenced with a fine.

(4) The objects shall be confiscated.

(5) Prosecution is undertaken upon proposal.

LAW ON COPYRIGHTS AND RELATED RIGHTS ("Official Gazette of the Republic of Macedonia" No. 47/96; 3/98)

CHAPTER ONE

GENERAL PROVISIONS

Article 1 - This Law determines the authors' copyrights on their literary, scientific and artistic works (hereafter: copyrights) and the rights of performers, phonogram, film and scenic producers, broadcasting organizations and publishers (hereafter: related rights) on their performances and objects of their rights, as well as realization and protection of copyrights and related rights.

Section 1

Author's work

Article 3

A copyright work, in the sense of this Law shall be an individual and intellectual work from the field of literature, science, art and others, regardless of the type, concept and form of expression, unless otherwise prescribed by this Law.

The following shall be considered as a work of authorship:

- written work such as literary work, essay, article, manual, brochure, scientific work, debate and the like;
- computer program such as literary work;
- spoken work such as addresses, sermons, lectures and the like;
- musical work including any accompanying words;
- drama work, musical and marionette plays;
- choreographic and pantomime work fixed on a tangible medium;
- photographs or any other works produces in a procedure similar to photography;
- cinematographic and other audiovisual works;
- work of fine art, such as paintings, graphics, sculptures and the like;
- work of architecture;
- work of applied art and design; and

- work of cartography, plan, scheme, graphic, technical drawing, project, table, plastic work and other similar works from the field of geography, topography, architecture or other scientific, educational, technical and artistic nature

Article 9

An author, according to this Law, shall be a natural person who has created a copyright work.

Section 3

Contents of Copyrights

Subsection 1

General Provisions

Article 13 - Copyrights belong to the author on the basis of his/her creation of the copyright work, regardless of the fact whether it has been disclosed or not.

Article 14 - The copyrights are unique and inseparable from the copyright work that comprises exclusive personal and legal authorizations (hereafter: moral rights), property authorizations (hereafter: substantive rights) and other authorizations of the author (hereafter: other rights).

Subsection 3 - Substantive Rights

Article 18

Substantive rights shall protect the property interests of the author.

The use of the copyright work shall be permitted if the author has assigned the substantive right in compliance with this Law and the conditions determined by the author, unless otherwise provided by this Law.

Article 19 - The author shall have an exclusive substantive right to use his/her work and to approve or forbid the use of the copyright work by other parties in particular for: reproduction, distribution, rent, public performance, public transmission, public presentation, public exhibition, broadcasting, rebroadcasting and modification.

The author of the original work shall have an exclusive right to use his/her work in a modified form, unless otherwise provided by this law or a contract.

**CHAPTER VII
PROTECTION OF RIGHTS**

Section 1

General Provisions

Article 156

A person, whose rights under this Law have been infringed, may demand protection of his/her rights and claim compensation, unless otherwise determined by this Law.

The right holder may also demand protection from paragraph 1 of this Article, when there is a serious threat of infringement of the rights according to this Law.

Section 2 Judicial Protection

Article 159

If the rights from this Law have been infringed, the right holder may demand:

- to have the infringer prohibited in preparations for the infringement, the infringement itself and future infringements;
- to have the infringer eliminate the situation caused by the infringement;
- to have unlawful copies and their packaging or the performance and other objects of protection according to this Law, destroyed or altered;
- to have the master copies, negatives, plates, molds or other devices that have been instrumental in the infringement destroyed or altered
- to have the equipment whose sole or main purpose has been the infringement of rights according to this Law, which is owned by the infringer, destroyed or altered; and
- to have the judgement published in the public media at the expense of the infringer, to such an extent and in such a manner as determined by the court.

The provisions from paragraph 1, items 1 and 2 from this Article shall not apply to architectural structures, if the destruction or alteration of the structure is justified by the circumstances of the case.

Instead of demands, the right holder may demand that the infringer or owner convey to him/her copies or the devices pursuant to paragraph 1, item 3 and 4 from this Article.

Article 168 Section 4 - Penalty Provisions

A fine in the amount between 34.000,000 and 300.000,000 denars for

misdemeanor shall be imposed on any legal entity which:

- without assignment of an appropriate substantive right by the author, in cases when such assignment is required by the author, in cases when such assignment is required according to this Law, reproduces, distributes, publishes, rents, publicly performs, transmits to the public, presents to the public, publicly exhibits, broadcasts, rebroadcast, modify or audiovisually adopts a work or copies of a work or in another way without authorization uses a copyright work (Article 19);
- without mentioning the source and origin, by distortion or in any other way, indecently uses a work of folk literature and folk art (paragraph 2 Article 42);
- without mentioning the name, pseudonym or other designation of the author, or by disturbing the integrity of the work or distorting it or by another use of the work in a way that may damage the personality, honor and reputation of the author, uses a work, the protection of which copyright has expired (Article 52 regarding Article 16, items 4 and 5);
- does not keep appropriate accounts or other documentation of the profit gained in case where the remuneration has been agreed or determined depending on the profit gained, or does not submit reports of the profits gained to the holder of copyright (Article 70);
- distributes a copy of a computer program or possesses for commercial purposes, a copy of a computer program which is or can be presumed to be an unauthorized copy (Article 102);
- without assignment of an appropriate exclusive right from the holder of a related right (performer or producer), where such assignment is required by this Law, publicly performs, reproduces, distributed or rents recordings of a performance, stage work, phonograms, videograms or editions (Articles 108, 111, 118, 122, 125, 131, 132 and 133);
- without assignment of an appropriate exclusive rights by a broadcasting organization, where such assignment is required by this Law, records, reproduces, distributes recordings of a program or in another way uses recordings (Article 129);
- refuses collective administration of the copyrights and related rights where this is requested by the holder of copyrights or related rights (Article 150);
- fails to give information on the collective administration of copyrights and related rights when such information is requested by the holders of rights or fails to conclude a contract for the assignment of non-exclusive rights (paragraphs 1 and 2 Article 151);

	<p>- manufactures, imports, possesses for commercial purposes, distributes, rents or in another way uses any kind of means that enable or facilitate the public to receipt encoded radio or television program-carrying signals without authorization (Article 158, item2).</p> <p>A fine to the amount between 1.700,00 and 50.000,00 denars shall be imposed in the institutional legal representative of a legal entity and self-employed individual for a misdemeanor from paragraph 1 of this Article.</p> <p>A fine to the amount between 1.000,00 and 50.000,00 denars shall be imposed on a natural person for a misdemeanor from paragraph 1 of this Article.</p> <p>For the misdemeanor from paragraph 1 of this Article, a legal entity or a self-employed individual shall be pronounced a provisional measure - prohibition on conducting his/her activities within a time period of three months to one year, and the appropriate association shall be revoked of its license for collective administration of the copyrights and related rights and a provisional measure - seizure of the copies of a copyright work from item 1, the copies of a computer program from item 5, the performance or stage work recordings, as well as the phonograms and videograms from item 6, the program recordings from item 7, as well as the means from items 10 and 11 of this Article.</p> <p>For the misdemeanor from paragraph 1 of this Article a provisional measure - seizure of objects from paragraph 4 of this Article shall be imposed on a natural person who commits a misdemeanor from paragraph 1 of this Article.</p>
<i>Title 5 – Ancillary liability and sanctions</i>	
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.</p> <p>3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.</p>	<p>For Art. 11(1)- Art. 24(1) of Macedonian Criminal Code.</p> <p>For Art. 11(2)- Art. 19 and Art. 251(7) of Macedonian Criminal Code.</p> <p>Article 19 Attempt</p> <p>(1) A person that intentionally starts the perpetration of a crime, but who does not complete it, shall be punished for an attempted crime for which according to the law a sentence could be pronounced of five years of imprisonment or a more severe punishment, and for the attempt of some other crime only when the law explicitly prescribes the punishment of an attempt.</p> <p>(2) The offender shall be punished for an attempt within the limits of the punishment prescribed for the crime, and he may be punished more leniently.</p> <p>Art. 251(7)</p>

	<p>(7) The attempt for the crimes stipulated in the paragraphs 1 and 2 is punishable. [Article 251-(1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>Article 251-(2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization.]</p> <p>Article 23 - Instigation</p> <p>(1) A person that instigates, with intent, another to committing a crime, shall be punished as if he had perpetrated the crime himself.</p> <p>(2) A person that instigates, with intent, another to commit a crime, for which a sentence of five years of imprisonment or a more severe sentence could be pronounced, and there is not even an attempt of this crime, shall be punished as for an attempted crime.</p> <p>Article 24 - Accessory</p> <p>(1) A person who with intent assists in the perpetration of a crime, shall be punished as if he had committed the crime himself, and he may be punished more leniently.</p> <p>(2) As accessory to perpetrating a crime shall be considered especially: giving advice or instructions how to commit the crime; making available to the offender means for committing the crime; removal of hindrances for perpetrating the crime; as well as giving promise in advance for covering up the crime, the offender, the means with which the crime was perpetrated, the traces of the crimes or the objects obtained through the crime.</p>
<p>Article 12 – Corporate liability 1 Each Party shall adopt such legislative and other measures as may be</p>	<p>Article 96-a Macedonian Criminal Code</p>

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:

- a a power of representation of the legal person;
- b an authority to take decisions on behalf of the legal person;
- c an authority to exercise control within the legal person.

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.

3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

SANCTIONING A LEGAL ENTITY

Types of sanctions

Article 96-a

(1) For crimes committed by legal entities, the following sanctions may be applied:

- 1) monetary fine;
- 2) temporary ban to perform a specific activity;
- 3) permanent ban to perform a specific activity; and
- 4) termination of the legal entity.

