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[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.

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Signature of the Budapest Convention:	N/A
Ratification/accession:	

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>Criminal Code</p> <p>Article 284</p> <p>“... Note:</p> <ol style="list-style-type: none"> 1. Computer system means any device or a group of interconnected devices that performs automatic processing of data through a program (including, a personal computer, any device with a microprocessor, as well as mobile phone). 2. Computer data means any representation of information suitable for the processing in a computer system, including a program that ensures functioning of a computer system. 3. Without right shall mean illegal, as well as circumstances when the owner of the right has not directly or indirectly (transferred the right) authorized an access by the perpetrator. 4. For the purpose of this Chapter, substantial is the damage that exceeds 2000 GEL. 5. For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine.” <p>Criminal Procedure Code</p> <p>“Article 3. Definition of the major terms for the purpose of this Code</p> <p>... 27. Computer system- any device of a group of interconnected devices, which performs automatic processing of data through a program (including, personal computer, any device with a microprocessor, as well as mobile phone).</p>

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	<p>28. Computer data- any representation of information in a form suitable for processing in a computer system, including a program that ensures functioning of a computer system.</p> <p>29. Service provider- any individual or legal person that provides to users of its service the ability to communicate by means of computer system, as well as any other person who processes or stores computer data on behalf of such communications service or users of such service.</p> <p>30. Traffic data – any computer data relating to a communication and generated by a computer system that forms a part in the chain of communication, indicating an origin of communication, destination, direction, time, date, size, duration, type underlying service.”</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 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>Criminal Code</p> <p>Article 284. Access to a computer system without right</p> <p>1. Access to a computer system without right,- shall be punishable by fine or by corrective labour for up to two years and/or imprisonment for the same term.</p> <p>2. The same act, committed:</p> <ol style="list-style-type: none"> a) by group’s conspiracy; b) by using one’s official position; c) repeatedly; d) that caused substantial damage,- shall be punishable by fine or corrective labour for up two years and/or imprisonment from two to five years. <p>Note:</p> <p>1. Computer system means any device or a group of interconnected devices that performs automatic processing of data through a program (including, a personal computer, any device with a microprocessor, as well as mobile phone).</p>

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	<p>2. Computer data means any representation of information suitable for the processing in a computer system, including a program that ensures functioning of a computer system.</p> <p>3. Without right shall mean illegal, as well as circumstances when the owner of the right has not directly or indirectly (transferred the right) authorized an access by the perpetrator.</p> <p>4. For the purpose of this Chapter, substantial is the damage that exceeds 2000 GEL.</p> <p>5. For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine.”</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>Criminal Code</p> <p>Article 158. Disclosure of Secret of Private Conversation (02.05.2014)</p> <p>1. Illegal recording or interception of private conversation, as well as obtaining without right computer data, or electromagnetic emissions carrying such data transmitted through private conversation from or within a computer system, or illegal storage of computer data or information obtained via technical means or records of private communication, - shall be punishable by fine or restriction of liberty from two to four years and/or imprisonment for the same term. Illegal use or dissemination of the record of private conversation, information or computer data obtained via technical means, or otherwise ensuring its availability, - shall be punishable by fine or by restriction of liberty from two to five and/or by imprisonment for the same term.</p> <p>2. The act referred to in Paragraph 1 or 2 of this Article, committed:</p> <p>a) for mercenary purposes; b) repeatedly, - shall be punishable by imprisonment from three to six years. c) that caused substantial damage; d) by using one’s official position, - shall be punishable by imprisonment from three to seven years, by deprivation of the right to occupy a position or pursue a particular activity for up to a three years.</p>

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	<p>Note:</p> <ol style="list-style-type: none"> 1. For the purpose of this Article “computer data”, “computer system” and “without right” shall be interpreted in compliance with the definitions provided by Chapter XXXV of the present Code. 2. For the crime envisaged by Paragraph 1 of this Article, criminal liability shall not be imposed on person, who communicated obtained/stored information envisaged by Paragraph 1 of this Article to investigative bodies and in such manner reported about committed/expected criminal act. 3. For the act stipulated in this Article, a legal person shall be punishable by fine, by deprivation of the right to pursue a particular activity or by liquidation and fine.
<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>Criminal Code</p> <p>Article 286. Computer data and/or computer system interference (24.09.2010)</p> <ol style="list-style-type: none"> 1. Damaging, deletion, alteration or suppression of computer data without right, - shall be punishable by fine or corrective labour for up to two years and/or imprisonment for the same term. 2. The act referred to in Section 1 of this Article, as well as serious hindering of the functioning of a computer system by inputting or transmitting computer data without right,- shall be punishable by fine or corrective labour for up to two years and/or imprisonment for three years . 3. The act referred to in Sections 1 and 2 of this Article, committed: <ol style="list-style-type: none"> a) by group’s competency; b) by using one’s official position; c) repeatedly; d) that caused serious damage,- shall be punishable by fine or by corrective labour for up to two years and/or imprisonment from three to five years .

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	<p>Note: For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine.</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>Criminal Code</p> <p>Article 286. Computer data and/or computer system interference (24.09.2010)</p> <p>1. Damaging, deletion, alteration or suppression of computer data without right, - shall be punishable by fine or corrective labour for up to two years and/or imprisonment for the same term.</p> <p>2. The conduct provided for in Section 1 of this Article, as well as inputting or transmitting computer data without right causing intentional serious hindering of the functioning of a computer system ,- shall be punishable by fine or corrective labour for up to two years and/or imprisonment for three years.</p> <p>3. The act referred to in Sections 1 and 2 of this Article, committed:</p> <p>e) by group’s competency; f) by using one’s official position; g) repeatedly; h) that caused serious damage,- shall be punishable by fine or by corrective labour for up to two years and/or imprisonment from three to five years.</p> <p>Note: For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine.</p>
<p>Article 6 – Misuse of devices</p>	<p>Criminal Code</p>

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<p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:</p> <p>a the production, sale, procurement for use, import, distribution or otherwise making available of:</p> <p>i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;</p> <p>ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and</p> <p>b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.</p> <p>2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.</p> <p>3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.</p>	<p>Article 285. Misuse of computer data and/or computer system (24.09.2010)</p> <p>1. For the purpose of committing any of the crimes established by this Chapter and Article 158 or 159 of the present Code, production, possession, sale, distribution or otherwise making available without right of a computer program and/or other device, as well as a computer password, an access code or similar data by which computer system is capable of being accessed,- shall be punishable by fine or corrective labour for up to two years and/or by imprisonment for up to three years.</p> <p>2. The act referred to in Section 1 of this Article, committed:</p> <p>a) by group’s conspiracy;</p> <p>b) by using one’s official position;</p> <p>c) repeatedly;</p> <p>d) that caused serious damage,- shall be punishable by fine or corrective labour for up to two years and/or imprisonment from three to six years.</p> <p>Note: For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine.</p>
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,</p>	<p>Criminal Code</p> <p>Article 362. Production, Sale or Use of Forged Document, Seal, Stamp or Blank (17.07.2015)</p>

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<p>regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<ol style="list-style-type: none"> 1. Production, procurement, possession with the intent to sale or use, sale or use of a forged identification card or any other official document, seal, stamp or blank,- shall be punishable by fine or by imprisonment for up to three years. 2. The same act committed: <ol style="list-style-type: none"> a) repeatedly; b) that has caused substantial damage,- shall be punishable by restriction of freedom for up to three years or by imprisonment from three to six years . <p>Note:</p> <ol style="list-style-type: none"> 1. Present article shall not apply to person, who committed abovementioned act for the reason of being the victim of trafficking before receiving status of the victim of trafficking. 2. For the act stipulated in this Article, a legal person shall be punishable by fine, deprivation of the right to pursue a particular activity or by liquidation and fine. 3. For committing the crime envisaged by this Article (except for acts related to sale of fake official documents, seal, stamp or blank), a foreigner or stateless person shall be released from criminal liability, who entered Georgia particularly from the territory, where his life or liberty was under threat as prescribed under Article 1 of 1951 Convention on the Status of Refugees and who, in accordance with this Convention and Georgian Legislation, requests an asylum from Georgian Government, given he/she voluntarily and immediately appears before governmental authority and submits relevant explanation on the reasons of committing the act envisaged by this Article, and if there are no signs of other crime in his/her action. <p>Comment: Based on para. 79 of the Explanatory Report of the Convention on Cybercrime, if the offences in the national legislation already cover the crimes provided for in articles 7-10, there is no need of introducing amendments with the specific emphasis on cyber element of the offence. Forgery, fraud, child</p>

