

# **LEGISLATION ON CYBERCRIME IN JAPAN**

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# HOW DID JAPAN AMEND CYBERCRIME LEGISLATION TO BECOME A PARTY TO THE BUDAPEST CONVENTION?

## OVERVIEW:

2001 Japan signed the Convention on Cybercrime

2004 Bill submitted to the Diet → dropped

2005 Bill submitted to the Diet → dropped

2006 Bill submitted to the Diet → dropped in 2009

2011 Bill submitted to the Diet → passed in June 2011

2012 Acceptance of the Convention

## THE AMENDMENT INCLUDES:

### 1. Revision of the Penal Code

in effect on July 14.2011

### 2. Revision of the Criminal Procedure Law

in effect on June 22.2012

# 1. REVISION OF THE PENAL CODE

## A. New: Criminalization of the production, provision etc. of **computer virus** (cf. Article 6 of the Convention)

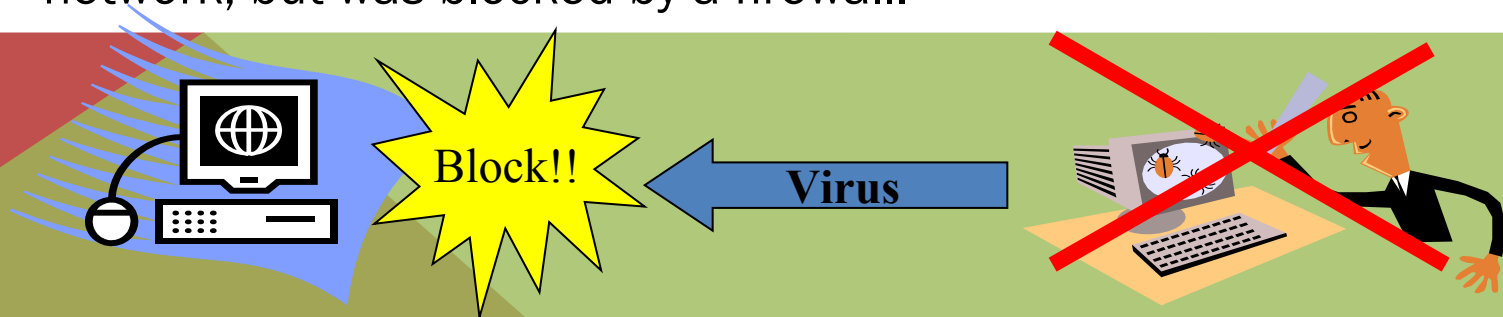
- **Production, provision and making available** of computer virus without legitimate reason
  - Imprisonment for not more than 3 years or a fine of not more than 500,000 yen
- **Procurement and storing** of computer virus without legitimate reason
  - Imprisonment for not more than 2 years or a fine of not more than 300,000 yen



# 1. REVISION OF THE PENAL CODE

## B. New: Criminalization of an **attempt** of interference of computer system (cf. Article 11 of the Convention)

- Imprisonment for not more than 5 years or a fine of not more than 1,000,000 yen
- e.g.: It will be a crime when a person attempts damage a computer system by giving unauthorized commands through computer network, but was blocked by a firewall.



# 1. REVISION OF THE PENAL CODE

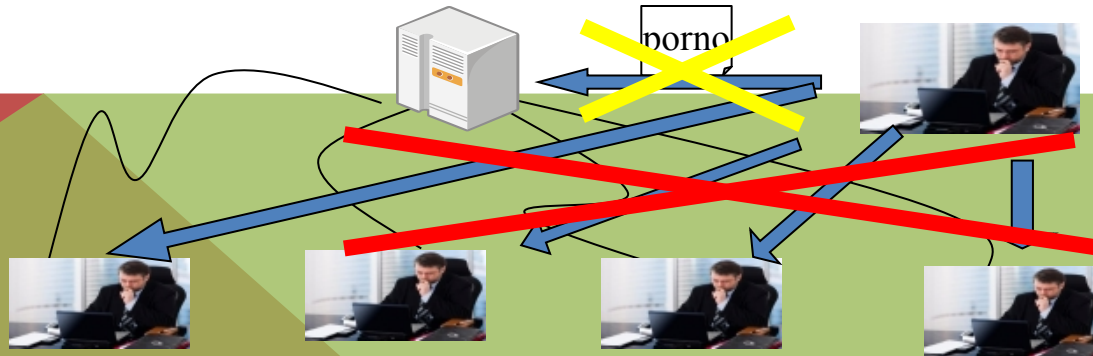
## C. Expansion: offences related to distribution of **obscene materials** ✖also similar amendment for child pornography

<before>

- Posting illegal pornography on a internet forum → punished
- Selling an illegal pornography book → punished
- Distribution of illegal pornography by email → **unclear**





<Revised Law>

- Penal code has been amended to punish those who **email obscene materials** to unspecified persons or a number of persons.