(2) The monetary fine shall be applied in an amount which may not be less than 100.000 or more than 30 million denars. For crimes committed for the purposes of gaining profit or for crimes which cause a more substantial material damage, one may prescribe a fine for twice the maximum amount for this sanction or proportional to the degree of the caused damage or the gained profits, but not more than 20 times the amount

(3) The temporary ban to perform a specific activity in for a time period of one to three years shall be applied in addition to the monetary fine, if during the performance of the activity of the legal entity, a crime has been committed for which crime a physical person would be sentenced with a fine or imprisonment of up to three years, and the manner in which the crime was committed suggests a threat of a repetition of the same crime or commitment of a similar crime.

(4) The permanent ban to perform a specific activity, out of all the activities performed by the legal entity shall be applied in addition to the monetary fine, if a crime has been committed for which crime a physical person would be sentenced with at least three years of imprisonment, and the manner in which the crime was committed suggests a threat of a repetition of the same crime or commitment of a similar crime. The court shall also apply this sanction when a crime has been committed after a previous judgment whereby the legal entity has been temporarily banned from performing a specific activity.

(5) The termination of the legal entity sanction shall be applied in addition to the monetary fine, if a crime has been committed for which crime a physical person would be sentenced with at least five years of imprisonment, and the manner in which the crime was committed suggests a threat of a repetition of the same crime or commitment of a similar crime. The court shall also apply this sanction when a crime has been committed after a previous judgment

	<p>whereby the legal entity has been permanently banned from performing a specific activity.</p> <p>(6) The sanction temporary or permanent ban to perform a specific activity and termination of a legal entity, may not be applied to a legal entity established by law, or a political party. Based on a legally effective judgment whereby the legal entity has been sentenced for termination, the competent court shall initiate a procedure, specified by law, for liquidation of the legal entity within 30 days from the day of legal effectiveness of the judgment.</p> <p>(7) The legal entity for which a bankruptcy procedure has been opened, shall be sanctioned for the crimes committed before the opening of the bankruptcy procedure.</p>
<p>Article 13 – Sanctions and measures</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.</p>	<p>PUNISHMENTS</p> <p>The aim of punishment, the types of punishments and conditions for pronouncing them</p> <p>The aim of punishment</p> <p>Article 32</p> <p>Besides the realization of justice, the aim of punishment is:</p> <p>(1) to prevent the offender from committing crimes and his correction;</p> <p>(2) educational influence upon others, as not to perform crimes.</p> <p>Types of punishments</p> <p>Article 33</p> <p>(1) The criminally accountable persons can be sentenced as follows for the crimes they have committed:</p> <ol style="list-style-type: none"> 1) imprisonment 2) fine 3) a ban from performing their profession, activity or duty; 4) eviction of a foreigner from the country <p>(2) The sentence of imprisonment may be applied only as the main sentence.</p> <p>(3) The fine may be applied as a main sentence or as a secondary sentence together with the imprisonment sentence or with the probation sentence with a predetermined imprisonment sentence.</p> <p>(4) If for a crime the law prescribes an imprisonment sentence or a fine, only of them may be applied as the main sentence, unless the law stipulates that both sentences may be applied.</p> <p>(5) In addition to the main sentence, one or more secondary sentences may be</p>

	<p>applied, in compliance with the conditions of applying sentences, stipulated in the law. The law may stipulate that it is obligatory to apply a secondary sentence</p> <p>(6) The sentence involving a ban for performing the profession, activity or duty, may be applied only as a secondary sentence in addition to the imprisonment sentence or a probation sentence with a predetermined imprisonment sentence.</p> <p>(7) The sentences related to bans from driving a motor vehicle and eviction of foreign persons from the country, may be applied if the perpetrator is sentenced with imprisonment or a fine, probation or a court reprimand.</p> <p>(8) The sentence whereby the perpetrator is banned from driving a motor vehicle, may be applied as the only sentence to the perpetrator of a negligence for which a fine or an imprisonment sentence of up to one year has been prescribed, if the perpetrator has committed the crime under particularly extenuating circumstances.</p> <p>Article 34 -Legality in the pronouncing of a punishment</p> <p>(1) The offender is sentenced to the punishment prescribed for the perpetrated crime, and a more lenient punishment may only be pronounced under the conditions foreseen by this Code.</p> <p>(2) For crimes perpetrated from self-interest, a fine may be pronounced as secondary punishment even if it is not prescribed by law, or when it is prescribed by law that the offender shall be sentenced with imprisonment or with a fine, and the court pronounces a punishment of imprisonment as the main punishment.</p>
<p>Section 2 – Procedural law</p>	
<p>Article 14 – Scope of procedural provisions</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.</p> <p>2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:</p> <ul style="list-style-type: none"> 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 	

<p>system; and</p> <p>c the collection of evidence in electronic form of a criminal offence.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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, <p>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.</p>	
<p>Article 15 – Conditions and safeguards</p> <p>1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.</p> <p>2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, <i>inter alia</i>, include judicial or other</p>	

