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[reference to the provisions of the Budapest Convention]

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<b>State:</b>	
<b>Signature of the Budapest Convention:</b>	N/A
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BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<b>Chapter I – Use of terms</b>	
<p><b>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</b></p> <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><i>LAW OF REPUBLIC OF BELARUS on November 10, 2008 No. 455-Z About information, informatization and information security</i></p> <p><b>information – the information about persons, objects, facts, events, the phenomena and processes irrespective of a form of their representation;</b></p> <p><b>“data base”</b> means array of structured and interconnected information arranged according to certain rules in tangible form;</p> <p><b>information network – set of information systems or complexes of the program technical means of an information system interacting by means of networks of telecommunication;</b></p> <p><b>information system – set of databanks, information technologies and a complex (complexes) of program technical means</b></p> <p><b>“owner of soft- and hardware means, information resources, information systems and information networks”</b> means a subject of information relations who uses their right of ownership, use, and administration of soft- and hardware means, information resources, information systems and information networks to the limits and in the manner set by their owner in accordance with the laws of the Republic of Belarus;</p> <p><b>Article 2. Coverage of the present Law</b></p> <p><b>The present Law governs the public relations arising at: search, receiving, transfer, collecting, processing, accumulation, storage, distribution and (or) providing information, and also use of information;</b></p> <p><b>creation and use of information technologies, information systems and information networks, formation of information resources;</b></p> <p><b>organization and ensuring information security.</b></p>

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**LAW OF REPUBLIC OF BELARUS on July 19, 2005 No. 45-Z About telecommunication**

***the operator of telecommunication – the legal entity or the individual entrepreneur rendering services of telecommunication on the basis of special permission (license) for activity in the field of communication***

The law of Republic of Belarus of July 15, 2015 No. 307-Z "About operational search activity"

Article 31. Control in networks of telecommunication

Control in networks of telecommunication represents receiving, transformation and fixing by means of the technical means of the data and messages accepted, transferred, processed, which are stored in networks of telecommunication, interruption of connections in networks of telecommunication with simultaneous establishment of subscriber numbers and (or) unique codes of identification of subscribers (users of services of telecommunication) and (or) their locations for obtaining the data necessary for performance of problems of operational search activity.

According to the **Law of the Republic of Belarus dated 9 July, 1999 No 289-Z On Investigative Activities** (with amendments of 31 December, 2010, by Law of the Republic of Belarus No 226-Z) (<http://www.pravo.by/webnpa/text.asp?RN=h19900289>):

**“to read out information from communication channels”** means to use technical means to get, convert and register various types of signals transmitted by any technical means of communication, for the purposes of investigation activities;

**DECREE OF THE PRESIDENT OF REPUBLIC OF BELARUS on February 1, 2010 No. 60 About measures for improvement of use of a national segment of the Internet**

**“Internet service provider”** means a legal entity or an individual business providing internet services (“internet services” are provision of access of legal and physical entities to the Internet and/or placement of information in the net, as well as its transmission, storage, and modification).

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	<p><b>6. Suppliers of Internet services are obliged to carry out identification of subscriber devices when rendering Internet services, the account and storage of data on subscriber devices, and also data on the rendered Internet services.</b></p> <p><b>Decree of the President of Republic of Belarus of November 8, 2011 No. 515 About some questions of development of information society in Republic of Belarus</b></p> <p><b>Criminal code of Republic of Belarus</b></p> <p><b>Code of Criminal Procedure of Republic of Belarus</b></p>
<p><b>Chapter II – Measures to be taken at the national level</b></p>	
<p><b>Section 1 – Substantive criminal law</b></p>	
<p><b>Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems</b></p>	
<p><b>Article 2 – Illegal access</b></p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>Article 349. Unauthorized access to computer information.</p> <p>1. Unauthorized access may stand for an accidental illegal access to computer information stored in computer system, network or on a data carrier associated with violation of the system of defence (unauthorized access to computer information). The action either results in modification, elimination, blocking of information or in disabling computer equipment or in considerable damage in a different way.</p> <p>The crime is penalized by a fine or an arrest.</p> <p>2. Unauthorized access may stand for an illegal access to computer information done for mercenary or out of personal motives or in collusion either by a group of people or a person who has access to computer system or network.</p> <p>The crime is penalized by a fine, a ban to carry out certain activity or hold a post, an arrest;</p>

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	<p>limitation of freedom for a term up to 2 years or by imprisonment for the same term.</p> <p>3. Unauthorized access may stand for an illegal access to computer information, unauthorized use of computer, computerized system of communication, computer network means. It can result in wreck, breakdown, catastrophes, casualties, negative changes of the environment or some other severe consequences done in advertence.</p> <p>The crime is penalized by limitation of freedom for a term up to 5 years or imprisonment for 7 years.</p> <p><b>Article 355. Breach of IT System/Network Operation Rules</b></p> <p>1. A person possessing access to an IT system/network who knowingly violates operational rules and regulations, negligently causing destruction, impediment, or modification of computer data, malfunction of hardware or any other significant damage, shall be fined, or deprived of the right to occupy certain positions/engage in certain activities, or sentenced to correctional labour for not more than two years, or imprisoned for the same term.</p> <p>2. Whoever commits the same offence during the operation of an IT system/network which contains privileged or sensitive information shall be deprived of the right to occupy certain positions/engage in certain activities, or placed under non-custodial restraint for not more than three years, or imprisoned for the same term.</p> <p>3. Whoever commits offences referred to in p. 1 or 2 hereof, which have negligently caused impacts referred to in p. 3 of Article 349 hereof, shall be placed under non-custodial restraint for not more than five years or imprisoned for not more than seven years, with or without deprivation of the right to occupy certain positions/engage in certain activities.</p>
<p><b>Article 3 – Illegal interception</b></p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a</p>	<p>Article 352. Illegal hold of information.</p> <p>Illegal hold of information is unauthorized copying, illegal hold of information stored in computer system network or on a machine data carrier, interception of information transmitted by means</p>

