Greece

Cybercrime legislation

Domestic equivalent to the provisions of the Budapest Convention

Table of contents

Version 01 May 2020

[reference to the provisions of the Budapest Convention]

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.

www.coe.int/cybercrime

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

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

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Chapter I – Use of terms	
Article 1 – "Computer system", "computer data", "service provider", "traffic data": For the purposes of this Convention: 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; 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; c "service provider" means: i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and ii any other entity that processes or stores computer data on behalf of such communication service or users of such service; 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	Article 13 of the Penal Code «η) Πληροφοριακό σύστημα είναι συσκευή ή ομάδα διασυνδεδεμένων ή σχετικών μεταξύ τους συσκευών, εκ των οποίων μία ή περισσότερες εκτελούν, σύμφωνα με ένα πρόγραμμα, αυτόματη επεξεργασία ψηφιακών δεδομένων, καθώς και τα ψηφιακά δεδομένα που αποθηκεύονται, αποτελούν αντικείμενο επεξεργασίας, ανακτώνται ή διαβιβάζονται από την εν λόγω συσκευή ήτην ομάδα συσκευών με σκοπό τη λειτουργία, τη χρήση, την προστασία και τη συντήρηση των συσκευών αυτών. θ) Ψηφιακά δεδομένα είναι η παρουσίαση γεγονότων, πληροφοριών ή εννοιών σε μορφή κατάλληλη προς επε-ξεργασία από πληροφοριακό σύστημα, συμπεριλαμβα-νομένου προγράμματος που παρέχει τη δυνατότητα στο πληροφοριακό σύστημα να εκτελέσει μια λειτουργία».
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	
Article 2 – Illegal access Each Party shall adopt such legislative and other measures as may be	**Article 370Γ ΠΚ**

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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.	«Άρθρο 370Γ Παράνομη πρόσβαση σε πληροφοριακό σύστημα 1. Όποιος χωρίς δικαίωμα αντιγράφει ή χρησιμοποιεί προγράμματα υπολογιστών, τιμωρείται με φυλάκιση μέχρι έξι (6) μήνες και με χρηματική ποινή διακοσίων ενενήντα (290) ευρώ έως πέντε χιλιάδων εννιακοσίων (5.900) ευρώ. 2. Όποιος χωρίς δικαίωμα αποκτά πρόσβαση στο σύνολο ή τμήμα πληροφοριακού συστήματος ή σε στοιχεία που μεταδίδονται με συστήματα τηλεπικοινωνιών, παραβιάζοντας απαγορεύσεις ή μέτρα ασφαλείας που έχει λάβει ο νόμιμος κάτοχός του, τιμωρείται με φυλάκιση. Αν η πράξη αναφέρεται στις διεθνείς σχέσεις ή την ασφάλεια του κράτους, τιμωρείται κατά το άρθρο 148. 3. Αν ο δράστης είναι στην υπηρεσία του νόμιμου κατόχου του πληροφοριακού συστήματος ή των στοιχείων, η πράξη της προηγούμενης παραγράφου τιμωρείται μόνο αν απαγορεύεται ρητά από εσωτερικό κανονισμό ή από έγγραφη απόφαση του κατόχου ή αρμόδιου υπαλλήλου του. 4. Οι πράξεις των παραγράφων 1 έως 3 διώκονται ύστερα από έγκληση».
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.	**Article 370B ΠΚ** 1. Whoever, without authorization, copies, uses, discloses to another person, or in any way violates data of a computer or a computer program, which belong to the realm of state secrets, privates secrets, business secrets, trade secrets privacy, shall be punished by imprisonment from three months to five years. Private computer data or programs should be considered and all the data and programs that the legal holder keeps them secret with justified interest, especially if the owner had taken security measures. 2. If the offender is in the service of the legal holder of the data, or the secret computer data and programs have a great economic value, the act shall be punished by imprisonment from one year to five years.

