

Bosnia and Herzegovina

Cybercrime legislation

Domestic equivalent to the provisions of the Budapest Convention

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Version 14 April 2020

[reference to the provisions of the Budapest Convention]

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This profile has been prepared by the Cybercrime Programme Office (C-PROC) of the Council of Europe in view of sharing information on cybercrime legislation and assessing the current state of implementation of the Budapest Convention on Cybercrime under national legislation. It does not necessarily reflect official positions of the State covered or of the Council of Europe.

State:	
Signature of the Budapest Convention:	09/02/2005
Ratification/accession:	19/05/2006

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Chapter I – Use of terms	
<p>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</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>Republic of Srpska</p> <p>Article 20 of the Criminal Procedure Code of Republic of Srpska (CPC RS):</p> <p>p) “computer system” is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme,</p> <p>c) “computer data” denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.</p> <p>The term “computer system” is used in Article 115, paragraph (2) of the CPC RS stipulating that the search of movable property shall include a search of the computer systems.</p> <p>Federation of Bosnia and Herzegovina</p> <p>The term “computer system” is specified in Article 21 u) of the Criminal Procedure Code of Federation (CPC FBiH) (definition of terms – basic terms), stipulating that it is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme.</p> <p>The term “computer system” is specified under point v) of the same Article of the CPC FBiH, stipulating that it “denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.”</p>

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	<p>Brčko District</p> <p>Article 20 of the Criminal Procedure Code of Brcko District (CPC BD BIH):</p> <p>u) The term “computer system” is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme,</p> <p>v) The term “computer data” denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.</p> <p>State level</p> <p>Article 20 of Criminal Procedure Code of Bosnia and Herzegovina (CPC BIH):</p> <p>u)The term “Computer system” is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme,</p> <p>v) The term “Computer data” denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.</p>
Chapter II – Measures to be taken at the national level	
Section 1 – Substantive criminal law	
Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems	
<p>Article 2 – Illegal access</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>Republic of Srpska</p> <p>Article 411 of the Criminal Code of Republic of Srpska (CC RS) provides for Unauthorised Access to Protected Computer, Computer Network, Telecommunications Network and Electronic Data Processing</p>

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	<p>Article 413 of the CC RS provides for Unauthorized use of a computer or a computer network.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 397 of the Criminal Code of Federation (CC FBIH) provides for Unauthorized Access to Protected Electronic Data Processing Systems and Networks</p> <p>(1) Whoever, without authorisation, logs on the electronic data processing system or network, by violating the protective measures, shall be punished by a fine or imprisonment for a term not exceeding one year.</p> <p>(2) Whoever uses a datum obtained in the manner referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not exceeding three years.</p> <p>(3) If, by the criminal offence referred to in paragraph 2 of this Article, serious consequences to another are caused, the perpetrator shall be punished by imprisonment for a term between six months and five years.</p> <p>Brčko District</p> <p>Article 387 (2) of the Criminal Code of Brčko District (CC BD BIH) provides for Damaging of Computer Information and Programs</p> <p>(1) A person who damages, changes, deletes, destroys or otherwise makes useless or unavailable another person's computer information or programs, shall be fined or sentenced with up to one year in prison.</p> <p>(2) A person who enters computer data or programs without authorization, despite security measures, or who intercepts transfer thereof without authorization, shall be fined or sentenced with up to three years in prison.</p> <p>The sentence from Paragraph 2 shall be imposed on a person who prevents or hinders operations or use of computer system, data or programs, or computer communication.</p>

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	<p>(3) If the criminal offence from Paragraphs 1 through 3 of this Article was committed on a computer system, information or program of a governmental body, public authority, public institution or a trading company of special public importance, or if considerable damage was done, the perpetrator shall be sentenced with three months to five years in prison.</p> <p>(4) A person who illicitly manufactures, purchases, sells, hold in possession, or makes available to another person special devices, computer programs or electronic data, made or adapted to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be fined or sentenced with up to three years in prison.</p> <p>(5) Special devices, instruments, computer programs or data made, used or adapted for commission of criminal offences, used to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be confiscated.</p> <p>Article 391 provides for Unauthorized Access into Protected System and Network for Electronic Data Processing</p> <p>(1) A person who accesses a system or network for electronic data processing by violating measures for protection without authorization, shall be fined or sentenced up to one year in prison.</p> <p>(2) A person who uses the information obtained in the manner stipulated in Paragraph 1 of this Article, shall be sentenced to up to three years in prison.</p> <p>(3) If the offence from Paragraph 2 of this Article resulted in serious consequences for another, the perpetrator shall be sentenced from six months to five years in prison.</p>
<p>Article 3 – Illegal interception Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer 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>Republic of Srpska</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 393 (2) of the CC FBiH provides for Damaging Computer Data and Programs</p>

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	<p>(2) Whoever, despite the protective measures, access without authorisation the computer data or programs or intercepts their transmission without authorisation, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>Brčko District</p> <p>Article 387 paragraph (2) of the CC BD BIH provides for Damaging of Computer Information and Programs</p> <p>(2) A person who enters computer data or programs without authorization, despite security measures, or who intercepts transfer thereof without authorization, shall be fined or sentenced with up to three years in prison.</p>
<p>Article 4 – Data interference</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right.</p> <p>2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.</p>	<p>Republic of Srpska</p> <p>Article 407 of the CC RS - Damage to Computer Data and Programs and Article 408 of the CC RS - Computer Sabotage.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 393 of the FBIH CC - Damaging Computer Data and Programs</p> <p>(1) Whoever damages, alters, deletes, destroys or in some other way renders useless or unavailable computer data or computer programs of another, shall be punished by a fine or imprisonment for a term not exceeding one year.</p> <p>(2) Whoever, despite the protective measures, access without authorisation the computer data or programs or intercepts their transmission without authorisation, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(3) The punishment referred to in paragraph 2 of this Article shall be imposed on whoever disables or renders more difficult the work or use of computer system, computer data or programs or computer communication.</p> <p>(4) If the criminal offence referred to in paragraphs 1 through 3 of this Article is perpetrated in regard to computer system, datum or program of the governmental body, public service, public institution or business enterprise of special public</p>

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	<p>interest, or if a considerable damage is caused, the perpetrator shall be punished by imprisonment for a term between three months and five years.</p> <p>(5) Whoever, without authorisation, manufactures, supplies, sells, possesses or makes available to another special devices, means, computer programs or computer data created for or adjusted for the perpetration of criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by a fine or imprisonment for term not exceeding three years.</p> <p>(6) Special devices, means, computer programs or data created, used or adjusted for the perpetration of criminal offences, by which the criminal offence referred to in paragraphs 1 through 3 of this Article is perpetrated, shall be forfeited.</p> <p>and Article 398 of the CC FBiH – Computer Sabotage</p> <p>Whoever enters, alters, deletes or conceals a computer datum or program or in any other manner interferes in the computer system, or destroys or damages devices for the electronic data processing with an aim of disabling or considerably disturbing the process of electronic data processing important to the governmental bodies, public services, public institutions, business enterprises or other legal person of special public interest, and thereby causes damage exceeding 500.000 KM, shall be by imprisonment for a term between one and eight years.</p> <p>Brčko District</p> <p>Article 387 (1) CC BD BIH - Damaging of Computer Information and Programs</p> <p>(1) A person who damages, changes, deletes, destroys or otherwise makes useless or unavailable another person's computer information or programs, shall be fined or sentenced with up to one year in prison.</p>
<p>Article 5 – System interference Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data</p>	<p>Republic of Srpska</p> <p>Article 412 of the CC RS - Preventing and Limiting Access to a Public Computer Network.</p> <p>Federation of Bosnia and Herzegovina</p>