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<p>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>of computer communication which causes grave losses. The crime is penalized by public work, a fine, an arrest or limitation of freedom or imprisonment for a term up to 2 years.</p>
<p><b>Article 4 – Data interference</b>            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.            2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p>	<p>Article 350. Computer data modification.            1) Modification of computer data stands for changing information stored in computer system, network or on a machine data carrier, or adding deliberately false information that causes grave losses. If there are no signs of crime it could be penalized by a fine; by a ban to hold a post; by an arrest; by limitation of freedom for a term up to 3 years or imprisonment for 3 years.            2) Modification of computer data associated with unauthorized access to computer system or network, indicated in p. 3, Art 349 of the current Code is penalized by limitation of freedom for a term up to 5 years or imprisonment for 7 years with or without a ban to hold a post or to carry out certain activity.</p>
<p><b>Article 5 – System interference</b>            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>Article 351. Computer sabotage.            1. Computer sabotage is deliberate elimination, blocking or destruction of computer data or a computer programme; destroying of a computer or computer system, network or a machine data carrier. It's penalized by a fine or a ban to hold certain appointments; by an arrest; by imprisonment for a term from 1 to 5 years.            2. Computer sabotage associated with unauthorized access to computer system or network or resulting in grave losses is penalizes by imprisonment for a term from 3 to 10 years.</p>
<p><b>Article 6 – Misuse of devices</b>            1 Each Party shall adopt such legislative and other measures as may be</p>	<p>Whoever copies or otherwise illicitly acquires data stored in a computer system/network or machine-readable media, or intercepts data transmitted via</p>

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<p>necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:</p> <p>a the production, sale, procurement for use, import, distribution or otherwise making available of:</p> <p>i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;</p> <p>ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise 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>IT devices, in case such actions inflict significant damage, shall be required to perform community service, or fined, or detained for not more than six months, or placed under non-custodial restraint for not more than two years, or imprisoned for the same term.</p> <p>Article 353. Manufacturing and spread of specific technical devices for getting illegal access to computer system or network. Manufacturing and spread of specific technical devices for getting illegal access to protected computer system or network is penalized by a fine, an arrest, or limitation of freedom for a term up to 2 years. Article 354. Work out, use or spread of harmful programmes.</p> <p>1. To work out harmful programmes implies: to work out computer programmes, to add some changes to existing ones aiming at unauthorized elimination, blocking, modifying or copying information stored in computer system, network or on machine data carrier, to work out special virus programmes, to use them deliberately, to spread data carriers with suchlike virus programmes. The crime is penalized by an arrest, a fine, limitation of freedom or imprisonment for a term up to 2 years.</p> <p>2. The above mentioned actions which cause grave losses are penalized by imprisonment for a term from 3 to 10 years.</p>
<b>Title 2 – Computer-related offences</b>	
<p><b>Article 7 – Computer-related forgery</b></p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic,</p>	<p><b>Forgery by means of computer technologies is established as a criminal offence within <i>acti reus</i> described above, established by articles 349 – 355 of the Criminal Code of Belarus.</b></p> <p><b>. Article 212. Computer Theft</b></p> <p>1. Whoever commits property theft through modification of computer-processed data, information stored on machine-readable media or transmitted via IT</p>



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<p>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>networks, or through entering forged data into a computer system, shall be fined, or deprived of the right to occupy certain positions/engage in certain activities, or detained for not more than six months, or placed under non-custodial restraint for not more than three years, or imprisoned for the same term.</p> <p>2. The same offence, either recurrent or committed by members of a conspiracy, or involving unauthorized access to computer data, shall be punished by non-custodial restraints for a term of two to five years, or imprisonment for not more than five years with or without deprivation of the right to occupy certain positions/engage in certain activities.</p> <p>3. Large-scale offences provided for in p. 1 and 2 hereof shall be punished by imprisonment for a term of three to ten years with or without seizure of property, and with or without deprivation of the right to occupy certain positions/engage in certain activities.</p> <p>4. Violations provided for in p. 1 through 3 hereof, in case they fall into the category of large-scale offences or have been committed by an organized group, shall be punished by imprisonment for a term of six to fifteen years with seizure of property, with or without deprivation of the right to occupy certain positions/engage in certain activities.</p>
<p><b>Article 8 – Computer-related fraud</b></p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> <li>a any input, alteration, deletion or suppression of computer data;</li> <li>b any interference with the functioning of a computer system,</li> </ul> <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p><b>Article 209. Fraud</b></p> <p>1. Whoever wrongfully comes into possession of property or acquires ownership rights through a deception or abuse of confidence (fraud) shall be required to perform community service, or fined, or sentenced to correctional labour for not more than two years, or detained for not more than six months, or placed under non-custodial restraint for not more than three years, or imprisoned for the same term.</p> <p>2. Recurrent fraud offences or fraud offences committed by a group of people shall be punished by correctional labour for a term not exceeding two years, or non-custodial restraint for a term not exceeding four years, or imprisonment for the same term.</p> <p>3. Large-scale fraud offences shall be punished by imprisonment for a term of two to seven years, with or without seizure of property.</p> <p>4. Fraud offences committed by an organized group or large-scale fraud offences shall be punished by imprisonment for a term of three to ten years with seizure of property.</p>
<b>Title 3 – Content-related offences</b>	
<b>Article 9 – Offences related to child pornography</b>	<b>Article 343(1). Production and Dissemination of Pornographic Materials</b>