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	3. If the secret computer data and programs belong to the realm of military or diplomatic secrets, or of the security of the state, the act shall be punished according to Articles 146–147. 4. The offences of paragraphs 1–2 are prosecuted only upon complaint. «Άρθρο 370Δ 1. Όποιος, αθέμιτα, με τη χρήση τεχνικών μέσων, παρακολουθεί ή αποτυπώνει σε υλικό φορέα μη δημόσιες διαβιβάσεις δεδομένων ή ηλεκτρομαγνητικές εκπομπές από, προς ή εντός πληροφοριακού συστήματος ή παρεμβαίνει σε αυτές με σκοπό ο ίδιος ή άλλος να πληροφορηθεί το περιεχόμενό τους, τιμωρείται με κάθειρξη μέχρι δέκα (10) ετών. 2. Με την ποινή της παραγράφου 1 τιμωρείται όποιος κάνει χρήση της πληροφορίας ή του υλικού φορέα επί του οποίου αυτή έχει αποτυπωθεί με τους τρόπους που προβλέπεται στην παράγραφο 1. 3. Αν οι πράξεις των παραγράφων 1 και 2 συνεπάγονται παραβίαση στρατιωτικού ή διπλωματικού απορρήτου ή αφορούν απόρρητο που αναφέρεται στην ασφάλεια του Κράτους σε καιρό πολέμου τιμωρούνται κατά το άρθρο 146».
Article 4 – Data interference 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right. 2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.	**Article 381A of the Penal Code** Άρθρο 381Α Φθορά ηλεκτρονικώ ν δεδομέ νων 1. Όποιος χωρίς δικαίωμα διαγράφει, καταστρέφει, αλλοιώνει ή αποκρύπτει ψηφιακά δεδομένα ενός συστήματος πληροφοριών, καθιστά ανέφικτη τη χρήση τους ή με οποιονδήποτε τρόπο αποκλείει την πρόσβαση στα δεδομένα αυτά, τιμωρείται με φυλάκιση έως τρία (3) έτη. Σε ιδιαίτερα ελαφρές περιπτώσεις, το δικαστήριο μπορεί, εκτιμώντας τις περιστάσεις τέλεσης, να κρίνει την πράξη ατιμώρητη. 2. Η πράξη της πρώτης παραγράφου τιμωρείται: α)

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	με φυλάκιση από ένα (1) έως τρί α (3) έτη, αν τελέστηκε με τη χρήση εργαλείου που έχει σχεδιαστεί κατά κύριο λόγο για πραγματοποίηση επιθέσεων που επηρεάζουν μεγάλο αριθμό συστημάτων πληροφοριών ή επιθέσε-ων που προκαλούν σοβαρές ζημίες και ιδίως επιθέσεων που προκαλούν μεγάλης έκτασης ή για μεγάλο χρονικό διάστημα διατάραξη των υπηρεσιών των συστημάτων πληροφοριών, οικονομική ζημία ιδιαίτερα μεγάλης αξίας ή σημαντική απώλεια δεδομένων, β) με φυλάκι-ση τουλάχιστον ενός (1) έτους, αν προκάλεσε σοβαρές ζημίες και ιδίως μεγάλης έκτασης ή για μεγάλο χρονικό διάστημα διατάραξη των υπηρεσιών των συστημάτων πληροφοριών, οικονομική ζημία ιδιαίτερα μεγάλης αξίας ή σημαντική απώλεια δεδομένων και γ) με φυλάκιση του-λάχιστον ενός (1) έτους, αν τελέστηκε κατά συστημάτων πληροφοριών που αποτελούν μέρος υποδομής για την προμήθεια του πληθυσμού με ζωτικής σημασίας αγαθά ή υπηρεσίες. Ως ζωτικής σημασίας αγαθά ή υπηρεσίες νοούνται ιδίως η εθνική άμυνα, η υγεία, οι συγκοινωνίες, οι μεταφορές και η ενέργεια. 3. Αν οι πράξεις των προηγούμενων παραγράφων τε-λέστηκαν στο πλαίσιο δομημένης και με διαρκή δράση ομάδας τριών ή περισσότερων προσώπων, που επιδιώ-κει την τέλεση περισσότερων εγκλημάτων του παρόντος άρθρου, ο υπαίτιος τιμωρείται με φυλάκιση τουλάχιστον δύο (2) ετών. 4. Για την ποινική δίωξη της πράξης της παραγράφου 1 απαιτείται έ γκληση
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	**Article 292B of the Penal Code** 1. Όποιος χωρίς δικαίωμα παρεμποδίζει σοβαρά ή δι-ακόπτει τη λειτουργία συστήματος πληροφοριών με την εισαγωγή, διαβίβαση, διαγραφή, καταστροφή, αλλοίωση ψηφιακών δεδομένων ή με αποκλεισμό της πρόσβασης στα δεδομένα αυτά, τιμωρείται με φυλάκιση μέχρι τριών (3) ετών. 2. Η πράξη της πρώτης παραγράφου τιμωρείται:

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	α) με φυλάκιση από ένα (1) έως τρία (3) έτη, αν τελέστηκε με τη χρήση εργαλείου που έχει σχεδιαστεί κατά κύριο λόγο για πραγματοποίηση επιθέσεων που επηρεάζουν μεγάλο αριθμό συστημάτων πληροφοριών ή επιθέσεων που προκαλούν σοβαρές ζημίες και ιδίως επιθέσεων που προκαλούν μεγάλης έκτασης ή για μεγάλο χρονικό διάστημα διατάραξη των υπηρεσιών των συστημάτων πληροφοριών, οικονομική ζημιά ιδιαίτερα μεγάλης αξίας ή σημαντική απώλεια δεδομένων, β) με φυλάκιση τουλάχιστον ενός (1) έτους, αν προκάλεσε σοβαρές ζημίες και ιδίως μεγάλης έκτασης ή για μεγάλο χρονικό διάστημα διατάραξη των υπηρεσιών των συστημάτων πληροφοριών, οικονομική ζημία ιδιαίτερα μεγάλης αξίας ή σημαντική απώλεια δεδομένων και γ) με φυλάκιση τουλάχιστον ενός (1) έτους, αν τελέστηκε κατά συστημάτων πληροφοριών που αποτελούν μέρος υποδομής για την προμήθεια του πληθυσμού με ζωτικής σημασίας αγαθά ή υπηρεσίες. Ως ζωτικής σημασίας αγαθά ή υπηρεσίες νοούνται ιδίως η εθνική άμυνα, η υγεία, οι συγκοινωνίες, οι μεταφορές και η ενέργεια. 3. Αν οι πράξεις των προηγούμενων παραγράφων τελέστηκαν στο πλαίσιο δομημένης και με διαρκή δράση ομάδας τριών ή περισσότερων προσώπων, που επιδιώκει την τέλεση περισσότερων εγκλημάτων του παρόντος άρθρου, τιμωρείται με φυλάκιση τουλάχιστον δύο (2) ετών. 4. Για την ποινική δίωξη της πράξης της παραγράφου 1 απαιτείται έγκληση».
Article 6 – Misuse of devices 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right: a the production, sale, procurement for use, import, distribution or otherwise making available of: i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in	**Article 66A N. 2121/1993** 1. The term technological measures means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorized by the rightholder of any copyright or any right related to copyright as well as the sui generis right of the data base maker. Technological measures shall be deemed effective where the use of a protected work or other subject-

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
accordance with the above Articles 2 through 5; 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 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. 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. 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.	matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective. 2. It is prohibited to circumvent, without the permission of the rightholder, any effective technological measure when such act is made in the knowledge or with reasonable grounds to know that he is pursuing that objective. 3. It is prohibited without the permission of the rightholder, to engage in the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which: • are promoted, advertised or marketed for the purpose of circumvention of or • have only a limited commercially significant purpose or use other than to circumvent or • are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures. 4. The practice of activities in violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900 to 15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The One-Member First Instance Court may order an injunction in accordance with the Code of Civil Procedure, the provision of article 64 Law 2121/1993 also being applicable. 5. Notwithstanding the legal protection provided for in par. 4 of this article, as it concerns the limitations (exceptions) provided for in Section IV of law 2121/1993, as exists, related to reproduction for private use on paper or any similar medium (article 18), reproduction for teaching purposes (article 21), reproduction by libraries and archives (article 22), reproduction for judicial or administrative purposes (article 24), as well as the use for the benefit of people with disability (article 28A), the rightholders should have the obligation to give to the beneficiaries the measures to ensure the benefit of the exception to the extent necessary and where that beneficiaries have legal access to the protected work or subject-matter concerned. If the rightholders do not take voluntary