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	<p>Article 396 of the CC FBiH - Disturbing the Work of the Electronic Data Processing System and Network</p> <p>Whoever, by an unauthorised access to the electronic data processing system or network, causes the stoppage or disturbance of the work of such system or network, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>Article 398 – Computer Sabotage</p> <p>Whoever enters, alters, deletes or conceals a computer datum or program or in any other manner interferes in the computer system, or destroys or damages devices for the electronic data processing with an aim of disabling or considerably disturbing the process of electronic data processing important to the governmental bodies, public services, public institutions, business enterprises or other legal person of special public interest, and thereby causes damage exceeding 500.000 KM, shall be by imprisonment for a term between one and eight years.</p> <p>Brčko District</p> <p>Article 387 CC BD - Damaging of Computer Information and Programs</p> <p>(1) A person who damages, changes, deletes, destroys or otherwise makes useless or unavailable another person's computer information or programs, shall be fined or sentenced with up to one year in prison.</p> <p>(2) A person who enters computer data or programs without authorization, despite security measures, or who intercepts transfer thereof without authorization, shall be fined or sentenced with up to three years in prison.</p> <p>The sentence from Paragraph 2 shall be imposed on a person who prevents or hinders operations or use of computer system, data or programs, or computer communication.</p> <p>Article 392 CC BD BIH - Computer Sabotage</p>

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	A person who enters, changes, deletes or conceals computer information or program or in some other way interferes with a computer system, or destroys or damages devices for electronic data processing with the intention to prevent or significantly obstruct the course of electronic data processing important for governmental bodies, public services, public institutions, trading companies or other legal persons of special public importance, shall be sentenced from one to eight years in prison.
<p>Article 6 – Misuse of devices</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:</p> <p>a the production, sale, procurement for use, import, distribution or otherwise making available of:</p> <p>i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;</p> <p>ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise 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</p>	<p>Republic of Srpska</p> <p>Article 409 of CC RS - Developing and introducing computer viruses.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 394 (3) and (4) CC FBiH - Computer Forgery</p> <p>(3) Whoever, without authorisation, produces, supplies, sells, possesses or makes available to another special devices, means, computer programs or computer data created for or adjusted for the perpetration of criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(4) Special devices, means, computer programs or data created, used or adjusted for the perpetration of criminal offences, by which the criminal offence referred to in paragraphs 1 and 2 of this Article is perpetrated, shall be forfeited.</p> <p>Brčko District</p> <p>Article 387 (4) and (5) CC BD BiH - Damaging of Computer Information and Programs</p> <p>(4) A person who illicitly manufactures, purchases, sells, hold in possession, or makes available to another person special devices, computer programs or electronic data, made or adapted to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be fined or sentenced with up to three years in prison.</p>

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otherwise making available of the items referred to in paragraph 1 a.ii of this article.	(5) Special devices, instruments, computer programs or data made, used or adapted for commission of criminal offences, used to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be confiscated.
Title 2 – Computer-related offences	
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<p>Republic of Srpska</p> <p>Article 407 of the CC RS - Damage to computer data and programs</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 394 CC FBiH - Computer Forgery</p> <p>(1) Whoever, without authorisation, produces, enters, alters, deletes or renders useless computer data or programs that are of value for the legal relations, with an aim of using them as genuine, or uses such data or programs himself, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(2) If the criminal offence referred to in paragraph 1 of this Article is perpetrated in regard to computer data or programs of the governmental body, public service, public institution or business enterprise of special public interest, or if a considerable damage is caused, the perpetrator shall be punished by imprisonment for a term between three months and five years.</p> <p>(3) Whoever, without authorisation, produces, supplies, sells, possesses or makes available to another special devices, means, computer programs or computer data created for or adjusted for the perpetration of criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(4) Special devices, means, computer programs or data created, used or adjusted for the perpetration of criminal offences, by which the criminal offence referred to in paragraphs 1 and 2 of this Article is perpetrated, shall be forfeited</p>

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	<p>Brčko District</p> <p>Article 388 CC BD BIH - Electronic Forgery</p> <p>(1) A person who illegally produces, enters, changes, deletes or makes useless computer information or programs relevant for legal affairs, with the intention to use such information or programs as valid or who uses himself such information or programs, shall be fined or sentenced up to three years in prison.</p> <p>(2) If the criminal offence from Paragraph 1 of this Article was committed on a computer information or program of a body, public authority, public institution or a trading company of special public importance, or if considerable damage was done, the perpetrator shall be sentenced with three months to five years in prison.</p> <p>(3) A person who illicitly manufactures, purchases, sells, holds in possession, or makes available to another person, special devices, instruments, computer programs or electronic data, made or adapted to commit the criminal offence from Paragraph 1 and 2 of this Article, shall be fined or sentenced with up to three years in prison.</p> <p>(4) Special devices, instruments, computer programs or data made, used or adapted for commission of criminal offences, used to commit the criminal offence from Paragraph 1 and 2 of this Article, shall be confiscated.</p>
<p>Article 8 – Computer-related fraud</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <p style="padding-left: 40px;">a any input, alteration, deletion or suppression of computer data;</p> <p style="padding-left: 40px;">b any interference with the functioning of a computer system,</p> <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>Republic of Srpska</p> <p>Article 410 of the CC RS - Computer fraud.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 395 - Computer fraud</p> <p>(1) Whoever, without authorisation, enters, damages, alters or conceals computer datum or program or otherwise influences the result of the electronic data processing with an aim of acquiring unlawful material gain for himself or for</p>

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	<p>another, and thus causes material damage to somebody else, shall be punished by imprisonment for a term between six months and five years.</p> <p>(2) If, by the criminal offence referred to in paragraph 1 of this Article, a material gain exceeding 10.000 KM is acquired, the perpetrator shall be punished by imprisonment for a term between two and ten years.</p> <p>(3) If, by the criminal offence referred to in paragraph 1 of this Article, a material gain exceeding 50.000 KM is acquired, the perpetrator shall be punished by imprisonment for a term between two and twelve years.</p> <p>(4) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article only with an aim of causing damage to another, shall be punished by a fine or imprisonment for a term not exceeding three years</p> <p>Brčko District</p> <p>Article 389 CC BD Computer fraud</p> <p>(1) A person who unlawfully enters, damages, changes or conceals computer information or program, or in some other way influences the output of electronic data processing, with the intention to acquire a property gain for himself or another and in that way causes a property damage to another, shall be sentenced to six months to five years in prison.</p> <p>(2) If the offence from Paragraph 1 of this Article resulted in a property gain exceeding the amount of KM 10,000, the perpetrator shall be sentenced from two to ten years in prison.</p> <p>(3) If the offence referred to in Paragraph 1 of this Article resulted in a property gain exceeding the amount of KM 50,000, the perpetrator shall be sentenced from two to twelve years in prison.</p> <p>(4) A person who commits the offence referred to in Paragraph 1 of this Article with the sole intention to cause damage to another, shall be fined or sentenced to up to three years in prison</p>