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	<i>pornography as well as copyright offences under Georgian legislation implicitly cover cyber component.</i>
<p>Article 8 – Computer-related fraud Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>Criminal Code</p> <p>Article 180. Fraud</p> <ol style="list-style-type: none"> 1. Fraud, i.e. taking possession of other’s object for the purpose of illegal appropriation or receiving a property right through deception, - shall be punishable by fine or by socially useful labour ranging from one hundred and seventy to two hundred hours, correction labour up to two years and/or by imprisonment from two to four years. 2. The same act: <ol style="list-style-type: none"> a) committed by group’s conspiracy; b) that caused a substantial damage,- shall be punishable by fine or by imprisonment from four to seven years. 3. The same act committed: <ol style="list-style-type: none"> a) by using official position; b) in large quantities; c) repeatedly,- shall be punishable by imprisonment from six to nine years . 4. The same act committed: <ol style="list-style-type: none"> a) by organized group; d) by the one who has been twice or more than twice convicted of illegal appropriation or extortion of other’s object, - shall be punishable by imprisonment from seven to ten years.
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; 	<p>Criminal Code</p> <p>Article 255. Illicit production or sale of pornographic material or other object (11.12.2013)</p> <ol style="list-style-type: none"> 1. Illicit production, distribution or advertisement of pornographic material, printed material, image or other object pornographic in character, as well as trafficking and/or possession of such object with the intent to sell or distribute

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<p>c distributing or transmitting child pornography through a computer system;</p> <p>d procuring child pornography through a computer system for oneself or for another person;</p> <p>e possessing child pornography in a computer system or on a computer-data storage medium.</p> <p>2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <p>a a minor engaged in sexually explicit conduct;</p> <p>b a person appearing to be a minor engaged in sexually explicit conduct;</p> <p>c realistic images representing a minor engaged in sexually explicit conduct</p> <p>3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	<p>it,- shall be punishable by fine or by corrective labour for up to two years and/or by imprisonment for the same term.</p> <p>2. Intentional procuring, possession, offer, dissemination, transfer, attendance on airing, advertising, otherwise making available of pornographic material involving image of minor, or making use of such material, - shall be punishable by fine or corrective labour up to two years and/or imprisonment for up to three years .</p> <p>3. Intentional production or sale of pornographic material involving image of minor, with advance cognizance - shall be punishable by fine or imprisonment from three to 5 years.</p> <p>1. Note: Visual or audio or audiovisual material produced in any manner, involving a minor or a person appearing to be a minor in real or simulated or computer generated sexually explicit scenes presented through any means, as well as displaying minor's genitals for the purpose of satisfying consumer's sexual needs shall be considered as pornographic material. Material created for the medical, scientific, cultural, educational or artistic value shall not be considered as pornographic.</p> <p>2. For the act stipulated in this Article, a legal person shall be punishable by fine, by deprivation of the right to pursue a particular activity or by liquidation and fine.</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</p>	<p>Criminal Code</p> <p>Article 189. Infringement of the Right of Copyright-holder, Neighbouring Right-holder and Database Author</p> <p>1. Misappropriation of copyright or coercion into co-authorship, -</p>

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<p>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>shall be punishable by fine or corrective labour for up to two years .</p> <p>2. The action provided by Paragraph 1 of this Article, committed repeatedly – shall be punishable by restriction of freedom for up to three years or by imprisonment for the same term.</p> <p>3. Illegal reproduction, purchase, import, possession, sale, rent and transfer of the work, phonogram, visual record or database or their copies without authorization and/or otherwise infringement of rights of copyright-holder, neighboring right-holder or database author for the purposes of earning income in large quantities through violating Law of Georgia on “The Copyright and Neighboring Rights,-</p> <p>shall be punishable by fine or restriction of freedom for up to two years .</p> <p>4. The acts referred to in Paragraph 3 of this Article committed:</p> <p>a) for the purpose of earning income in especially large quantity;</p> <p>b) by group's conspiracy,-</p> <p>shall be punishable by restriction of liberty for three years or imprisonment for the same term.</p> <p>Note:</p> <p>1. The conduct provided in this article is considered to be committed for the purposes of earning income in large quantities if the value of copies of work, phonogram, visual record or database or in case of legal use of right of copyright, neighbouring right holder or author of database the income to be received is over 5 000 GEL; and especially large quantity – if above-mentioned value or income exceeds 10 000 GEL.</p> <p>2. For the act stipulated in this Article, a legal person shall be punishable by fine, by deprivation of the right to pursue a particular activity or by liquidation and fine.</p>
Title 5 – Ancillary liability and sanctions	
Article 11 – Attempt and aiding or abetting	Criminal Code

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<p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, 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>Article 18. Preparation of Crime</p> <ol style="list-style-type: none"> 1. Preparation of the crime is intentional creation of conditions for the perpetration of the crime. 2. Criminal liability shall be prescribed for the preparation of only serious or especially serious crimes, as well as preparation of the crimes prescribed by the Section 1 of the Article 182; the Section 1 and 2 of the Article 186; the Section 1 and Section 2 of the Article 194¹; the Section 1 of Article 202; the Sections 1-3 of the Article 221; the Sections 1 and 2 of the Article 332; the Section 1 of the Article 339; the Sections 1 and 2 of the Article 339¹; the Sections 1-3 of the Article 365 and Section 1 of the Article 372. 3. Criminal liability for the preparation of the crime shall be determined by the relevant Article of this Code which envisages liability for completed crimes, by giving reference to this article. <p>Article 23. Complicity</p> <p>Complicity in the crime shall be intentional and joint participation of two or more persons in the perpetration of the crime.</p> <p>Article 24. Types of Complicity</p> <ol style="list-style-type: none"> 1. The organizer shall be the one who organized or supervised the perpetration of a crime, as well as the one who established or supervised an organized group. 2. The instigator shall be the one who persuaded the other person into perpetration of a crime. 3. The accomplice shall be the one who aided the perpetration of a crime. <p>Article 25. Liability of Perpetrator and Accomplice</p> <ol style="list-style-type: none"> 1. Criminal liability shall be imposed upon the perpetrator and accomplice only for their own guilt on the basis of joint illegal act, in consideration of the character and quality of the part that each of them took in the perpetration of a crime. 2. Criminal liability of co-perpetrator shall be determined in compliance with the relevant article of this Code, without giving reference to this article. 3. Criminal liability of the organizer, instigator and accomplice shall be determined under the relevant article of this Code, by giving reference to this article, except those cases when they at the same time were the co-perpetrators of the crime.