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<p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> <li>a producing child pornography for the purpose of its distribution through a computer system;</li> <li>b offering or making available child pornography through a computer system;</li> <li>c distributing or transmitting child pornography through a computer system;</li> <li>d procuring child pornography through a computer system for oneself or for another person;</li> <li>e possessing child pornography in a computer system or on a computer-data storage medium.</li> </ul> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <ul style="list-style-type: none"> <li>a a minor engaged in sexually explicit conduct;</li> <li>b a person appearing to be a minor engaged in sexually explicit conduct;</li> <li>c realistic images representing a minor engaged in sexually explicit conduct</li> </ul> <p>3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	<p><b>or Items with Pornographic Content Depicting a Minor</b></p> <p>1. Whoever produces or retains pornographic materials/printed media, or other items with pornographic content depicting a person who can be invariably denominated as a minor, for the purpose of dissemination or release, or disseminates, or releases/makes them public, or publicly demonstrates pornographic movies/videos depicting such persons, shall be sentenced to correctional labour for not more than two years, or detained for not more than six months, or placed under non-custodial restraint for not more than four years, or imprisoned for the same term.</p> <p>2. The same offences committed by an individual who has previously committed criminal offences provided for herein or p. 2 of Article 343 hereof, or by members of a conspiracy, or through Internet, or any other public/private e-network, and utilization of a person who can be invariably denominated as a minor for the production of pornographic materials/printed media or other items with pornographic content depicting such a minor shall be punished by imprisonment for a term of three to eight years, with or without seizure of property.</p> <p>3. Offences provided for in p. 1 or 2 hereof committed by an organized group, and involvement of a person who can be invariably denominated as a minor in the production of pornographic materials/printed media or other items with pornographic content depicting such a minor, shall be punished by imprisonment for a term of five to thirteen years, with or without seizure of property.</p>
<b>Title 4 – Offences related to infringements of copyright and related rights</b>	
<p><b>Article 10 – Offences related to infringements of copyright and related rights</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971</p>	<p>Article 201. Violation of author's, allied, inventive and patent rights</p> <p>1. Assignment of authorship or coercion to a co-authorship, and is equal disclosure without consent of the author or the applicant of essence of the invention, useful model, an industrial sample or other object of the right of</p>

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<p>revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.</p>	<p>industrial property before the official publication of information about them –</p> <p>are punished by public works, either a penalty, or corrective works for a period of up to two years.</p> <p>2. The illegal distribution or other illegal use of subjects of copyright, allied rights or objects of the right of industrial property made within a year after imposing of an administrative penalty for the same violation or interfaced to obtaining the income in the large size –</p> <p>are punished by public works, either a penalty, or restriction of freedom for a period of up to three years, or imprisonment for a period of up to two years.</p> <p>3. The actions provided by parts 1 or 2 of the present article, perfect repeatedly, either a group of persons by previous concert, or the official with use of the office powers, or entailed causing damage in a large size, –</p> <p>are punished by a penalty, either arrest, or restriction of freedom for a period of up to five years, or imprisonment for the same term.</p> <p>Note. The large size of the income (damage) in the present article the size of the income (damage) for the sum in five hundred and more times exceeding the size of basic size established on the date of commission of crime admits.</p>
<b>Title 5 – Ancillary liability and sanctions</b>	
<p><b>Article 11 – Attempt and aiding or abetting</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the</p>	<p>.</p> <p>Article 13. Preparation for a crime</p> <p>1. Preparation for a crime the priiskaniye or adaptation of means or tools or other deliberate creation of conditions for commission of a concrete crime</p>

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offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.

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

admits.

2. Preparation for the crime which isn't constituting big public danger doesn't attract criminal liability.

3. Responsibility for preparation for a crime comes under the same article of the Special part of the present Code, as for the ended crime, with reference to this article.

Article 14. Attempt at a crime

1. Attempt at a crime the deliberate action or inaction of the person which is directly directed to commission of crime admit if at the same time the crime hasn't been finished on the circumstances which aren't depending on this person.

2. Responsibility for attempt at a crime comes under the same article of the Special part of the present Code, as for the ended crime, with reference to this article.

Article 16. Partnership in a crime

1. Partnership in a crime deliberate joint participation of two or more persons in commission of a deliberate crime admits.

2. Accomplices of a crime along with performers organizers, instigators and helpers admit.

3. The performer the person who has directly committed a crime, or directly participating in his commission together with other persons, or committed a crime by means of use of other persons which aren't subject by law to criminal liability or who have committed a crime on imprudence admits.

4. The organizer (head) the person who has organized commission of crime or directing his commission or the person who has created organized group or the criminal organization or directing them admits.

5. The instigator the person which has inclined other person to commission of crime admits.

6. The helper the person promoting commission of crime by councils, instructions, providing information or tools and means of commission of crime, removal of obstacles or rendering other help or the person who was in advance promising to hide the criminal, the tools or means of commission of crime, traces of crime or objects got in the criminal way or the person which was in advance promising to get or sell such objects admits.