<p>independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.</p> <p>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.</p>	
<p>Article 16 – Expedited preservation of stored computer data</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, 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>Article 17 – Expedited preservation and partial disclosure of traffic data</p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary</p>	

<p>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>Article 18 – Production order</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:</p> <p>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</p> <p>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:</p> <p>a the type of communication service used, the technical provisions taken thereto and the period of service;</p> <p>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;</p> <p>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>Article 19 – Search and seizure of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be</p>	<p>For Art. 19(1)- Art. 251(8) of Macedonian Criminal Code</p>

<p>necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> a a computer system or part of it and computer data stored therein; and b a computer-data storage medium in which computer data may be stored <p>in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; d render inaccessible or remove those computer data in the accessed computer system. <p>4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who 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.</p> <p>5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Article 251 - Damage and unauthorized entering in a computer system</p> <p>(8) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.</p>
<p>Article 20 – Real-time collection of traffic data</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"> a collect or record through the application of technical means on 	

<p>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, traffic data, in real-time, associated with 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 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 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>Article 21 – Interception of content data</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</p>	

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.

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

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

Section 3 – Jurisdiction

Article 22 – Jurisdiction

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:

- a in its territory; or
- b on board a ship flying the flag of that Party; or
- c on board an aircraft registered under the laws of that Party; or
- d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.

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.

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.

4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate

jurisdiction for prosecution.	
Chapter III – International co-operation	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>For Art. 23 of Convention- Art.502 of Macedonian Criminal Code For Art. 24(1/a)- Art. 510(3) of Macedonian Criminal Code For Art. 24(5)- Art. 510, especially Art. 510(5-7), see also Art. 511-521 and Art. 523-524 of Macedonian Criminal Code, for Art. 24(6)- Art. 510(1) of Macedonian Criminal Code to be consulted Chapter XXXI PROCEDURE FOR EXTRADITION OF ACCUSED AND CONVICTED PERSONS, AND PROCEDURE FOR TRANSFER OF CONVICTED PERSON</p> <p>The procedure for extradition of the accused and convicted persons.</p> <p>Article 509 The extradition of the accused or of the convicted persons will be requested or will be performed in accordance with the provisions of this law, whether with the European Convention of Extradition with the Protocols and with the other international treaties ratified according to the Constitution of the Republic of Macedonia it is not differently regulated</p> <p>Article 510 (1) Presumptions for extradition are: 1) the person whose extradition is requested not to be a citizen of the Republic of Macedonia; 2) the crime for which there is a request for extradition not to be committed on the territory of the Republic of Macedonia, against it or against its citizen; 3) the crime for which there is a request for extradition to be a crime both according to the domestic law and the law of the country in which it has been committed; 4) according to the domestic law the criminal prosecution not to be obsolete or the execution of the punishment not to be obsolete before the foreigner is detained or examined as an accused; 5) the foreigner whose extradition is requested not to be convicted before by the domestic court for the same crime, or for the same crime by the domestic court not to be released with a legally valid decision, or against him the criminal</p>

report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

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

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

procedure not to be interrupted or the prosecution not to be rejected with a legally valid decision, or for the same crime procedure not to be initiated in the Republic of Macedonia or against it or against a citizen of the Republic of Macedonia, unless a guarantee is not issued for realisation of the lawful property request of the damaged;

6) the identity of the person, whose extradition is requested to be determined, and

7) there to be sufficient evidence for a grounded suspicion that the foreigner, whose extradition is requested, committed certain crime or that there is a legally valid verdict.

Article 511

(1) Procedure for extradition of accused or convicted foreigners is initiated on the application of the foreign country.

(2) The application for extradition is submitted in a diplomatic course.

(3) To the application for extradition must be enclosed:

1) means for determination of the identity of the accused i.e. the convicted person (exact description, photographs, fingerprints and similar);

2) certificate or other data for the citizenship of the foreigner;

3) the prosecution act or the verdict or the decision for detention or another act which is equivalent to this decision, in original or in a certified copy in which has to be noted the name of the person whose extradition is requested and other necessary data for determination of his identity, description of the crime, lawful title of the crime and evidence for the grounded suspicion, and

4) an extract from the text of the Criminal Code of the foreign country which is to be applied or has been applied against the accused for the crime for which there is a request for extradition, and if the crime has been committed on the territory of a third country, also an extract from the text of the Criminal Code of that country.

(4) If the application and the enclosed documents are in a foreign language, it also has to be enclosed a certified translation in Macedonian language.

Article 512

(1) The Ministry of External Affairs delivers the application for extradition of a foreigner by the Ministry of Justice to the investigating judge of the court on whose region the foreigner has resided or on whose region he will be caught.

(2) If the permanent or temporary residence of the foreigner whose extradition

is requested is not known, it will be previously determined by the assistance of the police.