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	measures including agreements between rightholders and third parties benefiting from the exception, the rightholders and third parties benefiting from the exception may request the assistance of one or more mediators selected from the list of mediators drawn up by the Copyright Organization. The mediators make recommendations to the parties. If no party objects within one month from the forwarding of the recommendation, all parties are considered to have accepted the recommendation. Otherwise, the dispute is settled by the Court of Appeal of Athens trying at first and last instance. These provisions shall not apply to works or other subject-matter available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.
Title 2 – Computer-related offences	
Article 7 – Computer-related forgery Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.	
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: a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.	**Article 386A ΠΚ** 1. Whoever, with the intent of obtaining for himself or a third person an unlawful material benefit, damages the assets of another by influencing the result of a data processing operation through incorrect configuration of a program, use of incorrect or incomplete data, or with any other influence, shall be punished with imprisonment for 3 months to 5 years.
Title 3 – Content-related offences	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Article 9 – Offences related to child pornography 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: a producing child pornography for the purpose of its distribution through a computer system; b offering or making available child pornography through a computer system; c distributing or transmitting child pornography through a computer system; d procuring child pornography through a computer system for oneself or for another person; e possessing child pornography in a computer system or on a computer-data storage medium. 2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts: a a minor engaged in sexually explicit conduct; b a person appearing to be a minor engaged in sexually explicit conduct; c realistic images representing a minor engaged in sexually explicit conduct 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. 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.	**Article 348A** 1. Any person who, intentionally produces, distributes, publishes, imports or exports, transfers, offers, sells or in other way distributes, supplies with, purchases, obtains, acquires or owns child pornographic material or spreads or broadcasts information concerning executions of such actions, is sentenced to at least one year's imprisonment and a fine of ten to one hundred thousand Euros. 2. Any person, who intentionally, produces, offers, sells or in any way distributes, transfers, purchases, obtains or acquires child pornographic material or broadcasts information concerning the executions of such actions through a computer system or through the Internet is sentenced to at least two years' imprisonment and a fine of fifty to three hundred thousand Euros. 3. Pornographic material in the sense of the above mentioned paragraphs consists of any representation or an actual or virtual depiction, in electronic or any other form of material, of the body of or part of the body of a minor, aimed at causing sexual stimulation, as well as a recording or depiction of an actual or virtual carnal act that arises sexual stimulation by or with a minor. 4. Actions of the first and second paragraph are punishable by imprisonment of up to ten years and a fine of fifty to one hundred thousand Euros if: • are professionally or habitually committed", • "the production of child pornographic material is connected to the exploiting of the need, mental or intellectual weakness or corporal dysfunction of the minor due to organic disease or by exercise or threat of violence or using a minor under the age of fifteen". If such an act as describe in case b) resulted in grievous bodily harm to the victim, it will entail a sentence of at least ten years' imprisonment and a fine of one hundred thousand to five hundred thousand Euros. If, however, such an act resulted in the victim's death, then life imprisonment is imposed."
Title 4 – Offences related to infringements of copyright and related rights	
Article 10 – Offences related to infringements of copyright and related rights 1 Each Party shall adopt such legislative and other measures as may be	**Article 370Г ПК** 1. Whoever, without right copies or uses computer programs shall be punished

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system. 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system. 3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.	by imprisonment up to six months and penalty from 290 Euro to 5.900 Euro. **Article 66 N. 2121/1993** 1. Any person who, in contravention of the provisions of this law or of the provisions of lawfully ratified multilateral international conventions on the protection of copyright, unlawfully makes a fixation of a work or of copies, reproduces them directly or indirectly, temporarily or permanently in any form, in whole or in part, translates, adapts, alters or transforms them, or distributes them to the public by sale or other means, or possesses with the intent of distributing them, rents, performs in public, broadcasts by radio or television or any other means, communicates to the public works or copies by any means, imports copies of a work illegally produced abroad without the consent of the author and, in general, exploits works, reproductions or copies being the object of copyright or acts against the moral right of the author to decide freely on the publication and the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of no less than a year and to a fine from 2.900-15.000 Euro. 2. The sanctions listed above shall be applicable to any person who, in contravention of the provisions of this law, or of the provisions of lawfully ratified multilateral international conventions on the protection of related rights, makes the following actions: • Without the permission of the performers: ○ fixes their performance ○ directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their performance ○ distributes to the public the fixation of their performance or possesses them with the purpose of distribution ○ rents the fixation of their performance ○ broadcasts by radio and television by any means, the live performance, unless such broadcasting is rebroadcasting of a legitimate broadcasting ○ communicates to the public the live performance made by any

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	means, except radio and television broadcasting ○ makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their performance. • Without the permission of phonogram producers (producers of sound recordings): ○ directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, their phonograms ○ distributes to the public the above recordings, or possesses them with the purpose of distribution ○ rents the said recordings ○ makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, their phonograms ○ imports the said recordings produced abroad without their consent. • Without the permission of producers of audiovisual works (producers of visual or sound and visual recordings) ○ directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the original and the copies of their films ○ distributes to the public the above recordings, including the copies thereof, or possesses them with the purpose of distribution ○ rents the said recordings ○ makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the original and the copies of their films ○ imports the said recordings produced abroad without their consent ○ broadcasts by radio or television by any means including satellite transmission and cable retransmission, as well as the communication to the public

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	• Without the permission of radio and television organizations: ○ rebroadcasts their broadcasts by any means ○ presents their broadcasts to the public in places accessible to the public against payment of an entrance fee ○ fixes their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite ○ directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their broadcasts ○ distributes to the public the recordings containing the fixation or their broadcasts ○ rents the recordings containing the fixation of their broadcasts ○ makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their broadcasts. 3. If the financial gain sought or the damage caused by the perpetration of an act listed in paragraphs (1) and (2), above, is particularly great, the sanction shall be not less than two years imprisonment and a fine of from 2 to 10 million drachmas. If the guilty party has perpetrated any of the aforementioned acts by profession or at a commercial scale or if the circumstances in connection with the perpetration of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to ten (10) years and a fine of from 5 to 10 million drachmas, together with the withdrawal of the trading license of the undertaking which has served as the vehicle for the act. The act shall be likewise deemed to have been perpetrated by way of standard practice if the guilty party has on a previous occasion been convicted of a contravention pursuant to the provisions of the Article or for a violation of the preceding copyright legislation and sentenced to a non-redeemable period of imprisonment. Any infringement of copyright and related rights in the form of felony is tried by the competent Three-member Court of Appeal for Felonies.