7. Responsibility of the organizer, instigator and helper comes under the same article of the Special part of the present Code, as the performer, with reference to this article. Other accomplices don't bear criminal liability for the acts made

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	<p>by the performer and which weren't covered by intention of accomplices.</p> <p>8. In case actions of the organizer, the instigator or the helper on the circumstances which aren't depending on them are unfortunate, responsibility of these persons comes for preparation for the corresponding crime.</p> <p>9. Accomplices bear the increased responsibility if the crime is committed by a group of persons, directly taken part in his commission (soispolnitelstvo), either organized group, or the criminal organization. Participants of organized group and the criminal organization admit performers irrespective of their role the committed crimes.</p>
<p><b>Article 12 – Corporate liability</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:</p> <ul style="list-style-type: none"> <li>a a power of representation of the legal person;</li> <li>b an authority to take decisions on behalf of the legal person;</li> <li>c an authority to exercise control within the legal person.</li> </ul> <p>2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.</p> <p>3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.</p> <p>4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.</p>	<p><i>Corporate liability comes only within the administrative legislation</i></p>
<p><b>Article 13 – Sanctions and measures</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary</p>	<p>See sanctions on crimes envisaged in articles 2-11</p>

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sanctions.	
<b>Section 2 – Procedural law</b>	
<p><b>Article 14 – Scope of procedural provisions</b></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"> <li>a the criminal offences established in accordance with Articles 2 through 11 of this Convention;</li> <li>b other criminal offences committed by means of a computer system; and</li> <li>c the collection of evidence in electronic form of a criminal offence.</li> </ul> <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"> <li>i is being operated for the benefit of a closed group of users, and</li> <li>ii does not employ public communications networks and is not connected with another computer system, whether public or private,</li> </ul> <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>The questions concerning the powers and procedures which are necessary for realization of specific criminal investigations or procedures mentioned in Article 14 of the Convention are regulated by Criminal Procedure Code of Republic of Belarus.</p>

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<p><b>Article 15 – Conditions and safeguards</b></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 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>Republic of Belarus ensures that the establishment, implementation and application of the powers and procedures mentioned in Article 15 of the Convention are performed in compliance with conditions and safeguards provided for under its domestic law, which guarantee the adequate protection of human rights and liberties, including rights arising from International treaties acting with the participation of Republic of Belarus.</p>
<p><b>Article 16 – Expedited preservation of stored computer data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, 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</p>	<p>Some provisions, which in substance create a specific data retention system, are provided by the <i>Decree of the President of the Republic of Belarus No. 60 on the improvement of the national Internet segment of 1 February 2010</i>. This decree mandates that:</p> <p>(1) Internet service<sup>1</sup> providers<sup>2</sup> “identify user’s terminals when providing services”, and “register and store data on the users’ terminals and information on Internet services provided”.</p> <p>(2) In addition, owners of Internet share points (computer clubs, Internet-cafes, home networks and other locations where public access to the Internet is possible) or persons authorised by them are required to enable identification</p>

<sup>1</sup> For the purposes of the decree, „Internet services shall be understood to mean services related to the provision of Internet access to legal entities and individuals, and/or posting, transmission, keeping, and modification of data in Internet“.

<sup>2</sup> For the purposes of the decree, “Internet providers shall be understood to mean legal entities or sole proprietors rendering Internet services”.

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<p>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>of their Internet users and store their personal data and information on internet services provided to those users.</p> <p>These types of information (1 and 2) should be stored for one year, and should be made available to various public authorities (investigation agencies, prosecutor's office, and initial investigation bodies, bodies of the State Control Committee, tax authorities, and courts) at their request and in accordance with the law.</p>
<p><b>Article 17 – Expedited preservation and partial disclosure of traffic data</b></p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and</p> <p>b ensure the expeditious disclosure to the Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>See art. 16</p>
<p><b>Article 18 – Production order</b></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</p>	<p>Code of Criminal Procedure of the Republic of Belarus Article 103. Collecting of evidence</p> <p>1. Collecting of evidence is made in the course of permission of statements and messages on a crime, the accelerated production, inquiry, preliminary investigation and judicial proceedings by conducting interrogations, confrontations, presentation for an identification, dredging, searches, surveys, investigative experiments, production of the examinations and other procedural</p>



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<p>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> <ul style="list-style-type: none"> <li>a the type of communication service used, the technical provisions taken thereto and the period of service;</li> <li>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;</li> <li>c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.</li> </ul>	<p>actions provided by the present Code.</p> <p>2. The criminal prosecution authority, and also court according to the petition of the parties or on own initiative within the competence has the right on the materials which are in their production and criminal case in the order established by the present Code to cause any person for carrying out investigative and other procedural actions or making the conclusion as the expert; to examine, searches and other investigative actions provided by the present Code; to demand from the organizations, officials and citizens, and also the bodies authorized by the law to carry out operational search activity, representations of objects and documents, important for criminal case; to demand production of audits and checks from appropriate authorities and officials. The requirement of criminal prosecution authority about submission of information, the documents containing the state secrets or other secret protected by the law is authorized by the prosecutor.</p>
<p><b>Article 19 – Search and seizure of stored computer data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> <li>a a computer system or part of it and computer data stored therein; and</li> <li>b a computer-data storage medium in which computer data may be stored</li> </ul> <p style="padding-left: 40px;">in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures</p>	<p>No specific provisions on computer-related search and seizure; "traditional" rules on search and seizure are used.</p> <p>According to the article 208 of the Code of Criminal Procedure of the Republic of Belarus, search can be executed when there is reasonable evidence to believe that the instrument of crime, items, records, and valuables which may be critical for criminal investigation may be kept on specific location or held by specific person. In the similar manner, article 209 states that "reasonable evidence indicating that certain items or records which are critical for criminal investigation are available, provided that the location and possessor thereof have been clearly identified, constitutes grounds for a seizure".</p>