(3) If the application is appropriate to the conditions in Article 511 of this Code, the investigating judge will issue an order the foreigner to be detained if there are reasons under Article 184 of this Code, i.e. will undertake other security measures his presence to be secured, unless from the application itself it is obvious that there is no question for extradition.

(4) After he has determined the identity of the foreigner, without any delay the investigating judge will inform the foreigner why and on the basis of which evidence his extradition is requested and he will call him to make a statement at his defence.

(5) For the examination and the defence will be constructed a minutes. The investigating judge will instruct the foreigner that he may choose a counsel or he will assign him a counsel ex officio, if it is a crime for which defence is compulsory according to this Code.

Article 513

(1) In emergencies, when there is a danger that the foreigner might abscond or hide, the Ministry of Internal Affairs may arrest the foreigner to be delivered to the investigating judge of the competent court on the basis of the application of the competent foreign agency, without reference how it is directed. In the application have to be included the data for the certification of the identity of the foreigner, the nature and the title of the crime, the number of the decision, the date, place and title of the foreign agency which has determined the detention and a statement that the extradition will be requested regularly.

(2) When detention is determined in reference of paragraph 1 of this Article, after the examination, the investigating judge will inform of the detention the Ministry of External Affairs by the Ministry of Justice.

(3) The investigating judge will release the foreigner when the reasons for detention cease to exist, or if the application for extradition is not submitted within the period which he has determined, taking into consideration the distance of the country which requests for extradition, and which deadline for delivery of the motion and writs for extradition can not be longer then 40 days from the day when the alien was detained, and the time limit for transferring can not be longer then 180 days from day when he was detained.

(4) When the proscribed application is submitted within the determined period, the investigating judge will proceed according to Article 512, paragraphs 3 and 4

of this Code.

Article 514

(1) After the hearing of the public prosecutor and the counsel, if necessary the investigating judge will conduct other inspections in order to be certified whether there are conditions for the extradition of the foreigner i.e. for delivery of the objects on which or with which assistance the crime has been committed if the objects have been confiscated from the foreigner.

(2) After the conducted inspections, the investigating judge will submit to the Chamber the inspection records and his opinion.

(3) If against the foreigner whose extradition is requested there is a criminal procedure at the domestic court due to the same or another crime, the investigating judge will notify that in the records.

Article 515

(1) If the Chamber of the competent court finds that the lawful presumptions for extradition are not fulfilled, it will bring a decision that the application for extradition is denied. The decision will be directed ex officio by that court to the Supreme Court of the Republic of Macedonia, which after the hearing of the public prosecutor will either confirm, cancel or alter the decision.

(2) If the foreigner is detained, the Chamber may decide the foreigner to remain in detention until the legally valid decision is reached for the rejection of the extradition.

(3) The legally valid decision with which the extradition is rejected will be directed by the Ministry of Justice to the Ministry of External Affairs, which will inform the foreign country of that.

Article 516

If the Chamber of the competent court finds that the lawful presumptions for extradition of the foreigner are fulfilled (Article 510), it will certify it with a decision. Against the decision the foreigner has a right to an appeal to the competent court.

Article 517

If the court on the appeal finds that the lawful conditions for extradition of the foreigner are fulfilled, i.e. if against that decision of the first degree court an appeal is not submitted, the case is directed to the Ministry of Justice, which will

decide on the extradition.

Article 518

(1) The Minister of Justice reaches a decision with which he allows or does not allow the extradition. The Minister of Justice may bring a decision the extradition to be postponed because of the fact that for another crime at the domestic court there is a criminal procedure against the foreigner whose extradition is requested or because the foreigner is serving a sentence in the Republic of Macedonia.

(2) The Minister of Justice will not allow extradition of a foreigner if he has a right of asylum in the Republic of Macedonia or if it is in question a political or military crime. He may reject the extradition if they are in question crimes for which according to the domestic law is proscribed a sentence to three years or if the foreign court has pronounced a sentence of imprisonment to one year.

(1) The Minister of the Justice will not allow the extradition of a foreigner if there are serious reasons of suspicion that he will be subjected of severe torture and other kind of severe, inhuman or humiliating behaviour or pronouncement of death sentence.

(2) Upon the proposition of the Minister of Justice the Government can decide not to permit the extradition where for this there are special justified state interests.

Article 519

(1) In the decision with which it is allowed extradition of a foreigner, the Minister of Justice will note:

1) that the foreigner cannot be prosecuted for another crime committed before the extradition;

2) that against him cannot be executed a sentence for another crime committed before the extradition;

3) that against him cannot be applied a more severe punishment than the one he is convicted of, and

4) that he cannot be extradited to a third country due to prosecution for a crime committed before the allowed extradition.

(2) Apart from the noted conditions, the Minister of Justice may set other conditions for extradition.

Article 520

(1) Of the decision with which it is decided on the extradition will be informed the foreign country in a diplomatic course.