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	4. Any person who did not pay the remuneration provided for by Article 18, paragraph (3) hereof to a collecting society is punished with the sanction of paragraph (1), (2) and (3). The same sentence is imposed on the debtor who, after the issuance of the decision of the one-member first instance court, does not submit the declaration under the provisions of article 18, par. 6, of this law. 5. The sanctions specified in paragraph (1), above, shall be applicable likewise to any person who: • uses or distributes, or possesses with the intent to distribute, any system or means whose sole purpose is to facilitate the unpermitted removal or neutralization of a technical system used to protect a computer program • manufactures or imports or distributes, or possesses with intent to distribute, equipment and other materials utilizable for the reproduction of a work which do not conform to the specifications determined pursuant to Article 59 of this Law • manufactures or imports or distributes, or possesses with intent to distribute, objects which can thwart the efficacy of the above-mentioned specifications, or engages in an act which can have that result • reproduces or uses a work without utilizing the equipment or without applying the systems specified pursuant to Article 60 of this Law • distributes, or possesses with intent to distribute, a phonogram or film without the special mark or control label specified pursuant to Article 61 of this Law 6, Where a sentence of imprisonment is imposed with the option of redeemability, the sum payable for the redemption shall be 10 times the sum specified as per the case in the Penal Code. 7. Where mitigating circumstances exist, the fine imposed shall not be less than half of the minimum fine imposable as per the case under this Law. 8. Any person who proceeds to authorized temporary or permanent reproduction of the database, translation, adaptation, arrangement and any other alteration of the database, distribution to the public of the database or of copies thereof,

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	communication, display or performance of the database to the public, is punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas. 9. Any person who proceeds to extraction and/or re-utilization of the whole or of a substantial part of the contents of the database without the authorization of the author thereof, is punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas (article 12 of Directive 96/9). 10. When the object of the infringement refers to computer software, the culpable character of the action, as described in paragraph 1 of article 65A and under the prerequisites provided there, is raised under the condition that the infringer proceeds in the unreserved payment of the administrative fee and the infringement concerns a quantity of up to 50 programs. 11. When the object of infringement concerns recordings of sound in which a work protected by copyright law has been recorded, the unreserved payment of an administrative fee according to the stipulation of par.2 of article 65A and under the prerequisites provided there, the culpable character of the action is raised under the condition that the infringement concerns a quantity of up to five hundred (500) illegal sound recording carriers. 12. The payment of the administrative fee and the raising of the culpable character of the action, do not relieve the infringers from the duty of buying off the copyright and related rights or from the duty of compensating and paying the rest expenses to the holders of these rights, according to the provisions of the relevant laws. 13. In case of recidivism during the same financial year the administrative fee provided for by article 65A doubles.
Title 5 – Ancillary liability and sanctions	
Article 11 – Attempt and aiding or abetting 1 Each Party shall adopt such legislative and other measures as may be	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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. 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention. 3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.	
Article 12 – Corporate liability 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: a a power of representation of the legal person; b an authority to take decisions on behalf of the legal person; c an authority to exercise control within the legal person. 2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority. 3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative. 4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.	**Άρθρο τέταρτο** **Ευθύνη νομικών προσώπων** **(Άρθρο 11 της Οδηγίας)** 1. Αν κάποια από τις πράξεις των άρθρων 292Β, 370Γ, 370Δ, 370Ε, 381Α και 386Α του Ποινικού Κώδικα τελέστηκε, προς όφελος ή για λογαριασμό νομικού προσώπου ή ένωσης προσώπων, από φυσικό πρόσωπο που ενεργεί είτε ατομικά είτε ως μέλος οργάνου του νομικού προσώπου ή της ένωσης προσώπων και έχει εξουσία εκπροσώπησής τους ή εξουσιοδότηση για τη λήψη αποφάσεων για λογαριασμό τους ή για την άσκηση ελέγχου εντός αυτών, επιβάλλονται στο νομικό πρόσωπο ή στην ένωση προσώπων με ειδικά αιτιολογημένη απόφαση της Αρχής Διασφάλισης του Απόρρητου των Επικοινωνιών, κατά περίπτωση, σωρευτικά ή διαζευκτικά, οι ακόλουθες κυρώσεις, α) σύσταση για συμμόρφωση μέσα στα χρονικά όρια τασσόμενης προθεσμίας με προειδοποίηση επιβολής προστίμου σε περίπτωση παράλειψης συμμόρφωσης, β) διοικητικό πρόστιμο από 20.000 έως 1.000.000 ευρώ, γ) ανάκληση ή αναστολή της άδειας λειτουργίας τους για χρονικό διάστημα από ένα (1) μήνα έως δύο (2) έτη ή απαγόρευση άσκησης της επιχειρηματικής τους δραστηριότητας για το ίδιο χρονικό διάστημα,