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<p>shall include the power to:</p> <ul style="list-style-type: none"> <li>a seize or similarly secure a computer system or part of it or a computer-data storage medium;</li> <li>b make and retain a copy of those computer data;</li> <li>c maintain the integrity of the relevant stored computer data;</li> <li>d render inaccessible or remove those computer data in the accessed computer system.</li> </ul> <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><b>Article 20 – Real-time collection of traffic data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p> <ul style="list-style-type: none"> <li>a collect or record through the application of technical means on the territory of that Party, and</li> <li>b compel a service provider, within its existing technical capability: <ul style="list-style-type: none"> <li>i to collect or record through the application of technical means on the territory of that Party; or</li> <li>ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system.</li> </ul> </li> </ul> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be</p>	<p>The law of Republic of Belarus of July 15, 2015 No. 307-Z "About operational search activity"</p> <p>The relevant provision in this regard is Article 11, sub-paragraph 12, which provides for a power to "retrieve information from telecom channels". As the real-time collection of traffic data is considered to be the measure which limits constitutional right to privacy, Article 13 of the said Law stipulates that this measure can only be executed on the basis of prosecutor's warrant, upon a "well-grounded order of a respective agency responsible for operational investigation"; no judicial authorization is provided. Article 13 also provides for certain time-limits of the duration of relevant measures.</p> <p>Article 31. Control in networks of telecommunication</p> <p>Control in networks of telecommunication represents receiving, transformation and fixing by means of the technical means of the data and messages accepted, transferred, processed, which are stored in networks of telecommunication, interruption of connections in networks of telecommunication with simultaneous establishment of subscriber numbers and (or) unique codes of identification of subscribers (users of services of telecommunication) and (or) their locations for</p>

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<p>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>obtaining the data necessary for performance of problems of operational search activity.</p>
<p><b>Article 21 – Interception of content data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:</p> <p>a collect or record through the application of technical means on the territory of that Party, and</p> <p>b compel a service provider, within its existing technical capability:</p> <p>    i to collect or record through the application of technical means on the territory of that Party, or</p> <p>    ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.</p> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Article 214 ByCPC. Monitoring and Recording Communications</p> <p>1. In investigating serious felonies, provided there is reasonable evidence to believe that telecom or other communications conducted by a suspect, offender or other individuals may contain data which are critical for the investigation, these communications may be monitored and recorded subject to the warrant issued by the prosecutor or deputy thereof, or, alternatively, subject to the resolution of the Republic of Belarus Interior Minister, Chairman of the National Security Committee, Vice-Chairman of the Government Audit and Supervision Committee – Head of Financial Investigations, or officials acting in their capacity.</p> <p>2. The investigator/inquiry agency shall issue a well-grounded warrant specifying the need for monitoring/recording communications, indicating the particular criminal case and outlining reasons for such investigatory action. It shall also include first/middle/last name of the person(s) whose communications will be monitored/recorded, duration of monitoring, and the agency that will be technically responsible for monitoring/recording.</p> <p>3. The investigator/inquiry agency shall forward the warrant to the respective institution for execution.</p> <p>4. Monitoring/recording of communications may under no circumstances exceed the term of preliminary criminal investigation and shall be terminated by the resolution of the investigator/inquiry agency.</p> <p>5. The investigator/inquiry officer may, throughout the entire duration of the investigatory measure, request recorded messages for examination and monitoring. Sealed messages are provided to the investigator/inquiry officer with a cover note specifying start/end time and appropriate technical</p>

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	<p>parameters of the recording equipment.</p> <p>6. The investigator/inquiry officer shall examine and monitor messages, seek inputs of SMEs (if appropriate), and draw up a summary report subject to the requirements set out in Articles <a href="#">193</a> and <a href="#">194</a> hereof. Such report shall contain a word-for-word representation of the part of the message relating to the criminal case. Recorded messages shall be attached to the report, and the part thereof which has no reference whatsoever to the case in question shall be eliminated after the completion of criminal proceedings.</p> <p>From the technical perspective, the interception of content data is facilitated by Decree of the President of Belarus of 3 March, 2010, No 129 "On Cooperation between Telecommunication Operators and Investigation Authorities".</p>
<b>Section 3 – Jurisdiction</b>	
<p><b>Article 22 – Jurisdiction</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <ul style="list-style-type: none"> <li>a in its territory; or</li> <li>b on board a ship flying the flag of that Party; or</li> <li>c on board an aircraft registered under the laws of that Party; or</li> <li>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.</li> </ul> <p>2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.</p> <p>3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised</p>	<p><b>Article 5 of the Criminal Code stipulates that</b> a person who has committed offence in the territory of Belarus is liable in accordance with the Code. An offence is deemed committed in the territory of Belarus, where it was started, continued or competed in its territory, or where it was committed in Belarus with an accomplice committing an offence in the territory of a foreign state.</p> <p>A person having committed an offence on board an air- or water-craft accredited at a port of Belarus when such craft is in the open sea or air zone, outside the Belarus territory, is liable to criminal proceedings according to the Criminal Code of Belarus unless otherwise stipulated by an international treaty of Belarus.</p> <p>According to Criminal Code of Belarus, a person committing an offence on board a military ship or aircraft of Belarus is liable to criminal proceedings independently of the location of the craft.</p> <p>Where a diplomatic envoy or a citizen of a foreign country - who are not under the jurisdiction of Belarus according to applicable laws and international treaties - commits a crime in the territory of Belarus, the case is resolved through diplomatic means basing on international treaty and international law.</p> <p><b>According to Article 6 of the Criminal Code</b>, where a citizen of Belarus or a stateless person permanently living in the Republic commits a crime outside its</p>