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	<p>4. If the act of the perpetrator or accomplice involves the sign characteristic for an illegal act, then this sign will be attributable to another perpetrator or accomplice whose act did not involve this sign, if he/she was aware of this sign.</p> <p>5. The personal sign, which is characteristic for the guilt and/or the personality of one of the perpetrators or accomplices, shall be attributable to the perpetrator or accomplice whom this sign is characteristic for.</p> <p>6. For the complicity in a crime, perpetrator of which is a special subject foreseen by the present Code, a person will be subject to the criminal responsibility as the organizer, instigator or accomplice.</p> <p>7. If the perpetrator has not completed the crime, the accomplice shall be subject to criminal responsibility for the preparation of or complicity in the attempted crime. Criminal responsibility for the preparation of the crime will be imposed upon the one who failed, due to circumstances beyond his control, to persuade other person into perpetration of the crime.</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>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>Criminal Code</p> <p>Article 107¹. Basis for Criminal Liability of Legal Entities</p> <p>1. Articles foreseen by the present Code apply to a legal person. For the purposes of the present Code, legal person means a profit (commercial) or non-profit (noncommercial) legal person (its successor).</p> <p>2. Legal person shall be subject to the criminal responsibility for the acts prescribed by the present Code committed by a responsible person on behalf of or through a legal person and/or for the benefit of it.</p> <p>3. A responsible person referred to in Section 2 of this Article is the person authorized to manage, represent a legal person, take a decision on behalf of a legal person and/or member of supervisory, control and revision body of the legal person.</p> <p>4. Legal person shall be subject to the criminal responsibility also if a crime is committed on behalf of or through it and/or for the benefit of it despite the perpetrator is identified or not.</p> <p>4¹. Legal person shall be subject to the criminal responsibility also if due to insufficient supervision or control by the responsible person referred to in</p>

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	<p>Section 3 of this Article it became possible to commit a crime for the benefit of the legal person by subordinated person of a legal person.</p> <p>5. Release from the criminal responsibility of the responsible person shall not be the basis for the relieve from the criminal responsibility of the legal person.</p> <p>6. The criminal responsibility of the legal person does not exclude criminal responsibility of the individual for the same crime.</p> <p>7. Criminal responsibility of the legal person does not relieve it from the obligation to compensate the damage caused as a as result of a crime, as well as from imposing upon it other forms of responsibility provided by the legislation.</p> <p>8. Legal person shall be relieved from the criminal responsibility if the circumstances excluding the guilt of wrongfulness of the act of an individual were found.</p> <p>Article 107². Cases of the responsibility of legal person Legal entity will be subject to the criminal responsibility only in cases defined by respective Article of the present Code.</p> <p>Article 107³. Types of Sentences</p> <p>1. Types of sentences of a legal person are:</p> <ol style="list-style-type: none"> Liquidation; Deprivation of right to pursue a particular activity; Fine; Seizure of property. <p>2. Liquidation and deprivation of right to pursue a particular activity can be imposed only as primary sentences.</p> <p>3. Fine can be imposed as primary as well as additional sentence.</p> <p>4. Seizure of property can be imposed only as additional sentence.</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>Criminal Code</p> <p>Article 40. Types of Punishment</p> <p>1)Types of punishment are defined as following:</p> <ol style="list-style-type: none"> fine; deprivation of the right to occupy a position or pursue a particular activity; socially useful labour; corrective labour;

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	<p>e) restriction of the service of a military; f) restriction of freedom; g) imprisonment for a specific term; h) life imprisonment i) seizure of the property</p> <p>2. Types of punishment for legal entity are defined by corresponding norms of present Code.</p> <p>Article 42. Fine</p> <p>1. Fine shall be a pecuniary payment. 2. Minimum amount of fine is 2000 GEL. If the sanction provided by the relevant Article of the Special Part of this Code is imprisonment for up to three years, the minimum amount of fine shall not be less than 500 GEL. 3. The amount of fine shall be determined by the court in consideration of the gravity of the crime and the material conditions of the convict determined according to his/her property, income and other circumstances. 4. The court must indicate in the judgment the imposed fine in GEL. 5. Fine can be imposed as additional sentence also if it is not prescribed by the relevant Article of this Code, except for crime envisaged by the Article 126¹ of the present Code. 5¹. (Deleted – 12.06.2016, №3714) 6. If the convict avoids paying of the fine or when paying is impossible, the sentence will be replaced by the socially useful labor, corrective labor, restriction of liberty or imprisonment. In addition, the term during which the convict served the sentence shall be included into the term of socially useful labor, corrective labor or restriction of liberty as follows: 50 GEL of the awarded fine - four hours of socially useful labor, one day of corrective labor, and one day of restriction of liberty. Additionally,, in case of maliciously avoiding the socially useful labor, corrective labor or restriction of liberty imposed in place of the fine, it will be replaced with imprisonment within the framework and to the extent provided for by the present Code for this type of sentence.</p>

BUDAPEST CONVENTION**DOMESTIC LEGISLATION****Article 43. Deprivation of Right to Occupy a Position Or Pursue a Particular Activity**

1. Deprivation of the right to occupy a position or pursue a particular activity shall mean that the convict shall be forbidden to be assigned to a position in the state service or local self-governing bodies and/or pursue a professional or other activity.

2. Deprivation of the right to occupy a position or pursue a particular activity shall be imposed as a main punishment from one to five years and as an additional punishment from six months to three years.

3. Deprivation of the right to occupy a position or pursue a particular activity may be imposed as an additional punishment even in case it is not provided as a punishment for the committed crime under the relevant article of this Code if the court deems it impossible to reserve him/her the right to occupy a position or pursue a particular activity in consideration of the character, quality of the danger of the crime and personality of the criminal,

4. In case of imposing socially useful labour or corrective labour as a main punishment as well as in case of suspended sentence, the term of the deprivation of the right to occupy a position or pursue a particular activity imposed as an additional punishment shall be calculated upon the court judgment's entering into the legal force. In case of imposing restriction of freedom or imprisonment as a main punishment, the deprivation of the right to occupy a position or pursue a particular activity imposed as an additional punishment thereto, shall be included into the term of main sentences and this term shall be calculated upon serving them

Article 44. Socially Useful Labour

1. Socially useful labour shall mean unpaid labour of the convict, type of which is determined by National Probation Agency.

2. Socially useful labour shall be imposed from forty to eight hundred hours. In case of replacing the fine into socially useful labour or circumstances provided by paragraph 3 of Article 73 of the present Code, and/or in case of existence of plea bargain between the parties, it may be imposed for a longer term. The duration of such daily labour shall not exceed eight hours.

3. If the convict refuses to perform socially useful labour or maliciously avoids it, this punishment shall be replaced into restriction of freedom or imprisonment. In

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this respect, the term during which the convict served this sentence shall be included into the term of restriction of freedom or imprisonment as follows: eight hours of socially useful labour - one day of restriction of freedom and one day of imprisonment.

4. Socially useful labour shall in no way be imposed upon disabled of first and second groups, a pregnant woman, a woman having a child up to seven years, a retired person as well as a conscript military.

5. Socially useful labour may be imposed as an additional punishment even in case it is not provided as a punishment by relevant article of the present Code.

Article 45. Corrective Labour

1. Corrective labor shall be imposed from one month to two years and must be served at the convict's work place.
2. In case of corrective labour, the sum prescribed by the judgment and no less than five but not in excess of twenty percent shall be deducted from the convict's salary and transferred into the national budget.
3. If convict maliciously refuses to perform corrective labour, this sentence shall be replaced with restriction of liberty or imprisonment. In this respect, the term during which the convict served this sentence shall be included into the term of restriction of liberty or imprisonment as follows: one day of corrective labour - one day of restriction of liberty; three days of corrective labour - one day of imprisonment.

Article 47. Restriction of Liberty

1. Restriction of liberty means placement of the convict who has attained fourteen years at the moment of passing a sentence, without isolating him/her from society into a special institution - corrective center, under supervision..
2. Restriction of liberty is imposed upon the convict without criminal record - from one to five years;
3. In case of replacing socially useful labour or corrective labour with the restriction of liberty, it may be imposed for the term less than one year.