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Title 3 – Content-related offences	
<p>Article 9 – Offences related to child pornography</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> a producing child pornography for the purpose of its distribution through a computer system; b offering or making available child pornography through a computer system; c distributing or transmitting child pornography through a computer system; d procuring child pornography through a computer system for oneself or for another person; e possessing child pornography in a computer system or on a computer-data storage medium. <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"> a a minor engaged in sexually explicit conduct; b a person appearing to be a minor engaged in sexually explicit conduct; c realistic images representing a minor engaged in sexually explicit conduct <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>Republic of Srpska</p> <p>Article 175 of the CC RS - Abuse of children for pornography</p> <p>Article 176 of the CC RS - Abuse of children for pornographic performances</p> <p>Article 177 of the CC RS - Showing Pornographic Material to Child</p> <p>Article 178 of the CC RS - Utilizing computer network or communication with other technical means for the commission of criminal offenses of sexual abuse or exploitation of a child.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 211 CC FBIF – Abuse of a Child or Juvenile for Pornography</p> <p>(1) Whoever photographs or films a child or juvenile with an aim of developing photographs, audio-visual tapes or other pornographic materials, or possesses or imports or sells or deals in or projects such material, or induces such persons to play in pornographic shows, shall be punished by imprisonment for a term between one and five years.</p> <p>(2) Items meant or used for the perpetration of criminal offence referred to in paragraph 1 of this Article shall be forfeited and the items produced by the perpetration of criminal offence referred to in paragraph 1 shall be forfeited and destroyed.</p> <p>and Article 189 (3) CC FBIF – Unauthorized Photographing and Filming</p> <p>(3) Whoever photographs or films a child with an aim of developing photograph, audio-visual tapes or other pornographic materials or who possesses or imports or sells or deals in or projects such material, shall be punished by imprisonment for a term between one and five years.</p>

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	<p>Brčko District</p> <p>Article 208 CC BD - Abuse of Child or Minor for Pornographic Purposes</p> <p>(1) A person who abuses a child or a minor for taking photographs, audio-visual material or other material with pornographic contents, or possesses, or imports, or sells, or distributes, or presents such material, or induces such persons to take part in a pornographic performance, shall be sentenced to prison from one to five years.</p> <p>(2) Items that were intended to be used or were used in committing the criminal offence referred to in Paragraph 1 of this Article shall be confiscated, and the items produced as a result of the criminal offence of Paragraph 1 of this Article shall be confiscated and destroyed.</p> <p>Article 209 CC BD - Showing Pornographic Material to Child</p> <p>(1) A person who sells, shows, or presents to the public, or in some other way makes available documents, photographs, audio-visual and other pornographic material, or shows a pornographic performance to a child, shall be fined or sentenced up to one year of imprisonment.</p> <p>(2) Items referred to in Paragraph 1 of this Article shall be confiscated.</p> <p>Article 186 CC BD BiH - Unauthorised Optical Recording</p> <p>(1) A person who photographs, films or in some other way records another person without his consent in his own premises or directly gives or presents such recording to a third person or in some other way makes the recording directly available to the third person, shall be fined or sentenced to prison up to three years.</p> <p>(2) An official who commits the criminal act referred to in Paragraph 1 of this Article on duty shall be sentenced to prison from six months to five years</p> <p>(3) A person who photographs a child or a juvenile in order to develop photographs, audio and visual material or other articles containing pornographic</p>

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	<p>elements, or possesses, imports, sells, distributes or presents such material, shall be sentenced to prison from one to five years.</p> <p>(4) Items that were intended for use or were used in committing the act referred to in Paragraphs 1 and 3 of this Article shall be seized, and the items obtained through perpetration of the act referred to in Paragraphs 1 and 3 of this Article shall be seized and destroyed.</p>
Title 4 – Offences related to infringements of copyright and related rights	
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral 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>Articles 242, 243, 244, 245 and 246 Criminal Code of Bosnia and Herzegovina (CC BIH).</p> <p>Article 242 - Breaches of Copyrights</p> <p>(1) Whoever, under his own or a name of another, publishes, shows, performs, transmits or in another way communicates to the public someone else's creation which in accordance with the law of Bosnia and Herzegovina is considered as a copyright protected product or approves this to be done, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, without indicating the name or pseudonym of the author, publishes, shows, performs, transmits or in another way communicates to the public someone else's creation referred to in paragraph 1 of this Article on which the name and pseudonym of the author is designated, or incorporates in an unauthorized way parts of someone else's creation referred to in paragraph 1 into his own copy right protected product or approves this to be done.</p> <p>(3) Whoever destroys, distorts or damages or in another way, without permission of the author changes someone else's creation referred to in paragraph 1 of this Article, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(4) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without indicating the name or pseudonym of the performer of art, unless the performer of art wishes to stay anonymous, publishes, shows,</p>

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	<p>performs, transmits or in another way communicates to the public his artistic performance.</p> <p>(5) The punishment referred to in paragraph 3 of this Article shall be imposed on whomever destroys, distorts, damages, mutilates or in another way alters, without permission of the artistic performer, the recorded performance of the artist performer.</p> <p>(6) If by the criminal offence referred to in paragraph 1 through 5 of this Article a substantial property gain has been obtained or considerable damage done, whereas the perpetrator has acted with a view to obtaining such property gain or causing such damage, the perpetrator 82 shall be punished by imprisonment for a term between six months and five years.</p> <p>Article 243 - Impermissible Use of Copyrights</p> <p>(1) Whoever, without the authorisation of the author or other holder of copyright, or the person entitled to give authorisation, where such authorisation is required under the provisions of the law of Bosnia and Herzegovina, or contrary to their prohibition, fixes on a material surface, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public, translates, adapts, arranges, alters or uses the in any other form the work of an author, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without the authorisation of the performer of art or the person entitled to give authorisation, where such authorisation is required under the provisions of the law of Bosnia and Herzegovina, or, contrary to their prohibition, records, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public or uses his performance in another way.</p> <p>(3) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, with an aim of facilitating the unauthorised use of the author's work or the performer's of art performance produces, imports, brings across the state border, distributes, rents or allows to others the use and exploitation of any kind of equipment or device whose sole or main purpose is to facilitate the unauthorised removal or circumvention of any technical device or computer</p>

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	<p>program that is used for protection of the author's and performer's of art rights against unauthorised use.</p> <p>(4) A person in whose possession the objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article, are found, and who knew, might have known or ought to have known about it, shall be punished by a fine or imprisonment for a term not exceeding six months.</p> <p>(5) If the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term between six months and five years. (6) Objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article shall be forfeited and destroyed.</p> <p>Article 244 - Illegal Use of the Sound Recording Producers' Rights</p> <p>(1) Whoever, without the authorisation of the producer of a sound recording, where such authorisation is required under the provisions of the law of Bosnia and Herzegovina, or contrary to their prohibition, broadcasts, reproduces directly or indirectly their sound recording, distributes, rents, imports, brings across the state border or makes available to the public the sound recording without authorisation, shall be punished by a fine or imprisonment for a term not exceeding one year.</p> <p>(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without the 83 authorisation of the holder of the right with regard to the radio broadcast shows, where such authorisation is required under the provisions of the law of Bosnia and Herzegovina, or contrary to their prohibition, rebroadcasts or records the show, reproduces or distributes the recording of its show.</p> <p>(3) If the perpetration of the criminal offence referred to in paragraph 1 and 2 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with an aim of acquiring such</p>

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	<p>financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term between six months and five years.</p> <p>(4) The objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article shall be forfeited and destroyed.</p> <p>Article 245 - Illegal Use of Radio Broadcasting Rights</p> <p>(1) Whoever, without the authorisation of an authorised distributor of an encrypted satellite signal, manufactures, assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, knowing or having reason to know that the device or the system serves primarily for decoding an encrypted satellite signal, shall be punished by a fine or imprisonment for a term not exceeding three years.</p> <p>(2) If the perpetration of the criminal offence referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term between six months and five years.</p> <p>(3) Objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 and 2 of this Article shall be forfeited and destroyed.</p> <p>Article 246 - Illegal Distribution of Satellite Signals</p> <p>(1) Whoever, receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor and further distributes such a signal, knowing or having reasons to know that such a signal is decoded without authorisation, shall be punished by a fine or imprisonment for a term not exceeding six months.</p> <p>(2) If the perpetration of the criminal offence referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused substantial damage, and the perpetrator has acted with the aim of acquiring such financial</p>