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	δ) αποκλεισμός από δημόσιες παροχές, ενισχύσεις, επιδοτήσεις, αναθέσεις έργων και υπηρεσιών, προμήθειες, διαφημίσεις και διαγωνισμούς του Δημοσίου ή των νομικών προσώπων του δημόσιου τομέα για το ίδιο διάστημα. Σε περίπτωση υποτροπής οι κυρώσεις των περιπτώσεων γ΄ και δ΄ μπορεί να έχουν οριστικό χαρακτήρα και εφόσον πρόκειται περί σωματείων ή ενώσεων προσώπων, η υποτροπή μπορεί να έχει ως συνέπεια τη διάλυσή τους, σύμφωνα με τις εκάστοτε ισχύουσες διατάξεις. 2. Όταν η έλλειψη εποπτείας ή ελέγχου από φυσικό πρόσωπο που αναφέρεται στην παράγραφο 1, κατέστησε δυνατή την τέλεση από πρόσωπο που τελεί υπό την εξουσία του κάποιας από τις αξιόποινες πράξεις που αναφέρονται στην ίδια ως άνω παράγραφο, προς όφελος ή για λογαριασμό νομικού προσώπου ή ένωσης προσώπων, επιβάλλονται στο νομικό πρόσωπο, σωρευτικά ή διαζευκτικά, οι ακόλουθες κυρώσεις: α) σύσταση για συμμόρφωση μέσα στα χρονικά όρια τασσόμενης προθεσμίας με προειδοποίηση επιβολής προστίμου σε περίπτωση παράλειψης συμμόρφωσης, β) διοικητικό πρόστιμο από 10.000 έως 1.000.000 ευρώ, γ) οι προβλεπόμενες στις περιπτώσεις γ΄ και δ΄ της προηγούμενης παραγράφου κυρώσεις για χρονικό διάστημα από δέκα (10) ημέρες έως έξι (6) μήνες. 3. Για τη σωρευτική ή διαζευκτική επιβολή των κυρώσεων που προβλέπονται στις προηγούμενες παραγράφους και για την επιμέτρηση των κυρώσεων αυτών λαμβάνονται υπόψη ιδίως η βαρύτητα της παράβασης, ο βαθμός της υπαιτιότητας, η οικονομική επιφάνεια του νομικού προσώπου ή της ένωσης προσώπων και η τυχόν υποτροπή τους. 4. Η εφαρμογή των διατάξεων των προηγούμενων παραγράφων είναι ανεξάρτητη από την αστική, πειθαρχική ή ποινική ευθύνη των αναφερόμενων σε αυτές φυσικών προσώπων. Καμιά κύρωση δεν επιβάλλεται χωρίς