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	<p>4. If the convict maliciously avoids restriction of liberty, this sentence shall be replaced with imprisonment for the term prescribed under the judgment on restriction of liberty. In this respect, the term during which the convict served this sentence shall be included into the term of imprisonment as follows: one day of restriction of liberty - one day of imprisonment.</p> <p>5. Restriction of liberty shall not be imposed upon the disabled of first and second group, a pregnant woman, a woman having a child up to seven years, a person in pension age, as well as a conscripted military servant.</p> <p>Article 50. Imprisonment for Specific Term</p> <p>1. Imprisonment for a specific term means the isolation of the convict from the society and placement into the penitentiary institution prescribed by legislation. Convict, who has not reached eighteen years by the moment the judgment was rendered, shall be placed in juvenile educational establishment.</p> <p>2. Imprisonment for a specific term shall be awarded for the term extending from six to twenty years.</p> <p>2¹. The Court is authorized to award a punishment less than the minimum length of punishment provided for in paragraph 2 of this Article, if where a plea agreement exists between parties.</p> <p>3. In case of replacement socially useful labour, corrective labour, restriction of freedom or fine into imprisonment for a specific term, it may be awarded for the term not exceeding six months.</p> <p>4. (Deleted – 17.04.2013, №546)</p> <p>5. When imposing a fixed term imprisonment, the court may, by its judgement order the service of a certain part of the sentence and count the other part as a conditional sentence provided the accused (convicted) person admits the crime (unless the person has been caught at the scene of the crime or Immediately after the crime has been committed), names accomplices and collaborates with the investigation authorities. If, except for the conclusion of a plea bargain agreement, a particularly serious crime has been committed, a conditional sentence may be deemed a quarter of the sentence imposed,</p>

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	<p>one third of the sentence, in the case of a serious crime, and half of the sentence, in the case of a less serious crime</p> <p>6. (Deleted – 17.04.2013, №546)</p> <p>Article 51. Life Imprisonment</p> <p>1. Life imprisonment may be awarded only for commission of especially grave crime.</p> <p>2. Life imprisonment shall in no way be awarded against those who have reached sixty years by the moment of delivering the sentence.</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: <ul style="list-style-type: none"> i is being operated for the benefit of a closed group of users, and 	<p>See below for implementation of specific procedural powers</p>

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<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>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>Privacy of individuals is ensured by the Constitution of Georgia and other relevant Acts.</p> <p>Constitution of Georgia</p> <p>Article 20</p> <p>1. Everyone’s private life, place of personal activity, personal records, correspondence, communication by telephone or other technical means, as well as messages received through technical means shall be inviolable. Restriction of the aforementioned rights shall be permissible by a court decision or also without such decision in the case of the urgent necessity provided for by law.</p> <p>2. No one shall have the right to enter the house and other possessions against the will of possessors, or conduct search unless there is a court decision or the urgent necessity provided for by law.</p> <p>Criminal Procedure Code</p> <p>Chapter II. Principles of Criminal Procedure</p> <p>Article 6. Impermissibility of Unlawful Restriction of a Person’s Constitutional Rights and Freedoms</p> <p>1. The restriction of a person’s constitutional rights and freedoms shall be permitted only on the basis of the special provisions provided by the Constitution and this Code.</p> <p>2. Passing a verdict of a guilty and imposition of a sentence thereon shall be the exclusive authority of the court.</p> <p>3. Preference shall always be given to the less severe form of restriction of rights and freedoms.</p>

BUDAPEST CONVENTION**DOMESTIC LEGISLATION****Article 7. Inviolability of Private life**

1. A party is not authorized to interfere wilfully and unlawfully in the private life of another during the investigation. The law guarantees inviolability of a private or other property and private communication through any means.

2. A person responsible for a procedural action shall not disclose data related to individual's private life, as well as information of private character, the confidentiality of which a person deems to be necessary.

3. A person who has suffered from an unlawful disclosure of data regarding his/her private life shall be entitled to fully recover the damages in accordance with the procedure established legislation of Georgia.

Law of Georgia on Electronic Communications**Article 8 - Maintenance of the confidentiality of information in the field of electronic communications**

1. Information on a user of electronic communication networks, also information transferred by a user via said networks, shall be confidential and its confidentiality shall be guaranteed by the legislation of Georgia.

2. All persons employed in the field of electronic communications are obliged to maintain the confidentiality of information referred to in paragraph 1 of this article. Employees and other persons working in the field of electronic communications shall be held liable in accordance with the legislation of Georgia if they reveal such information.

3. The obligation of confidentiality of information provided for in paragraph 1 of this article shall not apply to cases where an authorised body carries out covert investigative activities envisaged by Article 143¹(1)(a-c) of the Criminal Procedure Code of Georgia, carries out electronic surveillance measures envisaged by Paragraph 3 of Article 9 of Georgian law "On Counter-Intelligence Activities" and copying of electronic communication identification data databases envisaged by Article 8³ of the present Law.

4. Electronic communication company is obliged to provide investigative or operative-investigative authority with electronic communication identification data envisaged by the rules established by Article 136 of Criminal Procedure Code of Georgia.

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	<p>5. Information on the content of the communication made by a user via an electronic communication network shall be immediately and automatically destroyed. Said information may become available only to the entity specified in Article 8¹ of this Law in accordance with the procedure established by law.</p> <p>6. Obligation of protection of confidentiality of information envisaged by Paragraph 2 of the present Article does not apply to those cases, when Personal Data Protection Inspector exercises his/her authority defined by Georgian Legislation.</p> <p>Law of Georgia on Operative-Investigative Activities</p> <p>Article 5 - Publicity and operative-investigative activities</p> <p>1. Operative-investigative activities are highly classified. The data, documents and sources relating to such activities shall be made available for inspection in a prescribed manner only to the persons specified in this Law, and to the Data Protection Inspector and a person designated by him/her, within the limits envisaged by the Law of Georgia on Personal Data Protection.</p> <p>1¹. A prosecutor may, by a reasoned order, declassify documents and materials relating to operative-investigative activities (except for the documents and materials specified in Article 21(2) of this Law) in order to use them as evidence, unless the declassification of such documents and materials prejudices the vital interests of the country in respect of defence, economy, foreign relations, intelligence activities, state security and public order.</p> <p>2. The disclosure of information on operative-investigative activities by a person to whom such information has been confided or who has become aware of such information in connection with his/her official duties, shall incur criminal liability for disclosing a state secret.</p> <p>3. (Deleted - 1.8.2014, No 2635).</p> <p>4. Information on a secret collaborator engaged in operative-investigative activities or the source of information may not be revealed or disclosed irrespective of the elapsed time, except as provided for by this Law.</p> <p>5. (Deleted - 1.8.2014, No 2635).</p>

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	<p>Article 6 - Legal guarantees for protecting human rights and freedoms, as well as the rights of legal persons in operative-investigative activities</p> <p>1. Operative-investigative activities may not be carried out in pursuance of objectives that are not provided for in this Law.</p> <p>2. A person who considers that an operative-investigative measure conducted with respect to him/her has resulted in an unlawful restriction of his/her rights and freedoms may appeal against the lawfulness of such an operative-investigative measure to a higher state authority, prosecutor or court. If such operative-investigative measures are recognised as unlawful, the information obtained by such measures shall be deemed inadmissible evidence in accordance with the Criminal Procedure Code of Georgia. The burden of proving the lawfulness of an operative-investigative measure shall be with the authority that conducted the operative-investigative measure.</p> <p>3. Authorities (public servants) conducting operative-investigative activities shall be prohibited from secretly participating in the activities of the legislative, executive and judiciary bodies, or in the activities of the supreme representative bodies of the Autonomous Republics of Abkhazia and Adjara and of local self-government bodies. It shall be prohibited to secretly participate in the activities of officially registered public and political organisations or religious organisations, unless such activities are intended to subvert or forcibly change the constitutional order of Georgia, to encroach on the independence of the country, to violate the territorial integrity of Georgia or unless such organisations are engaged in war propaganda or violence, or incite national, local, religious or social discord. In those cases, the consent of the Chief Prosecutor of Georgia is required.</p> <p>4. Information that has been obtained by operative-investigative activities and that is not related to a person's criminal activities, but contains details of his/her private life, may not be disclosed or used for any purpose. Such information may not be stored and it must be immediately destroyed. The destruction of such information shall be notified to the Chief Prosecutor of Georgia and the court in the territory where the operative-investigative</p>