## 2. REVISION OF THE CRIMINAL PROCEDURE LAW

Before the amendment;

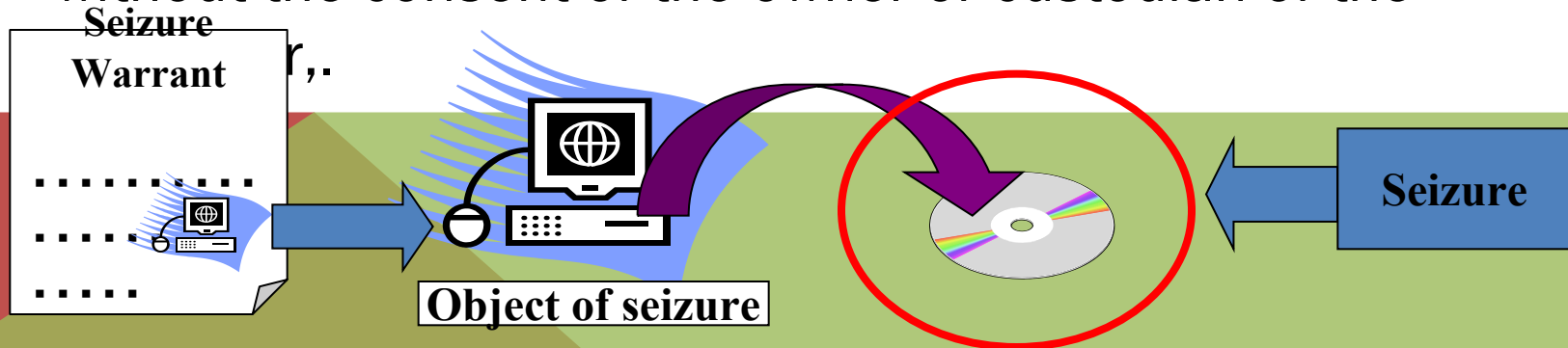
- Seizure of the computer itself storing specified data
- With consent, copying data from the server computer and seizing the data storage medium
- × Without consent, copying data from the server computer and seizing the data storage medium  
- × Seizure of data stored in a computer which is networked and accessible from another computer  

## 2. REVISION OF THE CRIMINAL PROCEDURE LAW

### A. **new method of seizure** of stored computer data

(cf. Article 18,19 of the Convention)

- Instead of seizing the computer(server) itself, it is now possible to **copy** the data from the computer and **seize the computer-data storage medium** instead without the consent of the owner or custodian of the