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	gain or causing such damage, the perpetrator shall be punished by a fine or imprisonment for a term not exceeding three years.
Title 5 – Ancillary liability and sanctions	
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.</p> <p>3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.</p>	<p>Republic of Srpska</p> <p>Attempt and complicity are regulated by the general provisions Articles 22-24 of CC RS.</p> <p>Accomplices is regulated by Article 37, incitement is provided in Article 38 and accessory in Article 39 of CC RS.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Attempted criminal offense and co-perpetration are stipulated by general provisions of the CC FBiH. The provisions of Articles 28-30 define what is an attempt, as well as liability for the attempted criminal offense while provisions of Articles 31-34 prescribe the co-perpetration, incitement, help, as well as liability for these forms of complicity.</p> <p>Article 28 – Attempt</p> <p>(1) Whoever intentionally commences perpetration of a criminal offence, but does not complete it, shall be punished for the attempted criminal offence when, for the criminal offence in question, the punishment of imprisonment for a term of three years or a more severe punishment may be imposed, and for the attempt of another criminal offence when the law expressly prescribes punishment for the attempt alone.</p> <p>(2) A perpetrator shall be punished for an attempt of criminal offence within the limits of the punishment prescribed for the same criminal offence completed but may also be punished less severely.</p> <p>Article 31 – Accomplices</p>

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	<p>If several persons jointly perpetrate a criminal offence, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution can be made to its perpetration, each of them shall be punished by a punishment prescribed for that criminal offence.</p> <p>Brčko District</p> <p>Article 28 CC BD - Attempt</p> <p>(1) Whoever intentionally commences execution of a criminal offence, but does not complete such offence, shall be punished for the attempted criminal offence when, for the criminal offence in question, the punishment of imprisonment for a term of three years or a more severe punishment may be imposed, and for the attempt of another criminal offences when the Code expressly prescribes punishment of the attempt alone.</p> <p>(2) An attempted criminal offence shall be punished within the limits of the punishment prescribed for the same criminal offence perpetrated, but the punishment may also be reduced.</p> <p>Article 31 - Accomplices</p> <p>If several persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence, shall each be punished as prescribed for the criminal offence.</p> <p>Article 32 - Incitement</p> <p>(1) Whoever intentionally incites another to perpetrate a criminal offence, shall be punished as if he himself has perpetrated such offence.</p> <p>(2) Whoever intentionally incites another to perpetrate a criminal offence for which a punishment of imprisonment for a term of three years or a more severe punishment is prescribed by the Code, and the criminal offence has never been attempted, shall be punished as if it was the attempt of the criminal offence.</p>

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	<p>(3) Incitement to commit a criminal offence shall be construed to mean, in particular: pleading, persuading or prompting, portraying benefits of the perpetration of the criminal offence, giving or promising gifts, abusing the state of subordination or dependency, making a person believe in and keeping a person under a mistake of fact or law, deceiving.</p> <p>Article 33 - Accessory</p> <p>(1) Whoever intentionally helps another to perpetrate a criminal offence shall be punished as if he himself perpetrated such offence, but the punishment may be reduced.</p> <p>(2) The following, in particular, shall be considered as helping in the perpetration of a criminal offence: giving advice or instructions as to how to perpetrate a criminal offence, supplying the perpetrator with tools for perpetrating the criminal offence, removing obstacles to the perpetration of criminal offence, and promising, prior to the perpetration of the criminal offence, to conceal the criminal offence, to hide the perpetrator, the tools used for perpetrating the criminal offence, traces of the criminal offence, or goods acquired by perpetration of the criminal offence.</p>
<p>Article 12 – Corporate liability</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:</p> <ul style="list-style-type: none"> a a power of representation of the legal person; b an authority to take decisions on behalf of the legal person; c an authority to exercise control within the legal person. <p>2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.</p>	<p>Republic of Srpska</p> <p>Liability of legal persons for criminal offences is stipulated by Chapter X of CC RS, Articles 103-122.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Liability of legal persons for criminal offences is stipulated by Chapter XIV of CC FBiH, Articles 126-148 provide that the criminal proceedings against legal entities are led in accordance with the provisions of CPC BiH.</p> <p>Brčko District</p> <p>Liability of legal persons for criminal offences is provided by Chapter XV, Articles 126-148 of the CC BD.</p>

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<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>Article 13 – Sanctions and measures</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.</p>	<p>Republic of Srpska</p> <p>Sanctions are prescribed for each criminal offense separately.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Punishment is prescribed for each criminal offense separately.</p> <p>Legal persons may be subject to the following sanctions:</p> <ul style="list-style-type: none"> • Fine, • Seizure of property, • Dissolution of legal person. <p>In addition, legal persons can be imposed security measures such as forfeiture of objects, publication of the judgment and the ban on certain activities.</p> <p>In case of material gain, it shall be confiscated from the legal entity.</p> <p>Brčko District</p> <p>Article 148 CC BD - Punishments for Criminal Offences</p> <p>(1) For criminal offences for which a fine or imprisonment for a term not exceeding three years is prescribed, a legal person shall be fined up to KM 850,000 or less than tenfold amount of the damage caused or material gain acquired through the perpetration of a criminal offence.</p> <p>(2) For criminal offences for which imprisonment for a term not less than three years is prescribed, a legal person shall be punished by a fine of up to KM</p>

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	<p>2,500,000 or a fine not exceeding twentyfold amount of the damage caused or material gain acquired through the perpetration of a criminal offence.</p> <p>(3) For criminal offences for which imprisonment for a term of five or more years is prescribed, a property seizure punishment may be imposed on a legal person instead of a fine.</p> <p>(4) For criminal offences referred to in Paragraph 1 of this Article, a punishment of dissolution of the legal person may be imposed on a legal person instead of a fine, under the requirements referred to in Article 138 (<i>Dissolution of Legal Person</i>) of this Code.</p>
Section 2 – Procedural law	
<p>Article 14 – Scope of procedural provisions</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.</p> <p>2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:</p> <ul style="list-style-type: none"> a the criminal offences established in accordance with Articles 2 through 11 of this Convention; b other criminal offences committed by means of a computer system; and c the collection of evidence in electronic form of a criminal offence. <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> <ul style="list-style-type: none"> 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>Republic of Srpska</p> <p>Procedural provisions of CPC RS are applied.</p> <p>Article 234 (2) of the CPC RS provides for special investigative actions such as a) surveillance and technical recording of telecommunications; b) access to computer systems and computerized data processing. These may be orderd for the following criminal offenses (Article 235): a) criminal offenses against Republika Srpska; b) criminal offenses against humanity and violation of international law; v) criminal offenses of terrorism; g) criminal offenses for which, pursuant to the Criminal Code, a prison sentence of three years or more may be pronounced.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Procedural provisions of CPC FBiH and CPC BiH are applied in relation to the companies.</p> <p>Brčko District</p> <p>Provisions of the CPC BD BiH are applied in the same way in respect of all crimes, except in regard to the application of special investigative measures that may be</p>