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	<p>measure has been conducted or the court according to the place of investigation .</p> <p>4¹. The materials obtained through an operative-investigative measure specified in Article 7(3) of this Law shall be destroyed upon the lapse of 6 months after the termination of the operative-investigative measure without delay. Such materials shall be destroyed by the prosecutor who filed a motion with the court for the conduct of the operative-investigative activities and with the participation of the court that issued the relevant ruling. A report shall be prepared on the destruction of the materials and shall be signed by the prosecutor and the judge. The report on the destruction of the materials, signed by the prosecutor and the judge, shall be submitted to the Personal Data Protection Inspector and shall be entered into the Register of Secret Investigative Activities .</p> <p>5. The unlawful restriction of the rights and freedoms of natural and legal persons by bodies (public servants) conducting operative-investigative activities shall carry liability under the legislation of Georgia.</p>
<p>Article 16 – Expedited preservation of stored computer data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification.</p> <p>2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person’s possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law.</p>	<p style="text-align: center;">No implementation</p>

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<p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 17 – Expedited preservation and partial disclosure of traffic data</p> <p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and</p> <p>b ensure the expeditious disclosure to the Party’s competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p style="text-align: center;">No implementation</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>Criminal Procedure Code Article 136 - Requesting a document or information</p> <p>1. If there is a reasonable cause to believe that information or documents essential to the criminal case are stored in a computer system or on a computer data carrier, the prosecutor may file a motion with a court, according to the place of investigation, to issue a ruling requesting the provision of the relevant document.</p> <p><i>(Normative content of Section 1 and Section 4 of the present Article is repealed, which excludes defendant party from filing a motion before a court to issue a ruling requesting the provision of the relevant information or document stored in a computer system or on a computer data carrier.</i></p> <p>2. If there exists reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may request a court,</p>

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<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>according to the place of investigation, to deliver a ruling ordering the service provider to provide information about the user.</p> <p>3. For the purposes of this article, information about the user shall be any information that a service provider stores as computer data or in any other form that is related to the users of its services, differs from the internet traffic and content data and which can be used to establish/determine:</p> <p>a) the type of communication services and technical means used, and the time of service;</p> <p>b) the identity of the user, mail or residential address, phone numbers and other contact details, information on accounts and taxes, which are available based on a service contract or agreement;</p> <p>c) any other information on the location of the installed communications equipment, which is available based on a service contract or agreement.</p> <p>4. Provisions of Articles 143² - 143¹⁰ shall apply to the investigative actions stipulated by this article.</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> <p>a a computer system or part of it and computer data stored therein;</p> <p>and</p> <p>b a computer-data storage medium in which computer data may be stored</p> <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</p>	<p><i>Criminal Procedure Code</i></p> <p>Article 119. The Purpose and Grounds for Search and Seizure</p> <p>1. If there is a probable cause, a search shall be conducted for the purpose of uncovering and seizing an item, document, substance or any other object containing information that is essential to the case.</p> <p>2. A search may also be conducted to find a wanted person or a corpse.</p> <p>3. An item, document, substance or any other object containing information that is essential to the case may be seized if there is probable cause that it is kept in a certain place, with a certain person and if there is no need to search for it</p> <p>4. A search to seize an item, document, substance or any other object containing information that is important for the case may be conducted, if there is probable cause that it is kept in a certain place, with a certain person and if search is necessary to discover it.</p>

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<p>computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; d render inaccessible or remove those computer data in the accessed computer system. <p>4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.</p> <p>5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Article 120. The Rule for Search and Seizure</p> <ol style="list-style-type: none"> 1. Based on a court ruling authorising search or seizure or, in the case of urgent necessity, based on a decree of an investigator, an investigator may enter a storage facility, a dwelling place, a storage room or other property to locate and seize an item, document, substance or any other object containing information. 2. Before starting a seizure or search, an investigator shall be obliged to present a court order, or in the case of urgent necessity, a decree, to a person subjected to the seizure or search. The presentation of the ruling (decree) shall be confirmed by the signature of the person subject to search. 3. An investigator may forbid the persons who are present or who arrive at the place of search, to leave the place, to interact with each other or with any other person before the search is completed, which shall be recorded in the appropriate record. 4. After a ruling, or in the case of urgent necessity, a decree, is presented, an investigator shall offer the person subject to the search, to voluntarily turn over an item, document, substance or any other object containing information that is subject to seizure. If an object that is subject to seizure is voluntarily provided, that fact shall be recorded in the relevant record. In the case of refusal to voluntarily turn over the requested object, or in the case of its incomplete provision, it shall be seized by coercion. 5. During a search, an item, document, substance or any other object containing information that is referred to in a ruling or decree shall be searched for and seized. Also, all other objects containing information that may be of an evidentiary value for that case, or that clearly indicates another offence, as well as an item, document, substance or any other object containing information that has been withdrawn from civil circulation. 6. An item, document, substance or any other object containing information that has been detected during a search or seizure, shall, if possible, be presented, before its seizure, to persons participating in that investigative action. Then, it shall be seized, described in detail, sealed and if possible, packaged. On the

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	<p>packaged item, in addition to a seal, the date and signatures of the persons who participated in the investigative action shall be indicated. A document that is seized due to its contents, shall not be sealed.</p> <p>7. During a search or seizure, an investigator may open a closed storage facility, dwelling place and premises, if the person subject to search refuses to voluntarily open them.</p> <p>8. A person present at the place of search and/or seizure may be personally searched if there is a probable cause that he/she has concealed an item, document, subject or any other object that is subject to seizure. Such case shall be considered an urgent necessity and a personal search shall be conducted without a court ruling. The lawfulness of the search and/or seizure shall be examined by the court in the manner provided for by this Code.</p> <p>9. A search or seizure of a legal person or in a building of an administrative body shall be conducted in the presence of its head or representative.</p> <p>10. A prosecutor shall have the right to primary examination of an object, item, substance, or document containing information seized upon motion of the defence.</p>
<p>Article 20 – Real-time collection of traffic data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p> <ul style="list-style-type: none"> a collect or record through the application of technical means on 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>Criminal Procedure Code</p> <p>Article 137 - Real time collection of internet traffic data</p> <p>1. If there is reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may, according to the place of investigation, file a motion with a court for a ruling authorising a real-time collection of internet traffic data; under the ruling the service provider is obliged to collaborate with the investigation authorities and assist them, in real time, in the collection or recording of those internet traffic data that are related to specific communications performed in the territory of Georgia and transmitted through a computer system.</p> <p>2. A motion specified in paragraph 1 of this article shall take account of the technical capacities of the service provider to collect and record internet traffic</p>

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<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>data in real time. The period for collecting and recording internet traffic data in real time shall not be longer than the period required to obtain evidence for a criminal case.</p> <p>3. Provisions of Articles 14³-14¹⁰ shall apply to the investigative actions stipulated by this article.</p> <p>Law on Operative-Investigative Activity Article 7 - Concept of an operative-investigative measure</p> <p>1. An operative-investigative measure is an action carried out by a state body or an official duly authorised under this Law, who/which, within the scope of his/her/its powers, ensures the fulfilment of the objectives specified in Article 3 of this Law.</p> <p>2. In order to accomplish these objectives, the bodies conducting operative-investigative activities may, overtly or covertly:</p> <ul style="list-style-type: none"> a) interview a person; b) collect information and conduct surveillance; c) carry out a test purchase; d) carry out a controlled delivery; e) examine objects and documents; f) identify a person; g) censor the correspondence of an arrested, detained and convicted person; h) obtain electronic communication identification data; i) (Deleted - 1.8.2014, No 2635). j) infiltrate a secret collaborator or an operative into a criminal group in a prescribed manner; k) set up an undercover organisation in a prescribed manner; l) monitor Internet communications by observing and participating in open and closed Internet communications in the global information network (Internet), and creating situations of the illegal obtaining of computer data in order to identify a perpetrator. [(the normative content related to the words of the same provision 'observe internet communications' shall be repealed) - decision No1/2/519 of the Constitutional Court of Georgia of 24 October 2012 – website 30.10.2012]. <p>3. When searching for a missing person, when searching for an accused or convicted person for the purpose of bringing him/her before a relevant state authority if such person avoids the application of coercive measures imposed on</p>