(2) The decision with which the extradition is allowed will be directed to the Ministry of Internal Affairs which orders the foreigner to be apprehended to the border where on the agreed place he will be extradited to the agencies of the foreign country which has requested the extradition.

Article 521

(1) If extradition of the same person is requested by several foreign countries for the same crime, the primacy will be given to the application of the country whose citizen the person is, and if that country does not request the extradition- to the application of the country on which territory the crime has been committed, and if the crime has been committed on the territory of several countries or if it is not known where it is committed- to the application of the country which has first requested for extradition.

(2) If extradition of the same person is requested by several countries for different crimes, the primacy will be given to the application of that country whose citizen the person is, and if that country does not request extradition- to the application of the country on whose region is committed the most severe crime, and if the crimes are equally severe- to the application of the country which has first requested for extradition.

Article 522

(1) If against the person who is in a foreign country, there is a criminal procedure in the Republic of Macedonia or if the person who is in a foreign country is convicted by the domestic court, the Minister of Justice submits an application for extradition.

(2) The application is submitted to the foreign country in a diplomatic course and with it are enclosed the documents and data under Article 511 of this Code.

Article 523

(1) When there is a danger that the person whose extradition is requested might either abscond or hide, before it is proceeded according to Article 522 of this Code, the Minister of Justice may request against that person to be undertaken necessary measures for his detention.

(2) In the application for temporary detention will be particularly noted the data

on the identity of the requested person, the nature and title of the crime, the number of the decision, the date, place and title of the body which has determined the detention, i.e. data on the verdict which is legally valid as well as the statement that the extradition will be requested regularly.

(3) The time spent in detention which is determined by the foreign court, is not calculated in the period determined under Article 189, paragraph 1 of this Code.

Article 524

(1) If the requested person is extradited, he may be criminally prosecuted, i.e. against him a sentence executed only for the crime for which the extradition has been allowed.

(2) If that person has also been convicted with a legally valid verdict by the domestic court for other crimes committed before the extradition for which the extradition is not allowed, the provisions of Article 330 of this Code will be accordingly applied.

(3) If extradition is allowed under particular conditions in view of the type or severity of the sentence which may be pronounced i.e. be executed and under these conditions is accepted, during the pronouncement of the sentence, the court is bound to those conditions, and if it is in question an execution of an already pronounced sentence, the court which has proceeded in last degree will alter the verdict and will accord the pronounced sentence to the conditions for extradition.

(4) If the extradited person was detained in a foreign country for a crime for which he is extradited, the time which he spent in detention will be calculated in the sentence.

Article 525

(1) If extradition is requested by a foreign country from another foreign country and the requested person has to be extradited through the territory of the Republic of Macedonia, the extradition on the application of the interested country may be allowed by the Minister of Justice under condition that he is not a citizen of the Republic of Macedonia and the extradition not to be performed for a political or military crime.

(2) The application for extradition of the person through the territory of the Republic of Macedonia has to contain all data under Article 511 of this Code.

Article 25 – General principles relating to mutual assistance

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.

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.

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.

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.

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.

For Art. 25(3)- Art. 503(2) and Art. 504(2) of Macedonian Criminal Code to be consulted, for Art. 25(4)- Art. 504(3) "decides the court according to the domestic regulations" of Macedonian Criminal Code

Macedonian Code of Criminal Procedure

Chapter XXX

PROCEDURE FOR APPROVAL OF INTERNATIONAL JUDICIAL ASSISTANCE AND EXECUTION OF INTERNATIONAL TREATIES IN JUDICIAL CRIMINAL CASES

Article 502

The international judicial criminal assistance will be performed according to the provisions of this law in line with the provisions of the European Convention for the international judicial assistance in the criminal matter with the Protocols, European Convention of United Nations for trans national organize crime and with other international treaties ratified in accordance with the Constitution of Republic of Macedonia

Article 503

(1) The applications of the domestic courts for judicial assistance in the criminal cases are delivered to the foreign agencies in a diplomatic course. In the same manner to the domestic courts are delivered the applications of the foreign agencies for judicial assistance, through the Ministry of Justice or directly from the competent court".(2) In emergencies, if there is mutuality, the applications for judicial assistance may be delivered by the Ministry of internal affairs.

(2) By law it will be determined which courts will be competent for giving international judicial criminal assistance and one court may be assigned to perform the work for all the courts on a certain region.

Article 504

(1) The Ministry of External Affairs will direct the application of the foreign agency for judicial assistance to the Ministry of Justice which will direct it for a procedure to the court on which region the person resides, who has to be handed a writ or who has to be examined or confronted or on which region another investigating act has to be conducted.

(2) In cases under Article 503, paragraph 2 of this Code, the Ministry of Internal Affairs directs the application to the court by the Ministry of Justice.

(3) On the permission and manner of the conducting of the act, which is the case in the application of the foreign agency, decides the court according to the

domestic regulations.

(4) When the application refers to a crime for which according to the domestic regulations extradition is not allowed, the court will request an instruction from the Ministry of Justice.