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<p>by a Party in accordance with its domestic law.</p> <p>When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<p>territory, they are liable to criminal proceedings under the Criminal Code of Belarus, if their actions are criminalised in the state where they were committed, and if they have not carried punishment in the state where the crime was committed.</p> <p>A foreign citizen or a stateless person permanently living in Belarus – where they commit a crime outside of Belarus – are liable to criminal proceedings according to the Criminal Code of Belarus if they commit most serious crime against the Republic of Belarus (including wilful homicide punishable by imprisonment for over 12 years, life imprisonment or capital punishment).</p> <p>According to <b>Article 7 of the Criminal Code</b>, a Belarus citizen can not be extradited, if not otherwise stipulated by international treaties of Belarus.</p> <p>A foreign citizen or a stateless person – where they commit a crime outside Belarus and are in the territory of Belarus at the time – can be extradited for criminal proceedings or for serving their sentences in accordance with international treaties of Belarus.</p> <p>Where there is no such international treaty, persons specified in part two of the article can be extradited on a reciprocal basis in compliance with the law of Belarus.</p>
<b>Chapter III – International co-operation</b>	
<p><b>Article 24 – Extradition</b></p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include</p>	<p><b>SECTION XV of the Criminal Procedural Code of the Republic of Belarus</b> <b><u>Mutual Legal Assistance in Criminal Cases</u></b></p> <p><b>Article 472 – <u>Conditions for fulfilling requests of a foreign authority on temporary transfer of a person for procedural actions</u></b></p> <p>1. Request of an authority of a foreign state that includes a provision on temporary transfer of a person who is imprisoned in Belarus, to hold procedural actions where the person in question would act as a witness or a victim can be fulfilled when it is accompanied by a notarised copy of a decision on holding relevant procedural actions issued by the agency in charge with the criminal proceedings; and if the requesting authority confirms in writing that the person in question:</p> <p>1) will be held under arrest and be brought back to Belarus within the time limit set by the General Prosecutor of Belarus or his Deputy;</p> <p>2) will not be held liable to criminal, administrative, civil liability, or punished in</p>

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

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

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

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

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

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

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

relation to his/her statements, or for an action committed outside the jurisdiction of such foreign state;

3) will be set free and be given a possibility to come back to Belarus if the General Prosecutor's Office of Belarus notifies the foreign authority that such temporary extradited person has completed their sentence or is released from punishment;

4) (in cases stipulated by Paragraph 3 of this Part) will be reimbursed the cost of their stay in the foreign state and the trip back to Belarus in the manner determined by such foreign authority.

2. Written commitment stipulated by paragraph 2 of Part 1 of this Article, shall not be fulfilled if temporary transferred person gets free from arrest and is given an opportunity to leave the foreign state, but does not leave the state within 30 days upon receiving official notification that his presence is no longer necessary, or comes back to such state voluntarily after leaving it. This time period does not include such periods when the person in question can not leave the state for reasons beyond his/her control.

**Article 473 - Conditions for fulfilling requests of a foreign authority on transfer of a person for serving their sentence**

Request of an authority of a foreign state that includes a provision on transfer of a person who is imprisoned in Belarus, to serve their sentence in such foreign state can be fulfilled if:

1) there is an effective judgement against this person made by Belarus court;  
2) the person in question whose extradition is so requested is a citizen of such foreign state;

3) The person in question agrees to serve his/her imprisonment sentence in such foreign state;

4) There is a written commitment of the foreign authority to execute the sentence made by the court of Belarus;

5) By the date of request, the time period left for the person to stay in prison is not less than 6 months.

**Article 474 - Conditions for fulfilling requests of a foreign authority on Detention of a Person for Further Extradition**

Request of an authority of a foreign state that includes a provision on detention



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of a person for further extradition to such foreign state for criminal proceedings and/or serving a sentence can be fulfilled if it is accompanied by the following:

- 1) Notarised decision issued by foreign authority in charge with the criminal proceedings on detention of the person in question; or notarised foreign court judgement of legal effect on such criminal proceeding sentencing the person in question to imprisonment;
- 2) Written commitment of a foreign authority to send a request on extradition of the person in question for the purposes of criminal prosecution and/or for serving the sentence.

**Article 475 - Conditions for fulfilling requests of a foreign authority on extradition of a person for the purpose of prosecution and/or to serve their sentence**

1. Request of an authority of a foreign state that includes a provision on extradition for prosecution and/or service of sentence can be fulfilled in the following cases: if it is accompanied by a notarised decision issued by foreign authority in charge with the criminal proceedings on detention of the person in question; or a notarised foreign court judgement of legal effect on such criminal proceeding sentencing the person in question to imprisonment; and if the foreign authority submits a written confirmation that the person in question:
  - 1) without a corresponding decision of the General Prosecutor or his deputy, will not be subject to criminal prosecution in such foreign state and/or will not be sentenced or detained for serving a sentence on an offence committed outside such foreign state; except for the offence that made the ground for the request;
  - 2) will not be extradited or sent to a third state without a corresponding decision of the General Prosecutor of Belarus or his deputy;
  - 3) will be able to leave the foreign state after the end of the criminal prosecution proceedings and/or after serving the sentence or being relieved from such sentence.
2. Written commitment stipulated in paragraphs 1 and 2 of Part 1 of this Article, shall not be fulfilled if such extradited person - being in the foreign state and having an opportunity to leave it - does not leave the state within forty-five days upon the end of the criminal proceedings and/or the end of/relief from the sentence or comes back voluntarily. This time period does not include such periods when the person in question can not leave the state for reasons beyond his/her control.