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	<p>him/her or the serving of an imposed sentence, when searching for property lost as a result of a crime, a body conducting operative-investigative activities may:</p> <p>a) request information from electronic communication company or from Legal Entity of Public Law - Operative-Technical Agency electronic communication identification data envisaged by rules established by Article 136 of the Criminal Procedure Code;</p> <p>b) to address Legal Entity of Public Law - Operative-Technical Agency to carry out activity for tracking Geolocation in real-time in accordance with the procedure laid down in Chapter XVI¹ of the Criminal Procedure Code of Georgia (Shall enter into force from 30 March of 2020)</p> <p>3¹. The operative-investigative measures specified in paragraph 2(h) of this article may also be conducted in respect of a judge by an order of the chairperson of the Supreme Court upon a reasoned request of the Chief Prosecutor of Georgia.</p> <p>4. (Deleted - 1.8.2014, No 2635).</p> <p>5. (Deleted - 1.8.2014, No 2635).</p> <p>6. The list of measures specified in paragraph 2 of this article may be changed or supplemented only under this Law.</p> <p>7. A report shall be prepared at the time of conducting an operative-investigative measure; the report shall describe the circumstances in which technical means were used. The report, along with the obtained materials, shall be stored in accordance with this Law.</p> <p>8. An official of the body conducting an operative-investigative activity shall personally participate in the conduct of the measures specified in paragraph 2 of this article, and at the same time, such official may use the assistance of specialists in a specific field, and the voluntary overt or covert assistance of certain persons.</p>
<p>Article 21 – Interception of content data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:</p> <p>a collect or record through the application of technical means on the territory of that Party, and</p> <p>b compel a service provider, within its existing technical capability: ito collect or record through the application of technical means on the territory of that Party, or</p>	<p>Criminal Procedure Code</p> <p>Article 138 - Obtaining content data</p> <p>1. If there exists reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may, according to the place of investigation, file a motion with a court for a ruling authorizing the collection of content data in real time; under the ruling the service provider is obliged to collaborate with the investigation authorities and assist them, in real time, in the collection or recording of content data related to specific</p>

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<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>communications performed in the territory of Georgia and transmitted through a computer system.</p> <p>2. A motion specified in paragraph 1 of this article shall take account of the technical capacities of a service provider to collect and record content data in real time. The period for real-time collection and recording of content data shall not be longer than the period required to obtain evidence for a criminal case.</p> <p>3. Provisions of Articles 143²-143¹⁰ shall apply to the investigative actions stipulated by this article.</p> <p>Law on Operative-Investigative Activity</p> <p>Article 7 - Concept of an operative-investigative measure</p> <p>1. An operative-investigative measure is an action carried out by a state body or an official duly authorised under this Law, who/which, within the scope of his/her/its powers, ensures the fulfilment of the objectives specified in Article 3 of this Law.</p> <p>2. In order to accomplish these objectives, the bodies conducting operative-investigative activities may, overtly or covertly:</p> <ul style="list-style-type: none"> a) interview a person; b) collect information and conduct surveillance; c) carry out a test purchase; d) carry out a controlled delivery; e) examine objects and documents; f) identify a person; g) censor the correspondence of an arrested, detained and convicted person; h) obtain electronic communication identification data; i)(Deleted - 1.8.2014, No 2635). j) infiltrate a secret collaborator or an operative into a criminal group in a prescribed manner; k) set up an undercover organisation in a prescribed manner; l) monitor Internet communications by observing and participating in open and closed Internet communications in the global information network (Internet), and creating situations of the illegal obtaining of computer data in order to identify a perpetrator. [(the normative content related to the words of the same provision 'observe internet communications' shall be repealed) - decision No1/2/519 of the Constitutional Court of Georgia of 24 October 2012 – website 30.10.2012ꝑ.] <p>3. When searching for a missing person, when searching for an accused or convicted person for the purpose of bringing him/her before a relevant state</p>

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	<p>authority if such person avoids the application of coercive measures imposed on him/her or the serving of an imposed sentence, when searching for property lost as a result of a crime, a body conducting operative-investigative activities may:</p> <p>a) request information from electronic communication company or from Legal Entity of Public Law - Operative-Technical Agency electronic communication identification data envisaged by rules established by Article 136 of the Criminal Procedure Code;</p> <p>b) to address Legal Entity of Public Law - Operative-Technical Agency to carry out activity for tracking Geolocation in real-time in accordance with the procedure laid down in Chapter XVI¹ of the Criminal Procedure Code of Georgia (Shall enter into force from 30 March of 2020)</p> <p>3¹. The operative-investigative measures specified in paragraph 2(h) of this article may also be conducted in respect of a judge by an order of the chairperson of the Supreme Court upon a reasoned request of the Chief Prosecutor of Georgia.</p> <p>4. (Deleted - 1.8.2014, No 2635).</p> <p>5. (Deleted - 1.8.2014, No 2635).</p> <p>6. The list of measures specified in paragraph 2 of this article may be changed or supplemented only under this Law.</p> <p>7. A report shall be prepared at the time of conducting an operative-investigative measure; the report shall describe the circumstances in which technical means were used. The report, along with the obtained materials, shall be stored in accordance with this Law.</p> <p>8. An official of the body conducting an operative-investigative activity shall personally participate in the conduct of the measures specified in paragraph 2 of this article, and at the same time, such official may use the assistance of specialists in a specific field, and the voluntary overt or covert assistance of certain persons.</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> <p>a in its territory; or</p>	<p>Criminal Code</p> <p>Article 4. Applicability of Criminal Code towards crime committed on the territory of Georgia</p>

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<p>b on board a ship flying the flag of that Party; or</p> <p>c on board an aircraft registered under the laws of that Party; or</p> <p>d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.</p> <p>2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.</p> <p>3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.</p> <p>When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<ol style="list-style-type: none"> 1. The one who has committed a crime on the territory of Georgia shall be subject to the criminal responsibility as provided by the present Code. 2. The crime shall be considered as committed on the territory of Georgia if it began, continued, terminated or ended on the territory of Georgia. This code shall also be applied to the crime committed on the continental shelf of Georgia and in the Exclusive Economic Zone of Georgia. 3. The one who has committed a crime on or against the vessel authorized to use the national flag or identification mark of Georgia, shall be subject to the criminal responsibility under this Code unless otherwise provided by the international treaty of Georgia. 4. If the diplomatic representative of a foreign State, as well as the person enjoying diplomatic immunity has committed a crime on the territory of Georgia, the issue of their criminal responsibility will be determined in accordance with rules of international law. <p>Article 5. Criminal liability for crime committed abroad</p> <ol style="list-style-type: none"> 1. The citizen of Georgia, as well as the stateless person permanently residing in Georgia who has committed the act prescribed by this Code, which is regarded as a crime under the legislation of State in which it was committed, shall be subject to the criminal responsibility under this Code. 2. The citizen of Georgia, as well as the stateless person permanently residing in Georgia who on the territory of a foreign State has committed the act prescribed by this Code which is not considered as a crime under the legislation of State in which it was committed, shall be subject to the criminal responsibility under this Code, if it constitutes a serious or especially serious crime directed against the interests of Georgia and/or if the criminal responsibility for this crime is provided by the international treaty of Georgia. 3. The citizen of foreign State, as well as the stateless person not permanently residing in Georgia who on the territory of a foreign State has committed the act provided by this Code shall be subject to the criminal responsibility under this Code, if it constitutes a serious or especially serious crime directed against the interests of Georgia and/or if the criminal liability for this crime is provided by the international treaty of Georgia.