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<p>i is being operated for the benefit of a closed group of users, and</p> <p>ii does not employ public communications networks and is not connected with another computer system, whether public or private,</p> <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>imposed only for crimes for which the law provides punishment of imprisonment of three years or more.</p>
<p>Article 15 – Conditions and safeguards</p> <p>1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.</p> <p>2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, <i>inter alia</i>, include judicial or other 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 Srpska</p> <p>Article 1 (1) CC RS – Function of the Criminal Legislation of RS</p> <p>Paragraph (1) Criminal legislation of the Republika Srpska protects fundamental human rights and freedoms and other fundamental individual and general values established and protected by the legal system.</p> <p>Basic principles of CPC RS are embedded in Articles 2-7 and 10-15.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Based on principles established in the CC and CPC FBiH, implementation of the Convention for the Protection of Human Rights and Fundamental Freedoms the national law provides for judicial control during the investigation, right to legal remedy, including lodgement of an appeal to the Constitutional Court of Bosnia and Herzegovina.</p> <p>Brčko District</p> <p>CPC BD and in particular Articles 2-18 lay down principles and rules which provide guarantees and safeguards for human rights and fundamental freedoms in accordance with the provisions of the Constitution (Article 2 of the Constitution, human rights and fundamental freedoms).</p>

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<p>Article 16 – Expedited preservation of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification.</p> <p>2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person’s possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Republic of Srpska</p> <p>N/A</p> <p>Federation of Bosnia and Herzegovina</p> <p>N/A</p> <p>Brčko District</p> <p>N/A</p>
<p>Article 17 – Expedited preservation and partial disclosure of traffic data</p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available 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>Republic of Srpska</p> <p>N/A</p> <p>Federation of Bosnia and Herzegovina</p> <p>N/A</p> <p>Brčko District</p> <p>N/A</p>

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<p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 18 – Production order</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:</p> <p>a a person in its territory to submit specified computer data in that person’s possession or control, which is stored in a computer system or a computer-data storage medium; and</p> <p>b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider’s possession or control.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p> <p>3 For the purpose of this article, the term “subscriber information” means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:</p> <p>a the type of communication service used, the technical provisions taken thereto and the period of service;</p> <p>b the subscriber’s identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;</p> <p>c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.</p>	<p>Republic of Srpska</p> <p>Article 137 of the CPC RS - Order to the telecommunication operator</p> <p>(1) If there are grounds for suspicion that a person has committed a criminal offence, on the basis of motion of the prosecutor or officials authorized by prosecutor, the court may issue an order to a telecommunication operator or another legal person performing telecommunication services to turn over information concerning the use of telecommunications services by that person, if such information could be used as evidence in the criminal proceedings or be useful in collection of information that could be useful to the criminal proceedings.</p> <p>(2) In the case of emergency, any of the measures under Paragraph 1 of this Article may be ordered by the prosecutor and information received shall be sealed until the issuance of the court order. The prosecutor shall immediately inform the preliminary proceedings judge who may issue a warrant within 72 hours. In case the preliminary proceedings judge fails to issue the said order, the prosecutor shall be obliged to return such information without accessing it.</p> <p>(3) The measures under Paragraph 1 of this Article may also be ordered against person for whom there are grounds for suspicion that he will deliver to or receive from the perpetrator the information in relation to the offence, or if there are grounds for suspicion that the perpetrator uses a telecommunication device belonging to this person.</p> <p>(4) Telecommunication operators or other legal person who provide telecommunication services shall be obliged to enable enforcement of the measures by the prosecutor and police bodies under Paragraph 1 of this Article.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 86a CPC FBiH - Order to the telecommunication operator</p> <p>(1) If there are grounds for suspicion that a person has committed a criminal offence, on the basis of motion of the Prosecutor or officials authorized by Prosecutor, the Court may issue an order to a telecommunication operator or</p>

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	<p>another legal person performing telecommunication services to turn over information concerning the use of telecommunications services by that person, if such information could be used as evidence in the criminal proceedings or be useful in collection of information that could be useful to the criminal proceedings.</p> <p>(2) In the case of emergency, any of the measures under Paragraph (1) of this Article may be ordered by the Prosecutor and received information will be sealed until the issuance of the court order. The Prosecutor shall immediately inform the preliminary proceedings judge who may issue a warrant within 72 hours. In case the preliminary proceedings judge fails to issue the said order, the Prosecutor shall be obliged to return such information without accessing it.</p> <p>(3) Measures under Paragraph (1) of this Article may also be ordered against person against whom there are grounds for suspicion that he will deliver to the perpetrator or will receive from the perpetrator the information in relation to the offence, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to this person.</p> <p>(4) Telecommunication operators or other legal person who provides telecommunication services shall be obliged to enable enforcement of the measures by the Prosecutor and police bodies under Paragraph (1).</p> <p>Brčko District</p> <p>Article 72a CPC BD - Order to the telecommunication operator</p> <p>(1) If there are grounds for suspicion that a person has committed a criminal offence, on the basis of motion of the Prosecutor or officials authorized by Prosecutor, the Court may issue an order to a telecommunication operator or another legal person performing telecommunication services to turn over information concerning the use of telecommunications services by that person, if such information could be used as evidence in the criminal proceedings or be useful in collection of information that could be useful to the criminal proceedings.</p> <p>(2) In the case of emergency, any of the measures under Paragraph (1) of this Article may be ordered by the Prosecutor and received information will be sealed until the issuance of the court order. The Prosecutor shall immediately inform the preliminary proceedings judge who may issue a warrant within 72 hours. In case</p>

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	<p>the preliminary proceedings judge fails to issue the said order, the Prosecutor shall be obliged to return such information without accessing it.</p> <p>(3) Measures under Paragraph (1) of this Article may also be ordered against person against whom there are grounds for suspicion that he will deliver to the perpetrator or will receive from the perpetrator the information in relation to the offence, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to this person.</p> <p>(4) Telecommunication operators or other legal person who provides telecommunication services shall be obliged to enable enforcement of the measures by the Prosecutor and police bodies under Paragraph (1).</p>
<p>Article 19 – Search and seizure of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> a a computer system or part of it and computer data stored therein; <p>and</p> <ul style="list-style-type: none"> b a computer-data storage medium in which computer data may be stored <p>in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; 	<p>Republic of Srpska</p> <p>Article 115 (2) of the CPC RS - Search of Dwellings, other Premises and Movable Property</p> <p>(2) Search of movable property pursuant to Paragraph (1) of this Article shall include a search of the computer systems, devices for automated and electronic data processing and mobile phone devices. Persons using such devices shall be obligated to allow access to them, to hand over the media with saved data, as well as to provide necessary information concerning the use of the devices. A person, who refuses to do so, may be punished under the provision of Article 129 Paragraph (5) of this Code. (3) The search of computers and similar devices under Paragraph 2 of this Article shall be conducted by an expert.</p> <p>Article 129 of the CPC RS - Warrant for Seizure of Items</p> <p>(1) Items that are the subject of seizure pursuant to the Criminal Code or that may be used as evidence in the criminal proceedings shall be seized temporarily and their custody shall be secured pursuant to a court decision.</p> <p>(2) The seizure warrant shall be issued by the judge on the motion of the prosecutor or on the motion of authorized officials approved by the prosecutor.</p> <p>(3) The seizure warrant shall contain the name of the court, legal grounds for undertaking the action of seizure of items, indication of the items that are subject</p>