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	<p><b>Article 476 - <u>Conditions for fulfilling requests of a foreign authority on temporary extradition of a person for procedural actions</u></b></p> <p>1. Request of an authority of a foreign state that includes a provision on temporary extradition of a person who is imprisoned in Belarus, to hold procedural actions where the person in question would act as an accused party can be fulfilled if a delay in extradition would lead to expiry of the period of limitation or hinder investigation. Such a request should be accompanied by a written commitment of the requesting authority that the person in question:</p> <ol style="list-style-type: none"> <li>1) will be held under arrest and be brought back to Belarus within the time limit set by the General Prosecutor of Belarus or his Deputy; such time limit can not exceed three months.</li> <li>2) will not be prosecuted – without a relevant decision of the General Prosecutor of Belarus or his deputy – for offences other than the one that makes the ground of the request; will not be sentenced or detained to serve a sentence for an offence committed outside such foreign state.</li> </ol> <p>2. Upon request of such foreign authority, the time period specified in paragraph 1 part 1 of the present article can be extended by the General Prosecutor of Belarus or his Deputy.</p>
<p><b>Article 25 – General principles relating to mutual assistance</b></p> <p>1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.</p> <p>2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.</p> <p>3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.</p> <p>4 Except as otherwise specifically provided in articles in this chapter, mutual</p>	<p><b>Article 470 of the Criminal Procedural Code – <u>General conditions of mutual international legal assistance in criminal cases.</u></b></p> <p>The following documents are required as a general precondition for mutual international legal assistance in criminal cases:</p> <ol style="list-style-type: none"> <li>1) Notarised decision issued by a foreign authority in charge with the criminal proceedings on holding relevant procedural actions</li> <li>2) written commitment of the foreign authority to provide legal assistance in criminal cases on the reciprocal basis (mutual assistance);</li> <li>3) written commitment of the foreign authority to fulfil the terms set in articles 471-472 of the present Code;</li> <li>4) other documents and materials required to fulfil the request of the foreign authority;</li> <li>5) notarised translation of the foreign authority’s request and accompanying documents listed in paragraphs 1-4 of the present article into one of the official languages of Belarus.</li> </ol>

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<p>assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.</p> <p>5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	
<p><b>Article 26 – Spontaneous information</b></p> <p>1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.</p> <p>2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.</p>	<p>This provision does not exist in domestic law of Belarus. Such information can be sent, for example, through national contact point of the hi-tech crime unit of the Ministry of Interior or the Interpol bureau in Belarus or diplomatic channels.</p>
<p><b>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</b></p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article</p>	<p><b>Article 491 of the Criminal Procedural Code - <i>Form and content of request from the authority in charge with criminal proceedings.</i></b></p> <p>1. Request of an authority in charge with the criminal proceedings should be submitted in writing in one of the official languages of Belarus, signed by its author and stamped with an official stamp of the authority.</p>

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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.

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.

b The central authorities shall communicate directly with each other;

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;

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.

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.

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

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

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

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

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

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

2. Request of the authority in charge with the criminal proceedings should contain the following:

1) name of the authority in charge with the criminal proceeding that has prepared the request;

2) name of the addressee authority of a foreign state;

3) information about the criminal case, facts of the case, legal definition of the offence, provisions of the Criminal Code of Belarus on liability for such offence, and information about the damage caused thereby;

4) full name of the person in question, their date of birth, nationality, occupation, residence address, and other information on an individual person; name of a legal entity, its address and other information on the legal entity the request refers to;

5) essence of the problem, other information necessary for its fulfilment, or provisions the foreign authority links the international legal aid to.

3. Request of an authority in charge with criminal proceedings to transfer a person to Belarus to take part in procedural actions as a victim, civil claimant, civil defendant, their representative, witness, or expert should describe the compensation procedure with regard of related costs.

4. Request of an authority in charge with criminal proceedings for extradition of a person for criminal prosecution and / or to serve a sentence can be issued in the following cases:

1) Criminal Code of Belays has criminalised the offence the person is charged with; imprisonment for at least one year or a higher penalty are stipulated for such offence;

2) By a court judgement in legal force, such a person is sentenced to imprisonment for not less than six months; or the imprisonment period yet non-served is no less than six months.

**Article 492 Criminal Procedural Code – Documents and materials accompanying request of the authority in charge with criminal proceedings.**

1. Request of the authority in charge with criminal proceeding shall be accompanied by a decision of such authority to hold relevant procedural actions, other documents and materials required for its fulfilment, documents the foreign authority links mutual legal assistance in criminal matters to; or notarised copies thereof; and a notarised translation of the request and accompanying

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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.

documents and materials into the official language of the addressee country. On agreement between the General Prosecutor's Office of Belarus or the Supreme Court of Belarus, the documents can be translated into another language.

2. If a person is suspected of committing an offence in Belarus or convicted in Belarus and is at the time in a foreign state for criminal prosecution and/or to serve a sentence there, then request of an authority in charge with the criminal proceedings on extradition of such person should be accompanied by notarised decision of the authority in charge with criminal proceedings to arrest such person and to hold him/her defendant; request on extradition to serve the sentence should be accompanied by a notarised court sentence in legal effect; if a convicted person has served a part of the sentence – information of such served part of the sentence.

3. Request of an authority in charge with criminal proceedings having a provision on criminal prosecution of a person suspected or convicted of an offence in the territory of Belarus, when such person is in a foreign state, should be accompanied by notarised copy of the criminal case file.

4. Where a court requests mutual international assistance in a criminal matter (hereinafter – court's request) to enforce a criminal sentence, such request shall be accompanied by notarized copy of effective sentence; if the person convicted has already served a part of their sentence or if other criminal sanctions have been applied to them, then it shall be accompanied by information re the part of the sentence already served or other measures applied.