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	<p>4. Criminal liability shall be imposed in accordance with this Code on Georgian citizen and stateless person holding status in Georgia, who committed acts in foreign country envisaged by Articles 221, 338, 339 or 339¹ of the present Code, when they are not considered as crime by those countries' legislation, where it is committed.</p> <p>5. For act of crime envisaged by the present Code committed in the foreign country by citizen of foreign country or stateless person, who exercise authority of public law for Georgia, shall be subject to the criminal responsibility under this Code envisaged by the Articles 221, 338, 339 or 339¹ of the present Code.</p>
Chapter III – International co-operation	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.</p> <p>3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis</p>	<p>At the domestic level, all the issues related to international cooperation, including extradition, are regulated by the law of Georgia on International Cooperation in Criminal Matters. According to Article 2 of the above-mentioned law, extradition procedures are generally carried out on the basis of bilateral and multilateral treaties binding for Georgia and the respective foreign state. In exceptional cases, namely, when Georgia does not have any extradition treaty with the appropriate foreign country, extradition may also be carried out on the basis of <i>ad hoc</i> agreements which shall be concluded only for a specific case of international cooperation in the field of criminal law and shall provide for the minimum guarantees defined by the Law; however, setting higher standards is not excluded as well.</p> <p>Furthermore, the law of Georgia on International Cooperation in Criminal Matters defines extraditable offences. Namely, according to Article 18 of the above-mentioned law, a person may be extradited to a foreign state if he/she is charged with a crime which is punishable by the laws of both Georgia and the respective foreign state by the imprisonment for at least one year or by a more severe penalty. In case of existence of a judgment, a person may be extradited to a</p>

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<p>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>foreign state if he/she has already been sentenced to at least for months of imprisonment.</p> <p>In should also be noted that if the request for extradition includes several separate offences each of which is punishable under the laws of Georgia and the respective foreign state by the imprisonment or pecuniary sanction, but of which some do not fulfill the condition with regard to the amount of punishment which may be awarded, Georgia shall also have the right to grant extradition for the latter offences. Consequently, taking into account the Georgian law provisions referred to above, the criminal offences established in accordance with Articles 2 through 11 of the Convention on Cybercrime shall be deemed as extraditable offences since all of them are punishable under the Criminal Code of Georgia and meet the requirement with regard to the amount of punishment.</p> <p>Moreover, the law of Georgia on International Cooperation in Criminal Matters designates the Ministry of Justice of Georgia as a central competent authority in international cooperation in criminal matters irrespective of the fact whether Georgia has international treaty with a respective foreign state or not. Therefore, all the requests related to international cooperation in the field of criminal law, including extradition, are examined by the above-mentioned authority. In case of extradition, the Ministry of Justice of Georgia examines whether there are grounds for refusal and the submitted request meets the requirement of the respective international treaty or <i>ad hoc</i> agreement. According to law of Georgia on International Cooperation in Criminal Matters, extradition shall not be granted if:</p> <p>a) the crimes for which extradition is requested are not extraditable offences as indicated above; b) the offence in respect of which extradition is requested is regarded by the competent Georgian authorities as a political offence or as an offence connected with a political offence (Article 19); c) a person whose extradition is requested has the citizenship of Georgia (Article 21); d) crime for which extradition is requested is punishable by the death penalty in the respective requesting state (Article 22); e) extradition is requested of a person for carrying out a sentence imposed by the <i>in absentia</i> judgment of the requesting state provided that that person was not dully informed about the court hearings and the proceedings leading to the judgment did not satisfy the minimum rights of defence recognised as due to everyone charged with criminal offence (Article 23); f) extradition is requested for an offence which is already statute-barred according to the Criminal Code of Georgia and for that reason, the person has acquired</p>

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	<p>immunity from criminal prosecution or punishment (Article 24); g) extradition is requested of a person who has asylum status in Georgia (Article 25§1); h) extradition is requested for an offence in respect of which an amnesty has been declared in Georgia or the person has already been pardoned regarding the same offence (Article 25§2); i) extradition is contrary to the principle of <i>Non bis in idem</i> (Article 26); j) the competent authorities of Georgia have substantial grounds for believing that the extradition of a person is requested for the purpose of prosecuting or punishing that person on account of his race, nationality, ethnicity, religious belief, political opinion or other reasons (Article 29§1); k) after taking into account the age, health condition and personality of the requested person as well as the nature of the offence and the interests of the requesting state, extradition might be contrary to the minimum standards of humanity (Article 29§2) l) the competent authorities of Georgia have substantial grounds for believing that after extradition, a person might be subjected to torture, inhuman or degrading treatment or punishment in the requesting state (Article 29§3); m) the competent authorities of Georgia have substantial grounds for believing that after extradition, a person may be tried by a special tribunal or court (Article 29§4).</p> <p>Furthermore, extradition may be rejected if the crime for which the transfer of a person is requested is wholly or partially committed in Georgia, or the competent Georgian authorities are conducting investigation with regard to the said crime (Articles 27-28).</p> <p>It should be noted that the Georgian domestic legislation also provides possibility of transferring the case files to a foreign state if the person whose extradition is requested is the citizen of the requesting state. Namely, according to Article 38 of the law of Georgia on International Cooperation in Criminal Matters, Ministry of Justice of Georgia is a competent authority which is entitled to transfer the case files to the respective foreign state if the person's extradition has been rejected due to his/her nationality of that state. In case of receiving the case files from a foreign state, the Ministry of Justice of Georgia transfers them to the respective local prosecutor's office which continues investigation in accordance with the legislation of Georgia. After making the final decision with regard to the transferred files, the Ministry of Justice of Georgia fully informs the respective foreign authority about it.</p>

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<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>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>Chapter 2 of the law of Georgia on International Cooperation in Criminal Matters regulates the issues related to mutual assistance in the field of criminal law. According to the mentioned law, Georgia can provide foreign states with mutual assistance provided that the Georgian investigative authorities would not be prohibited from conducting similar procedural actions in the course of the investigation at the domestic level. Since the Criminal Procedure Code of Georgia provides possibility of conducting all the necessary investigative actions for the purposes of gathering evidences concerning the crimes indicated in the Convention on Cybercrime, the competent Georgian authorities are able to assist the respective foreign states with regard to the investigation of similar offences as well.</p> <p>Furthermore, the law of Georgia on International Cooperation in Criminal Matters also provides possibility of the use of expedited means of communication at the time of cooperation with foreign states in criminal matters. Namely, according to Article 3 of the above-mentioned law, international cooperation in criminal matters shall be carried out by using channels and means prescribed by the respective international treaty or <i>ad hoc</i> agreement. At that time, the use of the channels of Interpol or other expedited means of communication, including fax or e-mail, is not excluded; however, the originals materials should also be followed via ordinary post.</p> <p>Moreover, the law of Georgia on International Cooperation in Criminal Matters envisages the grounds for refusal of mutual assistance in criminal matters. Such grounds are examined by the Ministry of Justice of Georgia after receiving MLA requests from the respective foreign states. According to Article 12 of the above indicated law, legal assistance shall not be provided, if: a) the execution of the MLA request may prejudice the sovereignty, security, public order or other essential interests of Georgia; b) the execution of the MLA request contradicts the legislation of Georgia; c) the crime regarding which the assistance is requested is considered by the competent Georgian authorities to be a political offence or</p>