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<p>d render inaccessible or remove those computer data in the accessed computer system.</p> <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>to seizure, the name of persons from whom items are to be seized, the place where the items are to be seized and a timeframe within which the items are to be seized.</p> <p>(4) The authorized official shall seize items on the basis of the issued warrant.</p> <p>(5) Anyone in possession of such items must turn them over at the request of the court. A person who refuses to surrender items may be fined in an amount up to 50,000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the item is surrendered or until the end of criminal proceedings, but no longer than 90 days. The same provisions shall apply to an official or responsible person in a state body or a legal entity.</p> <p>(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in devices for automated or electronic data processing. In obtaining such data, special care shall be taken with respect to regulations governing the maintenance of confidentiality of certain data.</p> <p>(7) An appeal against a decision on fine or on imprisonment shall be decided by the panel from Article 24 Paragraph 5. The appeal shall not stay execution of the decision.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 65 of the CPC FBiH - Search of dwellings, other premises and personal property</p> <p>(1) A search of dwellings and other premises of the suspect, accused or other persons, as well as his personal property outside the dwelling may be conducted only when there are sufficient grounds for suspicion that a perpetrator, an accessory, traces of a criminal offense or objects relevant to the criminal proceedings might be found there.</p> <p>(2) Search of personal property pursuant to Paragraph 1 of this Article shall include a search of the computer and similar devices for automated data processing connected with it. At the request of the court, the person using such devices shall be obligated to allow access to them, to hand over diskettes and magnetic tapes or some other forms of saved data, as well as to provide necessary information concerning the use of the devices. A person, who refuses to do so,</p>

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	<p>although there are no reasons for that referred to in Article 98 of this Code, may be punished under the provision of Article 79 Paragraph 5 of this Code.</p> <p>(3) The search of a computer and similar devices under Paragraph 2 of this Article shall be conducted by an information technology specialist</p> <p>Article 79 CPC FBIIH – Order for Seizure of Objects</p> <p>(1) Objects that are the subject of seizure pursuant to the Criminal Code or that may be used as evidence in the criminal proceedings shall be seized and their custody shall be secured pursuant to a court decision.</p> <p>(2) The seizure warrant shall be issued by the court on the motion of the prosecutor or on the motion of authorized officials upon the approval of the prosecutor.</p> <p>(3) The seizure warrant shall contain the name of the court, legal grounds for undertaking the action of seizure of objects, indication of the objects that are subject to seizure, the name of persons from whom objects are to be seized, the place where the objects are to be seized, a timeframe within which the objects are to be seized, and a notification of the right of the affected person to a legal remedy.</p> <p>(4) The authorized official shall seize objects on the basis of the issued warrant.</p> <p>(5) Anyone in possession of such objects must turn them over at the request of the court. A person who refuses to surrender objects may be fined in an amount up to 50.000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the object is surrendered or until the end of criminal proceedings, but no longer than 90 days. An official or responsible person in a governmental body or a legal entity shall be dealt with in the same manner.</p> <p>(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in a computer or similar devices for automatic or electronic data processing. In obtaining such data, special care shall be taken with respect to regulations governing the maintenance of confidentiality of certain data.</p>

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	<p>(7) An appeal against a decision on a fine or on imprisonment shall be decided by the panel. An appeal against the decision on imprisonment shall not stay execution of the decision.</p> <p>(8) When objects are seized, a note shall be made of the place where they were found, and they shall be described, and if necessary, establishment of their identity shall also be provided for in some other manner. A receipt shall be issued for seized objects.</p> <p>(9) Forceful measures referred to in Paragraph 5 and 6 of this Article may not be applied to the suspect or accused or to persons who are exempt from the duty to testify.</p> <p>Brčko District</p> <p>Article 51 CPC BD BIH - Search of Dwellings, Other Premises and Personal Property</p> <p>(1) A search of dwellings and other premises of the suspect, accused or other persons, as well as their personal property outside the dwelling may be conducted only when there are sufficient grounds for suspicion that the perpetrator, the accomplice, traces of a criminal offense or objects relevant to the criminal proceedings might be found there.</p> <p>(2) Search of personal property pursuant to Paragraph (1) of this Article shall include a search of the computer systems, devices for automated and electronic data processing and mobile phone devices. Persons using such devices shall be obligated to allow access to them, to hand over the media with saved data, as well as to provide necessary information concerning the use of the devices. A person, who refuses to do so, may be punished under the provision of Article 65 Paragraph (5) of this Code.</p> <p>(3) Search of computers and similar devices described in Paragraph (2) of this Article, may be conducted with the assistance of a competent professional.</p> <p>Article 65 CPC BD BIH - Order for Seizure of Objects</p> <p>(1) Objects that are to be seized pursuant to the Criminal Code of the Brcko District of BiH or that might be used as evidence in the criminal proceedings shall</p>

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	<p>be seized temporarily and their custody shall be provided for on the grounds of a court decision.</p> <p>(2) The seizure warrant shall be issued by the Court, upon a motion by the Prosecutor or authorized officials who have been granted the approval by the Prosecutor.</p> <p>(3) The seizure warrant shall contain the name of the Court, legal grounds for the seizure of objects, indication of the objects that are subject to seizure, the name of persons from whom objects are to be seized, place where the objects are to be seized and a timeframe within which the objects are to be seized.</p> <p>(4) The authorized official shall seize objects on the basis of the issued warrant.</p> <p>(5) Anyone in possession of such objects must turn them over upon the order of the Court. A person who refuses to hand out articles may be fined 50.000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the article is handed out or until the end of criminal proceedings, but no longer than 90 days. An official or responsible person in a state body or a legal entity shall be treated in the same manner.</p> <p>(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in computers or similar devices for automated data processing. In obtaining such data, special care shall be taken with respect to regulations on confidentiality of certain data.</p> <p>(7) An appeal against a decision on fine or on imprisonment shall be decided by the panel. An appeal against the decision on imprisonment shall not stay the execution of the decision.</p> <p>(8) When articles are seized, a note shall be made of the place where they were found, and they shall be described, and if necessary, establishment of their identity shall also be provided for in some other manner. A receipt shall be issued for seized articles.</p> <p>(9) The measures referred to in Paragraphs 5 and 6 of this article may not be applied to the suspect, or the accused, or to the persons who are exempted from the duty to testify.</p>

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<p>Article 20 – Real-time collection of traffic data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p> <ul style="list-style-type: none"> a collect or record through the application of technical means on the territory of that Party, and b compel a service provider, within its existing technical capability: <ul style="list-style-type: none"> i to collect or record through the application of technical means on the territory of that Party; or ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system. <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Republic of Srpska</p> <p>Article 234 (2) of the CPC of RS provides for special investigative actions such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Article 130 (2) of the COC FBiH provides for special investigative actions such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p> <p>Brčko District</p> <p>Article 116 (2) of the CPC BD BiH provides for special investigative actions referred such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p> <p>.....</p> <p>The obligation of service providers regarding technical resources and capacity is regulated by the Decision of the Council of Ministers related to the special obligations of legal and natural persons that provide telecommunication services, administrate telecommunication networks and provide telecommunications services, in terms of securing and maintaining capacities that will enable authorized agencies to perform lawful interception of telecommunications as well as storage capacity and provision of telecommunications data (" Official Gazette BiH" no. 104/06 and 58/07).</p>
<p>Article 21 – Interception of content data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:</p> <ul style="list-style-type: none"> a collect or record through the application of technical means on the territory of that Party, and b compel a service provider, within its existing technical capability: 	<p>Republic of Srpska</p> <p>Article 234 (2) of the CPC of RS provides for special investigative actions such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p>