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	προηγούμενη κλήτευση των νόμιμων εκπροσώπων του νομικού προσώπου ή της ένωσης προσώπων προς παροχή εξηγήσεων. Η κλήση κοινοποιείται τουλάχιστον δέκα (10) ημέρες πριν από την ημέρα της ακρόασης. Κατά τα λοιπά, εφαρμόζονται οι διατάξεις των παραγράφων 1 και 2 του άρθρου 6 του Κώδικα Διοικητικής Διαδικασίας. Σε περίπτωση άσκησης ποινικής δίωξης για κάποια από τις προβλεπόμενες στην παράγραφο 1 αξιόποινες πράξεις που τελέστηκε από πρόσωπο αναφερόμενο στις παραγράφους 1 και 2 και προκειμένου να εφαρμοστεί η προβλεπόμενη στο άρθρο αυτό διαδικασία επιβολής διοικητικών κυρώσεων, οι εισαγγελικές αρχές ενημερώνουν αμέσως τον Υπουργό Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων και αποστέλλουν σε αυτόν αντίγραφα της δικογραφίας. 5. Σε περίπτωση αμετάκλητης απαλλαγής του παραπεφθέντος οι κατά τα ανωτέρω αποφάσεις επιβολής διοικητικών κυρώσεων ανακαλούνται. 6. Οι διατάξεις των προηγουμένων παραγράφων δεν εφαρμόζονται στο κράτος, στους φορείς δημόσιας εξουσίας και στους διεθνείς οργανισμούς δημοσίου δικαίου, χωρίς αυτό να επηρεάζει την εφαρμογή των ισχυουσών κάθε φορά διατάξεων περί αστικής, πειθαρχικής ή ποινικής ευθύνης.
Article 13 – Sanctions and measures 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. 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.	
Section 2 – Procedural law	
Article 14 – Scope of procedural provisions	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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. 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: 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. 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. 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: i is being operated for the benefit of a closed group of users, and ii does not employ public communications networks and is not connected with another computer system, whether public or private, 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	
Article 15 – Conditions and safeguards 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,	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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. 2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, *inter alia,* include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure. 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.	
Article 16 – Expedited preservation of stored computer data 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. 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. 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	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
the period of time provided for by its domestic law. 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	
Article 17 – Expedited preservation and partial disclosure of traffic data 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: 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 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. 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	
Article 18 – Production order 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order: 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 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. 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15. 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:	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
a the type of communication service used, the technical provisions taken thereto and the period of service; 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; c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.	
Article 19 – Search and seizure of stored computer data 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access: a a computer system or part of it and computer data stored therein; and b a computer-data storage medium in which computer data may be stored in its territory. 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. 3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to: 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. 4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who	**Article 265 of the Code of Criminal Procedure** **Άρθρο 265. - Κατάσχεση ψηφιακών δεδομένων.** 1. Η κατάσχεση ψηφιακών δεδομένων μπορεί να επιβληθεί: α) Σε ένα σύστημα υπολογιστή στο σύνολό του ή σε μέρος αυτού και στα δεδομένα υπολογιστή που είναι αποθηκευμένα σε αυτόν, στα οποία έχει φυσική πρόσβαση εκείνος που διενεργεί την ανάκριση, β) σε ένα μέσο αποθήκευσης δεδομένων υπολογιστή στο οποίο υπάρχουν αποθηκευμένα δεδομένα υπολογιστή και έχει φυσική πρόσβαση εκείνος που διενεργεί την ανάκριση, γ) σε ένα απομακρυσμένο σύστημα υπολογιστή στο σύνολό του ή σε μέρος αυτού και στα δεδομένα υπολογιστή που είναι αποθηκευμένα σε αυτόν ή σε ένα απομακρυσμένο μέσο αποθήκευσης δεδομένων υπολογιστή και στα δεδομένα υπολογιστή που είναι αποθηκευμένα σε αυτό, τα οποία είναι διασυνδεδεμένα στο σύστημα υπολογιστή στο οποίο έχει φυσική πρόσβαση εκείνος που διενεργεί την ανάκριση. Στην τελευταία περίπτωση, τα ψηφιακά δεδομένα που είναι αποθηκευμένα και προσβάσιμα μέσω συστήματος και υπηρεσιών νεφοϋπολογιστικής (cloud services) δεν θεωρούνται αποθηκευμένα σε απομακρυσμένο σύστημα υπολογιστή ή σε απομακρυσμένο μέσο αποθήκευσης δεδομένων υπολογιστή τα οποία είναι διασυνδεδεμένα στο σύστημα υπολογιστή στο οποίο έχουν φυσική πρόσβαση οι αρχές. 2. Η κατά τα ανωτέρω κατάσχεση πραγματοποιείται αποκλειστικά με τη χρήση κατάλληλου εξοπλισμού που επιτρέπει σε εκείνον που τη διεξάγει: α) Την αφαίρεση και την κατάσχεση του υλικού φορέα των υπό στοιχείων α-γ της παρ. 1, στο οποίο βρίσκονται αποθηκευμένα τα δεδομένα και/ή β) την αντιγραφή και την αφαίρεση των αποθηκευμένων ψηφιακών δεδομένων των υπό στοιχείων α-γ της παρ. 1 σε μέσο αποθήκευσης δεδομένων και γ) την αναπαραγωγή και την επαλήθευση της αυθεντικότητας και της ακεραιότητας των κατασχεθέντων δεδομένων. 3. Η κατάσχεση που διενεργείται κατά τις παρ. 1 και 2, βεβαιώνεται με ειδική έκθεση, η οποία αναφέρει ειδικώς τις ενέργειες της παρ. 2 που πραγματοποιεί