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	<p>related to a political offence. d) the execution of the MLA request may prejudice the universally recognized rights and fundamental freedoms of an individual; e) the crime regarding which the assistance is requested, is a military offence, unless otherwise provided for in the international agreement of Georgia; f) the execution of the MLA request will be contrary to the principle of <i>Non bis in idem</i>;</p> <p>Besides, when the competent foreign authorities request Georgia to conduct search or seizure, such kind of assistance may only be provided if: a) the crime regarding which the assistance is requested, is punishable both by the legislations of Georgia and the respective requesting state (dual criminality principle); b) the crime regarding which the assistance is requested, is an extraditable offence according to the legislation of Georgia; c) execution of the MLA request complies with the legislation of Georgia. It should also be noted that when examining the existence of dual criminality for conducting search or seizure, that condition is deemed fulfilled, irrespective of whether the Georgian legislation places the offence within the same category of offence or denominates the offence by the same terminology as the requesting state, provided that the conduct underlying the offence for which assistance is sought is a criminal offence under the Georgian law.</p> <p>Apart from the mandatory grounds for refusal, the law of Georgia on International Cooperation in Criminal Matters also permits the competent Georgian authorities to temporarily postpone the execution of foreign MLA requests. This is the case when transmitting the evidence or other documents to the requesting state may prejudice the criminal proceedings conducted in Georgia.</p> <p>Furthermore, being the party to the 1st additional protocol of the European Convention on Mutual Assistance in criminal Matters, Georgia does not refuse the execution of foreign MLA request solely on the ground that such a request concerns an offence which is considered to be a fiscal offence.</p> <p>In any case, when refusing the execution of MLA request, the Ministry of Justice of Georgia provides the requesting state with the reasons in this regard.</p>
<p>Article 26 – Spontaneous information 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</p>	<p>According to Article 37 of the law of Georgia on International Cooperation in Criminal Matters, the Ministry of Justice of Georgia is authorized to transfer the case files or their certified copies to a foreign state, if: a) the competent</p>

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<p>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>authorities of Georgia do not have jurisdiction over the investigation of a crime; b) a person cannot be subjected to extradition due to his/her nationality of the respective foreign state; c) the transfer of proceedings to a foreign state will promote the better social rehabilitation of the person concerned.</p> <p>It should be noted that apart from the above indicated grounds for the transfer of the case files, the Ministry of Justice of Georgia is also authorized to submit the relevant information or documentation to a foreign state under other circumstances for the purposes of initiating or carrying out investigation in that country. Consequently, transfer of the spontaneous information to a foreign state as provided for in Article 26 of the Convention on Cybercrime is not prohibited by the legislation of Georgia.</p>
<p>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p> <p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.</p>	<p>According to Article 2 of the law of Georgia on International Cooperation in Criminal Matters, mutual assistance shall be provided on the basis of bilateral and multilateral treaties binding for Georgia and the respective foreign state. In exceptional cases, namely, when Georgia does not have any MLA treaty with the appropriate foreign country, mutual legal assistance requests may also be executed on the basis of <i>ad hoc</i> agreements of reciprocity principle. Therefore, Georgia can provide foreign states with the requested materials regardless of existence of binding international treaty on mutual assistance in criminal matters. In case of examining foreign MLA requests in the absence of a treaty, all the grounds of refusal referred to above are also taken into consideration.</p> <p>According to the law on International Cooperation in Criminal Matters, the Ministry of Justice of Georgia is a central competent authority at the time of cooperation with foreign states in the field of criminal law. Therefore, for the reasons of efficiency, all incoming and outgoing MLA requests are to be addressed to the Ministry of Justice of Georgia, especially in case of non-existence of the relevant mutual legal assistance treaty with the respective foreign state.</p> <p>It should also be noted that the above-mentioned law provides possibility of direct communication with foreign states except the case when Georgia cooperates with other countries on the basis of the reciprocity principle. In the latter case, Georgia uses diplomatic channels when communicating MLA requests to the relevant foreign authorities.</p>

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<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 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</p>	<p>As mentioned above, Georgia can also use any means of communication, including the International Criminal Police Organisation (Interpol), at the time of sending and receiving MLA requests.</p> <p>Besides, according to Article 11§3 of the law of Georgia on International Cooperation in Criminal Matters, the competent Georgian authorities may use the legislation of the requesting state at the time of the execution of the MLA requests provided that it is not contrary to the legislation of Georgia.</p>

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<p>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>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>According to Article 10§3 of the law of Georgia on International Cooperation in Criminal Matters, information or materials obtained from a foreign state on the basis of the MLA request shall not be used for the purposes other than those indicated in the request. However, such information or documentation may be used for other investigations or proceedings in case of prior consent of the respective foreign state.</p> <p>As for the confidentiality of the obtained information or materials, it should be noted that the law on International Cooperation in Criminal Matters does not explicitly provide such a requirement; however, in practice, there were cases when both Georgia and foreign states required each other to keep confidential the requested information or documentation. Consequently, at the time of cooperation with foreign states in the field of criminal law, Georgia can comply with the requirements indicated in Article 28 of the Convention on Cybercrime.</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>There are no specific provisions in the law on International Cooperation in Criminal Matters concerning the expedited preservation of stored computer data, since the law contains general provisions regulating the issues of international cooperation in the field of criminal law. However, since there are no limitations under the domestic law in this regard, Georgia can apply provisions of the relevant international instrument and provide foreign states with legal assistance as envisaged by Article 29 of the Convention on Cybercrime.</p>

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<p>b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;</p> <p>c the stored computer data to be preserved and its relationship to the offence;</p> <p>d any available information identifying the custodian of the stored computer data or the location of the computer system;</p> <p>e the necessity of the preservation; and</p> <p>f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of 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</p>	

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<p>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 1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted. 2 Disclosure of traffic data under paragraph 1 may only be withheld if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p>	<p>Similarly to the procedures indicated in Article 29 of the Convention on Cybercrime, Georgia can expeditiously disclose preserved traffic data to the requesting state under the conditions determined by the relevant international instrument.</p>
<p>Article 31 – Mutual assistance regarding accessing of stored computer data 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. 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. 3 The request shall be responded to on an expedited basis where: a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.</p>	<p>All the investigative actions mentioned in Article 31 of the Convention on Cybercrime are available under the Criminal Procedure Code of Georgia during the investigation in the domestic case. Therefore, Georgia can provide foreign states with similar assistance on the basis of the MLA request. Besides, Georgia can communicate executed materials to the respective requesting state on an expedited basis, since the law on International Cooperation in Criminal matters does not contain any limitation in this regard.</p>
<p>Article 32 – Trans-border access to stored computer data with consent or where publicly available A Party may, without the authorisation of another Party:</p>	<p>The law of Georgia on International Cooperation in Criminal Matters does not provide the procedures indicated in Article 32 of the Convention on Cybercrime; however, there are no limitations of applying the mentioned procedures under the domestic legislation. Therefore, the competent Georgian authorities may, without</p>

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<p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p> <p>b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.</p>	<p>the authorization of another state, access in the territory of that state publically available stored computer data or obtain the same information under the consent of the person having the lawful authority to disclose such data to the relevant Georgian investigative bodies through the computer system. Similarly, the relevant foreign authorities will also be able to obtain the same data from the territory of Georgia.</p>
<p>Article 33 – Mutual assistance in the real-time collection of traffic data</p> <p>1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.</p> <p>2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.</p>	<p>As indicated above, Georgia can provide foreign states with legal assistance if the conduct of the requested investigative action would also be available for the Georgian relevant authorities in a similar domestic case. Since Article 137 of the Criminal Procedure Code of Georgia provides possibility of conducting real-time collection of traffic data in the domestic case, the competent Georgian authorities are also able assist the respective foreign states with regard to similar cases on the basis of the MLA request.</p>
<p>Article 34 – Mutual assistance regarding the interception of content data</p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	<p>Similarly to the MLA requests concerning the real-time collection of traffic data, Georgia is also able to provide foreign states with legal assistance in the real-time collection or recording of content data, since the mentioned investigative actions are also available for the Georgian authorities in domestic cases.</p>
<p>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <p>a the provision of technical advice;</p> <p>b the preservation of data pursuant to Articles 29 and 30;</p> <p>c the collection of evidence, the provision of legal information, and locating of suspects.</p>	<p>The 24/7 National Contact Point is operating at the Cyber Crime Division of the Central Criminal Police Department at the Ministry of Internal Affairs of Georgia.</p>

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<p>2 a A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.</p> <p>b If the point of contact designated by a Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.</p> <p>3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.</p>	
<p>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>	<p>No reservations were made</p>