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<p>ito 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>Federation of Bosnia and Herzegovina</p> <p>Article 130 (2) of the COC FBiH provides for special investigative actions such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p> <p>Brčko District</p> <p>Article 116 (2) of the CPC BD BiH provides for special investigative actions referred such as a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing.</p> <p>.....</p> <p>The obligation of service providers regarding technical resources and capacity is regulated by the Decision of the Council of Ministers related to the special obligations of legal and natural persons that provide telecommunication services, administrate telecommunication networks and provide telecommunications services, in terms of securing and maintaining capacities that will enable authorized agencies to perform lawful interception of telecommunications as well as storage capacity and provision of telecommunications data (" Official Gazette BiH" no. 104/06 and 58/07).</p>
Section 3 – Jurisdiction	
<p>Article 22 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <ul style="list-style-type: none"> a in its territory; or b on board a ship flying the flag of that Party; or c on board an aircraft registered under the laws of that Party; or d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State. 	<p>Republic of Srpska</p> <p>Article 23-29 of CPC RS.</p> <p>Federation of Bosnia and Herzegovina</p> <p>Law on Courts in FBiH, which relate to subject matter jurisdiction, and the CPC FBiH on territorial and other jurisdiction.</p>

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<p>2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.</p> <p>3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<p>Brčko District</p> <p>Article 12 CC BD BIH - Application of Criminal Legislation of the Brcko District to Anyone Perpetrating a Criminal Offence in the Brcko District</p> <p>(1) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence within its territory.</p> <p>(2) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence aboard a domestic vessel, regardless of its location at the time of perpetration of the offence.</p> <p>(3) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence aboard a domestic aircraft while in flight, regardless of its location at the time of perpetration of the offence.</p> <p>Article 13 CC BD BIH - Application of Criminal Legislation of the Brcko District to Brcko District Citizen who Perpetrates Criminal Offence Abroad and Foreign Citizen who Perpetrates Criminal Offence Abroad</p> <p>(1) Criminal legislation of the Brcko District shall apply to a Brcko District citizen who perpetrates a criminal offence abroad, if he is found in the Brcko District territory or has been extradited.</p> <p>(2) Criminal legislation of the Brcko District shall also apply to a foreign citizen who, outside the Brcko District territory, perpetrates a criminal offence against the Brcko District or its citizen, if he is found in the Brcko District territory or has been extradited.</p> <p>(3) Criminal legislation of the Brcko District shall be applied to a foreign citizen who, while being abroad, perpetrates a criminal offence against a foreign state or a foreign citizen for which, under the law in force in the state of perpetration of the criminal offence, a sentence of imprisonment for a term of five years or a more severe penalty may be imposed, if he is found in the Brcko District territory. In such cases, unless otherwise stipulated by this Code, the court may not pronounce a sentence more severe than the sentence prescribed by the law of the state in which the criminal offence was perpetrated.</p>

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	<p>(4) If a criminal proceeding in the cases referred to in Article 12 of this Code has been initiated in another state and has not been terminated, the Prosecutor of the Brcko District shall decide whether to institute prosecution.</p> <p>(5) In the cases referred to in Article 13 of this Code, prosecution shall be instituted only if the perpetrated criminal offence is also punishable under the laws of the state in which the criminal offence was perpetrated. The prosecution shall not be instituted even in this case if, under the law of the respective state, the prosecution is to be instituted at the request of the injured party, and such a request has not been filed.</p> <p>(6) The prosecutor may institute prosecution referred to in Article 13, Paragraph 3 of this Code, irrespective of the law of the state in which the criminal offence was perpetrated, if the criminal offence in question was, at the time of perpetration, defined as a criminal offence under the international law.</p> <p>(7) In the cases referred to in Article 12 of this Code, prosecution of a foreign citizen may be ceded to the foreign state under the reciprocity conditions.</p>
<h3>Chapter III – International co-operation</h3>	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences</p>	<p>Law on mutual legal assistance in criminal matters BIH</p> <p>Article 31 - Legislation Governing Extradition</p> <p>Extradition of foreign suspects, indictees and sentenced persons from Bosnia and Herzegovina to a foreign State shall be carried out under the provisions of this Law, unless otherwise stipulated in an international agreement.</p>

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<p>as extraditable offences in any extradition treaty to be concluded between or among them.</p> <p>3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article.</p> <p>4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.</p> <p>5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.</p> <p>6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall 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.</p> <p>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.</p> <p>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</p>	
<p>Article 25 – General principles relating to mutual assistance</p> <p>1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.</p>	<p>Law on mutual legal assistance in criminal matters BIH</p> <p>Article 1 - Scope</p>

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<p>2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.</p> <p>3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.</p> <p>4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.</p> <p>5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	<p>(1) This Law shall govern the manner and procedure of mutual legal assistance in criminal matters (hereinafter: mutual legal assistance), unless otherwise provided by an international treaty or if no international treaty exists.</p> <p>(2) Mutual legal assistance, for the purpose of this Law, shall be provided in all procedures with respect to criminal acts the criminal prosecution of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting State.</p> <p>(3) Mutual legal assistance, in accordance with this Law, may also be afforded in misdemeanor proceedings brought by the courts or administrative authorities, in respect of acts which are punishable under the Bosnia and Herzegovina law by imprisonment or fine, and where in such proceedings the decision of the administrative authority may give rise to proceedings before a court having subject matter jurisdiction in criminal matters.</p> <p>(4) Mutual legal assistance is also afforded in respect of the international courts and other international organizations whose member Bosnia and Herzegovina is, if so stipulated in an international treaty.</p> <p>Article 8 - Scope – Forms of Legal Assistance</p> <p>Mutual legal assistance comprises the following:</p> <p>a) general legal assistance;</p> <p>b) special forms of legal assistance:</p> <ol style="list-style-type: none"> 1) extradition of suspects, prosecuted or sentenced persons, 2) transfer and takeover of criminal cases, and 3) acknowledgement and enforcement of foreign judicial verdicts. <p>Article 4 (8) provides that letters rogatory can be received electronically or by other means of telecommunication that produce written records when the competent foreign judicial authority is willing to send a written notice of the</p>

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	<p>manner of sending and the original letter rogatory at a request, provided that this manner of delivery is stipulated in an international agreement.</p> <p>Article 9 - Legal Assistance Denied</p> <p>(1) The relevant national judicial authority may refuse the request for mutual legal assistance:</p> <p>a) if the execution of the request would prejudice the legal order of Bosnia and Herzegovina or its sovereignty or security;</p> <p>b) if the request concerns an offense which is considered to be a political offense, or an offense connected with a political offense;</p> <p>c) if the request concerns a military criminal offense.</p> <p>(2) Crimes against humanity or other values protected by international law, and attempts of commission of such offenses, as well as complicity in the perpetration of these criminal offenses, may not serve as a basis to deny the request for mutual legal assistance in terms of Paragraph (1) Sub-paragraph b) of this Article.</p> <p>(3) No request for mutual legal assistance shall be denied solely because it concerns an offense which is considered to be a fiscal offense pursuant to national law.</p> <p>Republic of Srpska</p> <p>Chapter XXVIII of CPC RS provides for procedure on rendering international legal assistance and to enforcing international agreements in criminal matters.</p> <p>Brčko District</p> <p>Chapter xxx CPC BD BIH refers to procedure to render international legal assistance and to enforce international agreements in criminal matters (Articles 407-413).</p>
Article 26 – Spontaneous information	N/A

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<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>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p>	<p>Ministry of Justice is the central authority for MLA in criminal matters.</p> <p>Article 4 of the Law on mutual legal assistance in criminal matters BIH - Channels of Communication</p> <p>(1) Letters Rogatory requesting mutual legal assistance of the national judicial authorities shall be transmitted to foreign judicial authorities through the Ministry of Justice of Bosnia and Herzegovina. Requests for mutual assistance of foreign judicial authorities shall be transmitted to the national judicial authorities through the same channel.</p> <p>(2) As an exception to Paragraph (1) of this Article, national judicial authorities may directly address the request for mutual legal assistance to a foreign judicial authority, when such a communication is envisaged by an international treaty.</p> <p>(3) In urgent cases, when such a communication is envisaged by an international treaty, requests for mutual legal assistance may be transmitted and received through the Interpol.</p> <p>(4) In cases of communication referred to in Paragraphs (2) and (3) of this Article, the national judicial authority shall communicate a copy of the request for mutual legal assistance to the Ministry of Justice of Bosnia and Herzegovina.</p>