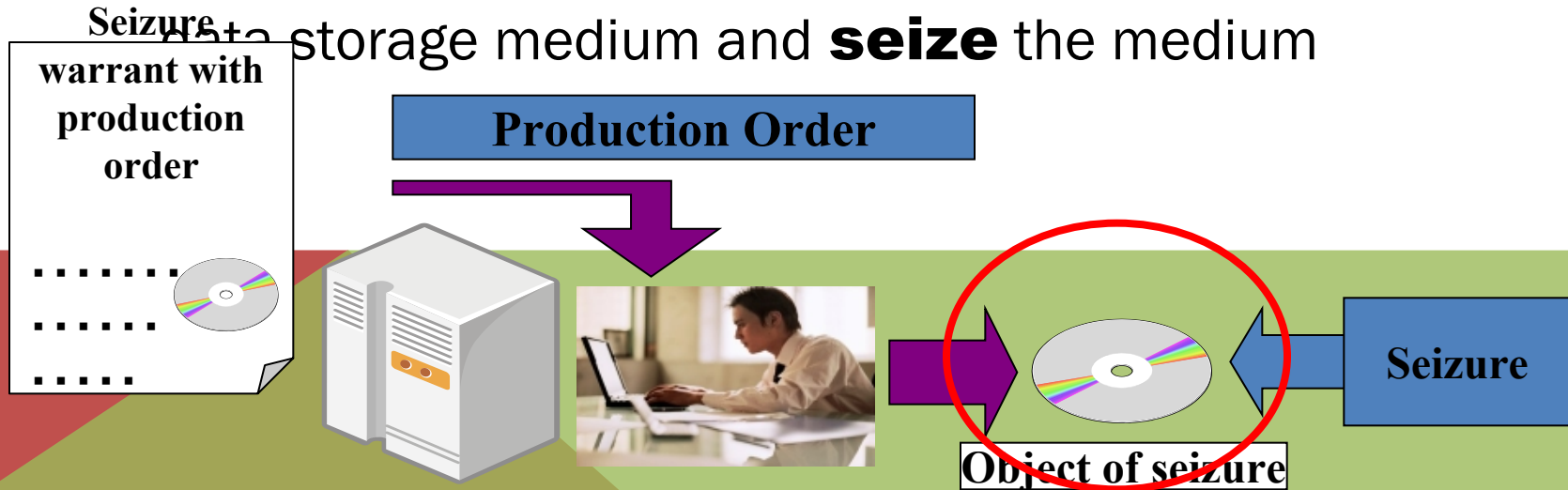


## 2. REVISION OF THE CRIMINAL PROCEDURE LAW

### B. New: Production order

(cf. Article 18,19 of the Convention)

- It is now possible to **order the administrators of the data to copy** the necessary data to a computer-storage medium and **seize** the medium



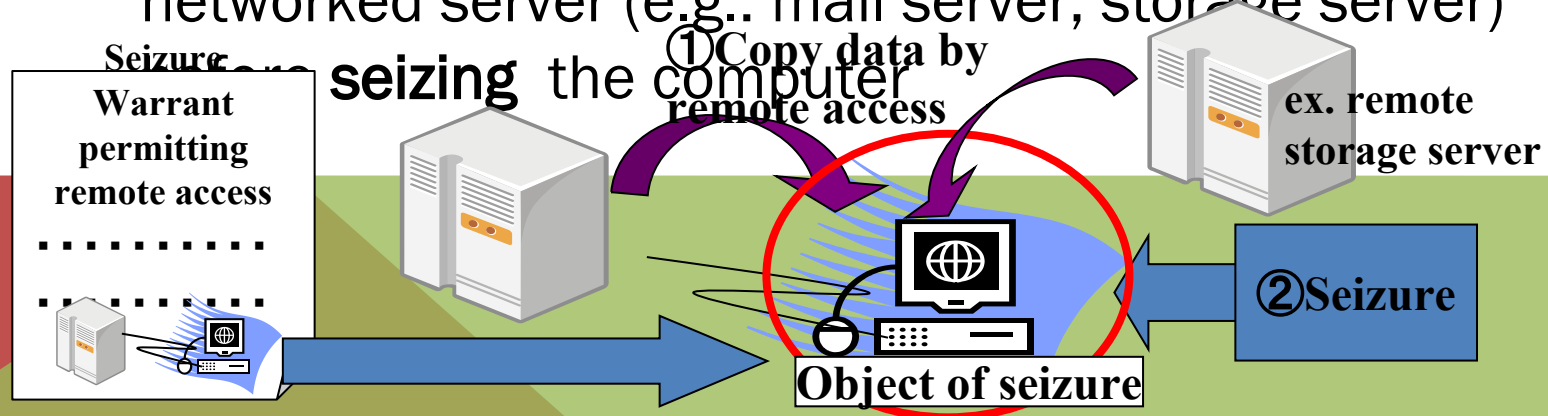


## 2. REVISION OF THE CRIMINAL PROCEDURE LAW

### C. New: Seizure of computer after **copying data from a remote server**

(cf. Article 18,19 of the Convention)

- It is now possible to copy data stored in another networked server (e.g.: mail server, storage server)



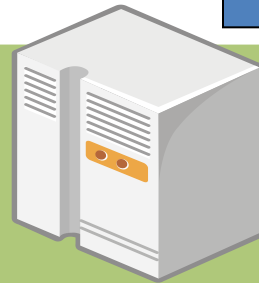
## 2. REVISION OF THE CRIMINAL PROCEDURE LAW

### D. New: **Request for preservation** of traffic data

- It is now possible to request the service provider to preserve traffic data for up to 60 days.



Request for preservation



Service provider



**Thank you!**

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