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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. 5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	εκείνος που διεξάγει την ανάκριση. 4. Τα ψηφιακά δεδομένα που κατάσχονται διατηρούνται αποθηκευμένα καθ' όλη τη διάρκεια της ποινικής διαδικασίας σε ένα και μόνο υλικό μέσο αποθήκευσης που περιέχεται στη δικογραφία. Ασφαλές αντίγραφο αυτού ώστε να διασφαλίζεται η δυνατότητα ανάκτησης των δεδομένων που έχουν κατασχεθεί, σε περίπτωση απώλειας ή καταστροφής, σχηματίζεται κατά την κατάσχεσή τους και διατηρείται στο γραφείο πειστηρίων του πρωτοδικείου στο οποίο υποβάλλεται η δικογραφία και το οποίο παρέχει τις κατάλληλες εγγυήσεις φυσικής ασφάλειας και πρόσβασης σε εκείνους μόνο που ασκούν καθήκοντα στην υπόθεση. Η παρούσα ισχύει αναλόγως και στα ψηφιακά δεδομένα που αφορούν στα δεδομένα επικοινωνίας που περιλαμβάνονται στη δικογραφία. 5. Η πρόσβαση και η δυνατότητα αναπαραγωγής των ψηφιακών δεδομένων που κατάσχονται επιτρέπεται μόνο σε όσους ασκούν δικαστικά, εισαγγελικά και ανακριτικά καθήκοντα στην υπόθεση ή τους γραμματείς. Προς το σκοπό αυτό χρησιμοποιούνται τα κατάλληλα τεχνικά μέσα. Τέτοια μέσα είναι η κρυπτογράφηση και η χρήση κωδικών ασφαλείας για την πρόσβαση και αναπαραγωγή των κατασχεμένων ψηφιακών δεδομένων από το υλικό μέσο αποθήκευσης στο οποίο βρίσκονται αποθηκευμένα. Η παρούσα ισχύει αναλόγως και στα ψηφιακά δεδομένα που αφορούν στα δεδομένα επικοινωνίας που περιλαμβάνονται στη δικογραφία. 6. Απαγορεύεται η δημιουργία και η διατήρηση αντιγράφων των ψηφιακών δεδομένων για οποιονδήποτε άλλον λόγο εκτός αν ο αρμόδιος εισαγγελέας ή ανακριτής ή συμβούλιο ή το δικαστήριο κρίνουν ότι τα κατασχεμένα ψηφιακά δεδομένα είναι αναγκαίο να περιληφθούν σε άλλη δικογραφία. Η παρούσα ισχύει αναλόγως και στα ψηφιακά δεδομένα που αφορούν στα δεδομένα επικοινωνίας που περιλαμβάνονται στη δικογραφία.
Article 20 – Real-time collection of traffic data 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to: 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: 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	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
computer system. 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. 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it. 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	
Article 21 – Interception of content data 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: 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: 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, content data, in real-time, of specified communications in its territory transmitted by means of a computer system. 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. 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it. 4 The powers and procedures referred to in this article shall be subject to	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Articles 14 and 15.	
Section 3 – Jurisdiction	
Article 22 – Jurisdiction 1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed: a in its territory; or b on board a ship flying the flag of that Party; or c on board an aircraft registered under the laws of that Party; or d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State. 2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof. 3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition. 4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.	
Chapter III – International co-operation	
Article 24 – Extradition 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	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
year, or by a more severe penalty. 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. 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. 3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article. 4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves. 5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition. 6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party. 7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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	
Article 25 – General principles relating to mutual assistance 1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. 2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35. 3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication. 4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence. 5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
criminal offence under its laws.	
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 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. 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.	
Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements 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. 2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution. b The central authorities shall communicate directly with each other; c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph; d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Party shall ensure that the details held on the register are correct at all times. 3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party. 4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or b it considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests. 5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities. 6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary. 7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly. 8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed. 9 a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party. b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol). c Where a request is made pursuant to sub-paragraph a. of this article	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so. d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party. e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.	
Article 28 – Confidentiality and limitation on use 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. 2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is: a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or b not used for investigations or proceedings other than those stated in the request. 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. 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.	
Article 29 – Expedited preservation of stored computer data 1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system,	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
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. 2 A request for preservation made under paragraph 1 shall specify: a the authority seeking the preservation; b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts; c the stored computer data to be preserved and its relationship to the offence; d any available information identifying the custodian of the stored computer data or the location of the computer system; e the necessity of the preservation; and f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data. 3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation. 4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled. 5 In addition, a request for preservation may only be refused if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests. 6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed. 4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.	
Article 30 – Expedited disclosure of preserved traffic data 1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall 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, *ordre public* or other essential interests.	
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	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
otherwise provide for expedited co-operation.	
Article 32 – Trans-border access to stored computer data with consent or where publicly available A Party may, without the authorisation of another Party: a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or 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.	
Article 33 – Mutual assistance in the real-time collection of traffic data 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. 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.	
Article 34 – Mutual assistance regarding the interception of content data 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.	
Article 35 – 24/7 Network 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	

Back to the Table of Contents

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
carrying out the following measures: a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. 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. 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. 3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.	
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.	

Back to the Table of Contents