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<p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.</p> <p>4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b it considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).</p> <p>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</p>	<p>(5) The Ministry of Justice of Bosnia and Herzegovina shall transmit and receive through the Ministry of Foreign Affairs of Bosnia and Herzegovina the requests for mutual legal assistance to/from a foreign State that has no international treaty in force with Bosnia and Herzegovina, as well as in cases when an international treaty explicitly envisages use of diplomatic channels of communication.</p> <p>(6) Requests for mutual legal assistance may also be received if transmitted via electronic or some other means of telecommunication with a written record, and if the foreign relevant judicial authority is willing, upon request, to deliver a written evidence of the manner of transmission and the original request, provided that this manner of transmission is regulated in an international treaty.</p> <p>Article 5 - Urgency of Proceeding</p> <p>(1) The Ministry of Justice of Bosnia and Herzegovina shall transmit, without delay, request for mutual assistance by a foreign judicial authority to the relevant national judicial authority for further action, unless it is evident that the request is not in compliance with an international treaty and this Law, in which case it should be refused.</p> <p>(2) In cases referred to in Article 4 Paragraph (3) of this Law, Interpol shall communicate the request to the relevant national judicial authorities through the Ministry of Justice of Bosnia and Herzegovina.</p> <p>Article 9 - Legal Assistance Denied</p> <p>(1) The relevant national judicial authority may refuse the request for mutual legal assistance:</p> <p>a) if the execution of the request would prejudice the legal order of Bosnia and Herzegovina or its sovereignty or security;</p> <p>b) if the request concerns an offense which is considered to be a political offense, or an offense connected with a political offense;</p> <p>c) if the request concerns a military criminal offense.</p>

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<p>request to the competent national authority and inform directly the requesting Party that it has done so.</p> <p>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.</p> <p>e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.</p>	<p>(2) Crimes against humanity or other values protected by international law, and attempts of commission of such offenses, as well as complicity in the perpetration of these criminal offenses, may not serve as a basis to deny the request for mutual legal assistance in terms of Paragraph (1) Sub-paragraph b) of this Article.</p> <p>(3) No request for mutual legal assistance shall be denied solely because it concerns an offense which is considered to be a fiscal offense pursuant to national law.</p> <p>Article 10 - Reasons for Denying the Request</p> <p>(1) A national judicial authority shall deny the request for mutual legal assistance:</p> <p>a) if the person accused of the relevant criminal offense has been acquitted of charges based on the substantive-legal grounds or if the proceeding against him has been discontinued, or if he was relieved of punishment, or if the sanction has been executed or may not be executed under the law of the country where the verdict has been passed,</p> <p>b) if criminal proceedings are pending against the accused in Bosnia and Herzegovina for the same criminal offense, unless the execution of the request might lead to a decision releasing the accused from custody,</p> <p>c) if criminal prosecution or execution of a sanction pursuant to the national law would be barred by the statute of limitations.</p> <p>(2) The provisions referred to in Paragraph (1) Sub-paragraph a) of this Article shall not apply in cases of reopening the criminal proceedings in the requesting State.</p> <p>Article 11- Reasoning the Failure to Execute the Request</p> <p>The decision refusing the request to afford mutual legal assistance or the failure to execute the request must be reasoned.</p>

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<p>Article 28 – Confidentiality and limitation on use</p> <p>1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:</p> <p>a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or</p> <p>b not used for investigations or proceedings other than those stated in the request.</p> <p>3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.</p> <p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	<p>Article 28 of the Law on mutual legal assistance in criminal matters BiH – Confidentiality</p> <p>(1) On the request of a foreign judicial authority, the Ministry of Justice of Bosnia and Herzegovina and the relevant national judicial authority shall keep confidential the data referred to in the Letter Rogatory, except to the extent necessary to execute the Letter Rogatory.</p> <p>(2) If the confidentiality condition referred to in paragraph (1) of this Article cannot be fulfilled, the Ministry of Justice of Bosnia and Herzegovina, i.e. national judicial authority, shall notify the foreign judicial authority of this fact without delay.</p>
<p>Article 29 – Expedited preservation of stored computer data</p> <p>1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.</p> <p>2 A request for preservation made under paragraph 1 shall specify:</p> <p>a the authority seeking the preservation;</p> <p>b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;</p> <p>c the stored computer data to be preserved and its relationship to the offence;</p> <p>d any available information identifying the custodian of the stored computer data or the location of the computer system;</p> <p>e the necessity of the preservation; and</p>	<p>Article 1 of the Law on MLA in criminal matters BiH, the domestic law gives priority to the international agreements that govern the specific area.</p>

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<p>f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.</p> <p>3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.</p> <p>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.</p> <p>5 In addition, a request for preservation may only be refused if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>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.</p> <p>4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.</p>	
<p>Article 30 – Expedited disclosure of preserved traffic data</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</p>	<p>Article 1 of the Law on MLA in criminal matters BiH, the domestic law gives priority to the international agreements that govern the specific area.</p>

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<p>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>	
<p>Article 31 – Mutual assistance regarding accessing of stored computer data</p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <p>a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or</p> <p>b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.</p>	<p>Article 19 of the Law on MLA in criminal matters BiH - Seizure of Property</p> <p>(1) Any property, documents or proceeds that were seized for the purpose of evidentiary proceedings as well as files and decisions shall be handed over to the foreign judicial authority at its request after the mutual assistance proceedings have been closed in Bosnia and Herzegovina.</p> <p>(2) If a third person who acquired <i>bona fide</i> rights, a national authority or an aggrieved party with permanent residence in Bosnia and Herzegovina claims the property, documents or proceeds under paragraph 1 above, the property, documents or proceeds shall be handed over to a foreign judicial authority only if it provides guarantees that they will be returned free of charge after the evidentiary proceedings have been closed.</p> <p>(3) Bosnia and Herzegovina may delay the handing over of any property, documents or proceeds requested, if it requires them in connection with pending criminal proceedings in Bosnia and Herzegovina.</p>
<p>Article 32 – Trans-border access to stored computer data with consent or where publicly available</p> <p>A Party may, without the authorisation of another Party:</p> <p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p> <p>b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and</p>	<p>Article 1 of the Law on MLA in criminal matters BiH, the domestic law gives priority to the international agreements that govern the specific area.</p>

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voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.	
<p>Article 33 – Mutual assistance in the real-time collection of traffic data</p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.</p> <p>2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.</p>	Article 1 of the Law on MLA in criminal matters BiH, the domestic law gives priority to the international agreements that govern the specific area.
<p>Article 34 – Mutual assistance regarding the interception of content data</p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	Article 1 of the Law on MLA in criminal matters BiH, the domestic law gives priority to the international agreements that govern the specific area.
<p>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <ul style="list-style-type: none"> a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. <p>2 a A Party’s point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.</p>	The 24/7 Point of Contact on behalf of Bosnia and Herzegovina is the member of NCB Interpol Sarajevo, Sector for International Operational Police Cooperation, Directorate for Coordination, Ministry of Security. The Point of Contact has access to communication data of PoCs of other countries, signatories of the Budapest Convention.

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