Article 505

(1) The domestic courts may accept the application of the foreign agency with which it is requested execution of the criminal sentence by the foreign court or on the international court" if it is determined with an international treaty, or if there is reciprocity or if the sanction is also pronounced by the domestic court according to the Criminal Code.

(2) The competent court reaches the verdict at the Chamber under Article 22, paragraph 6 of this Code. The public prosecutor and the counsel will be informed of the session of the Chamber.

(3) The local competence of the court is determined according to the last residence of the convicted person in the Republic of Macedonia- according to his place of birth. If the convicted person has not a residence nor was born in the Republic of Macedonia, the Supreme Court of the Republic of Macedonia will determine one of the courts to be competent before which the procedure will be conducted.

(4) The competent court is the court which is determined by law.

(5) In the pronouncement of the verdict under paragraph 2 of this Article, the court will insert the complete pronouncement and the title of the court with the foreign verdict and will pronounce a sanction, appropriate with the verdict pronounced by the foreign court". In the elaboration of the verdict will be presented the reasons for which the court has pronounced the sanction.

(6) Against the verdict may appeal the public prosecutor and the convicted person or his counsel.

(7) If the foreign citizen convicted by a domestic court or if the person authorised with an agreement submits an application to the first degree court the convicted person to serve the sentence in his country, the first degree court will act according to the international treaty

(8) Execution of the verdicts brought by the international court has to be performed in accordance with international treaties ratified in accordance with the Constitution of Republic of Macedonia.

(9) The Criminal Council from article 22 (6) of this law , on the local-govern first degree court, with verdict is confirming the authenticity and execution of the

international court verdict and determines the manner of the sanction or the other measures of execution.

Article 505 –a

(1) Domestic courts are proceeding upon the application of the foreign organs for overtaking the temporary measures for ensuring the article 203-a from this law, or towards the execution of measure for property confiscation and property interest and seizure of the objects towards which they have proceeded in accordance with the provisions from the international agreement.

(2) The confiscated property and the property interest or the seized objects could be renounced with the court decision from the foreign country under certain conditions defined with the international agreement.

(3) The domestic (national) courts under special defined conditions which are determined with the international contract can request determination of the temporary measures for ensuring that article 203- a of this law and execution of the confiscation of property and the property interest and seizing of the objects from the foreign organs

(4) In the case when with the international agreement it is regulated that the confiscated property and the property interest shall be divided between the Republic of Macedonia and some other state, such of proposal will be delivered by the Ministry for justice. to the foreign country.

Article 506

For the crimes- making and releasing counterfeit bank notes, unauthorised production and trade with the narcotic drugs, psychotropic substances and precursors, trafficking with human beings, enterprising of pornographic material on child” as well as other crimes in view of which with the international treaties it is determined centralisation of data, the court before which the criminal procedure is conducted, without delay, is obliged to deliver to the Ministry of Internal Affairs the data for the crime, the criminal and the legally valid verdict.

Article 507

(1) If on the territory of the Republic of Macedonia a crime has been committed by a foreigner who has a residence in a foreign country, out of the circumstances under Article 510 of this Code, to that country may be transferred all criminal records for the criminal prosecution and trial, if the foreign country is not against it.

	<p>(2) Before the decision for investigation is brought, the decision for transferring is brought by the competent public prosecutor. During the investigation, the decision on the proposal of the public prosecutor is brought by the investigating judge, and by the beginning of the trial, the Chamber (Article 22, paragraph 6).</p> <p>(3) Transferring may be allowed for crimes for which a sentence to ten years is anticipated, as well as for the crimes- endangering the public traffic.</p> <p>(4) If the damaged is a citizen of the Republic of Macedonia, transferring is not allowed if he resists it, unless it is allowed security for realisation of his lawful property request.</p> <p>(5) If the accused is detained, from the foreign country it will be requested in the briefest possible way within 40 days to state whether it undertakes the prosecution.</p> <p>Article 508</p> <p>(1) The request by the foreign country in the Republic of Macedonia to be undertaken prosecution of a citizen of the Republic of Macedonia or of a person, who has a residence in the Republic of Macedonia for a crime committed abroad, is directed with the records to the competent public prosecutor on whose region the person has his residence.</p> <p>(2) If to the competent agency of the foreign country is submitted the lawful property request, it will be proceeded as if the request is submitted to the competent court.</p> <p>(3) Of the refusal the criminal prosecution to be undertaken as well as whether the decision is legally valid, which has been brought in the criminal procedure, will be informed the foreign country which has submitted the request.</p>
<p>Article 26 – Spontaneous information</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>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</p>	