**Article 493 of the Criminal Procedural Code – Procedure of requesting assistance by an authority in charge with criminal proceedings**

Request of an authority in charge with criminal proceedings and accompanying documents shall be sent to the General Prosecutor's office of Belarus or the Supreme Court of Belarus for them to make a decision basing on article 494 of the present Code.

Chapter 53 of the Criminal Procedural Code  
Competency of the General Prosecutor's Office of Belarus and Supreme Court of Belarus in providing mutual legal assistance.

**Article 494 – Competencies of the General Prosecutor's Office of Belarus and the Supreme Court of Belarus in providing mutual legal assistance**

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1. General Prosecutor's Office of Belarus makes decisions on the following requests of foreign authorities and criminal prosecution authorities:
  - 1) delivery of procedural and other documents re a criminal case;
  - 2) invitation of a person to take part in procedural actions as a victim, civil claimant, civil defendant, their representative, witness, or expert;
  - 3) temporary transfer of an imprisoned person for him/her to take part in procedural actions as a witness or victim;
  - 4) extradition of a person sentenced to imprisonment to the state of their citizenship;
  - 5) arrest of a person for further extradition for criminal prosecution and/or to serve a sentence;
  - 6) to take measures to find out the whereabouts of a person suspected of or charged with an offence or convicted of an offence, and missing persons;
  - 7) extradition of a person for criminal prosecution and/or to serve a sentence;
  - 8) temporary extradition of an imprisoned person for him/her to take part in procedural actions as an accused;
  - 9) criminal prosecution of a person;
  - 10) transit transfer of a person where there is a decision on their temporary transfer in order to take part in criminal procedures as a witness or victim; or on transfer of a person to the state of their citizenship to serve their sentence, or on their extradition for criminal prosecution and / or to serve a sentence, or on temporary extradition for them to take part in procedural actions as an accused;
  - 11) provision of items that were used as crime instruments and retain traces of crime; or illegally obtained, or other items and documents that can serve to trace a crime, establish the facts thereof and identify those guilty, or to deny prosecution;
  - 12) performance of other procedural actions.
2. Supreme Court of Belarus makes decisions on requests from foreign authorities and foreign courts including the following:
  - 1) delivery of procedural and other documents re criminal cases in court;
  - 2) enforcement of court judgements on criminal matters.
3. General Prosecutor's Office of Belarus or Supreme Court of Belarus shall attach thereto a written commitment of Belarus to provide mutual assistance in criminal cases; and a commitment to adhere to the terms analogous to those provided in articles 471-480 of the present Code (where necessary, depending

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	<p>on the content of the request).</p> <p>4. General Prosecutor’s Office of Belarus shall attach to a request on extradition of a person for criminal prosecution and/or to serve a sentence a written obligation of Belarus not to exercise capital punishment to the person in question, where the foreign authority links fulfilment of the request to such commitment.</p>
<p><b>Article 28 – Confidentiality and limitation on use</b></p> <p>1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:</p> <p>a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or</p> <p>b 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 407 BYCC. Disclosure of data of inquiry, preliminary investigation or the closed court session</p> <p>1. Deliberate disclosure of data of inquiry, preliminary investigation or the closed court session by the person warned in the order established by the law on inadmissibility of their disclosure without the permission of the person making inquiry, the investigator, the prosecutor or vessels – it is punished by a penalty or arrest.</p>
<p><b>Article 29 – Expedited preservation of stored computer data</b></p> <p>1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.</p> <p>2 A request for preservation made under paragraph 1 shall specify:</p> <p>a the authority seeking the preservation;</p> <p>b the offence that is the subject of a criminal investigation or</p>	<p>See art. 16</p>

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proceedings and a brief summary of the related facts;

c the stored computer data to be preserved and its relationship to the offence;

d any available information identifying the custodian of the stored computer data or the location of the computer system;

e the necessity of the preservation; and

f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.

3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.

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

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

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

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

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

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



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such a request, the data shall continue to be preserved pending a decision on that request.	
<p><b>Article 30 – Expedited disclosure of preserved traffic data</b></p> <p>1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.</p> <p>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>	See art. 17
<p><b>Article 31 – Mutual assistance regarding accessing of stored computer data</b></p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application 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>	No specific provisions on mutual assistance regarding computer data; “traditional” rules are used.
<p><b>Article 32 – Trans-border access to stored computer data with consent or where publicly available</b></p> <p>A Party may, without the authorisation of another Party:</p> <p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p>	This provision does not exist in domestic law of Belarus.

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<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><b>Article 33 – Mutual assistance in the real-time collection of traffic data</b></p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.</p> <p>2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.</p>	<p>No specific provisions on mutual assistance regarding traffic data; “traditional” rules are used.</p>
<p><b>Article 34 – Mutual assistance regarding the interception of content data</b></p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	<p>No specific provisions on mutual assistance regarding content data; “traditional” rules are used.</p>
<p><b>Article 35 – 24/7 Network</b></p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <ul style="list-style-type: none"> <li>a the provision of technical advice;</li> <li>b the preservation of data pursuant to Articles 29 and 30;</li> <li>c the collection of evidence, the provision of legal information, and locating of suspects.</li> </ul> <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</p>	<p>24/7 contact point of the Ministry of Interior of Belarus became a member of the international network under invitation of Russia’s Ministry of Interior at meeting of the Group of Eight, a Rome-Lion subgroup, on December 9-11, 2008 in Kyoto, Japan. Authority in charge with operations of the 24/7 contact point of the Belarus Ministry of Interior is the hi-tech crime unit. Point of contact is available on a twenty-four hour, seven-day-a-week.</p>

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<p>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><b>Article 42 – Reservations</b></p> <p>By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.</p>	