<p>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>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p> <p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except 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>5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.</p>	<p>For Art. 27(2/a)- Art. 503 of Macedonian Criminal Code Article 503</p> <p>(1) The applications of the domestic courts for judicial assistance in the criminal cases are delivered to the foreign agencies in a diplomatic course. In the same manner to the domestic courts are delivered the applications of the foreign agencies for judicial assistance, through the Ministry of Justice or directly from the competent court".(2) In emergencies, if there is mutuality, the applications for judicial assistance may be delivered by the Ministry of internal affairs.</p> <p>(2) By law it will be determined which courts will be competent for giving international judicial criminal assistance and one court may be assigned to perform the work for all the courts on a certain region.</p> <p>For Art. 27(2/b)- Art. 504(1) of Macedonian Criminal Code Article 504</p> <p>(1) The Ministry of External Affairs will direct the application of the foreign agency for judicial assistance to the Ministry of Justice which will direct it for a procedure to the court on which region the person resides, who has to be handed a writ or who has to be examined or confronted or on which region another investigating act has to be conducted.</p> <p>For Art. 27(7)- Art. 508(3) of Macedonian Criminal Code Article 508</p> <p>(3) Of the refusal the criminal prosecution to be undertaken as well as whether the decision is legally valid, which has been brought in the criminal procedure, will be informed the foreign country which has submitted the request.</p>

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 authority.

Article 28 – Confidentiality and limitation on use

<p>1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:</p> <p>a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or</p> <p>b not used for investigations or proceedings other than those stated in the request.</p> <p>3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.</p> <p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	
<p>Article 29 – Expedited preservation of stored computer data</p> <p>1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.</p> <p>2 A request for preservation made under paragraph 1 shall specify:</p> <p>a the authority seeking the preservation;</p> <p>b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;</p> <p>c the stored computer data to be preserved and its relationship to the offence;</p> <p>d any available information identifying the custodian of the stored computer data or the location of the computer system;</p> <p>e the necessity of the preservation; and</p> <p>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</p>	<p>For Art. 29(1)- Art. 505-a(1) of Macedonian Criminal Code</p> <p>Article 505 –a</p> <p>(1) Domestic courts are proceeding upon the application of the foreign organs for overtaking the temporary measures for ensuring the article 203-a from this law, or towards the execution of measure for property confiscation and property interest and seizure of the objects towards which they have proceeded in accordance with the provisions from the international agreement.</p>

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, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

Article 30 – Expedited disclosure of preserved traffic data

1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall

<p>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>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>Article 31 – Mutual assistance regarding accessing of stored computer data</p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <p>a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or</p> <p>b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.</p>	
<p>Article 32 – Trans-border access to stored computer data with consent or where publicly available</p> <p>A Party may, without the authorisation of another Party:</p> <p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p> <p>b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.</p>	
<p>Article 33 – Mutual assistance in the real-time collection of traffic data</p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their</p>	

<p>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>Article 34 – Mutual assistance regarding the interception of content data</p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	
<p>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <ul style="list-style-type: none"> a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. <p>2 a A Party’s point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.</p> <p>b If the point of contact designated by a Party is not part of that Party’s authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.</p> <p>3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.</p>	<p>The 24/7 Network point of contact designated by the Republic of Macedonia is:</p> <p>Mr. Marko ZVRLEVSKI Deputy Public Prosecutor Department for Fight against Crime and Corruption Office of Public Prosecutor ul. Krste Misirkov bb 1000 SKOPJE Mob phone : 0038970.397849 Email: office@zjorm.org.mk</p>

Article 42 – Reservations

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.

Declaration from the Ministry of Foreign Affairs of the Republic of Macedonia, dated 7 October 2004, transmitted by the Permanent Representation, and registered at the Secretariat General on 29 November 2004 - Or. Engl.

In accordance with Article 24, paragraph 7, sub-paragraph a, of the Convention, the Republic of Macedonia declares that the Ministry of Justice of the Republic of Macedonia is designated as responsible authority to perform the functions mentioned in Article 24, paragraph 7, sub-paragraph a.

Period covered: 1/1/2005 -

The preceding statement concerns
Article(s) : 24

Declaration from the Ministry of Foreign Affairs of the Republic of Macedonia, dated 7 October 2004, transmitted by the Permanent Representation, and registered at the Secretariat General on 29 November 2004 - Or. Engl.

In accordance with Article 27, paragraph 2, sub-paragraph a, of the Convention, the Republic of Macedonia declares that the Ministry of Justice of the Republic of Macedonia is designated as central authority to perform the functions mentioned in Article 27.

Period covered: 1/1/2005 -

The preceding statement concerns
Article(s) : 27

Declaration contained in a Note verbale from the Permanent Representation of "the former Yugoslav Republic of Macedonia", dated 12 October 2006, registered at the Secretariat General on 13 October 2006 - Or. Engl.

The 24/7 Network point of contact designated by the Republic of Macedonia is:

Mr. Marko ZVRLEVSKI
Deputy Public Prosecutor
Department for Fight against Crime and Corruption
Office of Public Prosecutor
ul. Krste Misirkov bb
1000 SKOPJE
Mob phone : 0038970.397849
Email: office@zjorm.org.mk