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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.

State:	
Signature of the Budapest Convention:	27/02/2002
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>a) 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>Section. 1 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</p> <p>Interpretation</p> <p>“act” includes an omission;</p> <p>“data” means any representation of facts, information or concepts in a form capable of being processed in an information system, and includes a programme capable of causing an information system to perform a function;</p> <p>“information system” means—</p> <p>(a) a device or group of interconnected or related devices, one or more than one of which performs automatic processing of data pursuant to a programme, and</p> <p>(b) data stored, processed, retrieved or transmitted by such a device or group of devices for the purposes of the operation, use, protection or maintenance of the device or group of devices, as the case may be;</p> <p>“lawful authority”, in relation to an information system, means—</p> <p>(a) with the authority of the owner of the system,</p> <p>(b) with the authority of a right holder of the system, or</p>

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	<p>(c) as permitted by law;</p> <p>“Minister” means the Minister for Justice and Equality;</p> <p>“relevant offence” means an offence under section 2 , 3 , 4 , 5 , 6 or 9 (1);</p> <p>“right holder”, in relation to an information system, means a person who is not the owner of the system but who has the right to access the system (including the right to access the system for the purposes of maintaining, testing or protecting the system).</p> <p>(2) In this Act a reference to an information system includes a reference to a part of the system.</p>
Chapter II – Measures to be taken at the national level	
Section 1 – Substantive criminal law	
Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems	
<p>Article 2 – Illegal access</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p><u>Section 2 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Accessing information system without lawful authority, etc.</p> <p>A person who, without lawful authority or reasonable excuse, intentionally accesses an information system by infringing a security measure shall be guilty of an offence.</p>
<p>Article 3 – Illegal interception</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer system carrying such computer data. A Party may require that the offence be</p>	<p><u>Section 5 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Intercepting transmission of data without lawful authority</p> <p>A person who, without lawful authority, intentionally intercepts any transmission (other than a public transmission) of data to, from or within an information</p>

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committed with dishonest intent, or in relation to a computer system that is connected to another computer system.	system (including any electromagnetic emission from such an information system carrying such data), shall be guilty of an offence.
<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><u>Section 4 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Interference with data without lawful authority</p> <p>A person who, without lawful authority, intentionally deletes, damages, alters or suppresses, or renders inaccessible, or causes the deterioration of, data on an information system shall be guilty of an offence.</p>
<p>Article 5 – System interference</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data.</p>	<p><u>Section 3 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Interference with information system without lawful authority</p> <p>A person who, without lawful authority, intentionally hinders or interrupts the functioning of an information system by—</p> <p>(a) inputting data on the system,</p> <p>(b) transmitting, damaging, deleting, altering or suppressing, or causing the deterioration of, data on the system, or</p> <p>(c) rendering data on the system inaccessible,</p> <p>shall be guilty of an offence.</p>
<p>Article 6 – Misuse of devices</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:</p> <p>a the production, sale, procurement for use, import, distribution or otherwise making available of:</p>	<p><u>Section 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Use of computer programme, password, code or data for purposes of section 2, 3, 4 or 5</p>

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<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>A person who, without lawful authority, intentionally produces, sells, procures for use, imports, distributes, or otherwise makes available, for the purpose of the commission of an offence under section 2 , 3 , 4 or 5 —</p> <p>(a) any computer programme that is primarily designed or adapted for use in connection with the commission of such an offence, or</p> <p>(b) any device, computer password, unencryption key or code, or access code, or similar data, by which an information system is capable of being accessed,</p> <p>shall be guilty of an offence.</p>
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	

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<p>Article 8 – Computer-related fraud</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <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><u>Section 9 of the Criminal Justice (Theft and Fraud Offences) Act 2001</u></p> <p>Unlawful use of computer</p> <p>(1) A person who dishonestly, whether within or outside the State, operates or causes to be operated a computer within the State with the intention of making a gain for himself or herself or another, or of causing loss to another, is guilty of an offence.</p> <p>(2) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.</p>
<p>Article 9 – Offences related to child pornography</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> a producing child pornography for the purpose of its distribution through a computer system; b offering or making available child pornography through a computer system; c distributing or transmitting child pornography through a computer system; d procuring child pornography through a computer system for oneself or for another person; e possessing child pornography in a computer system or on a computer-data storage medium. <p>2 For the purpose of paragraph 1 above, the term “child pornography” shall include pornographic material that visually depicts:</p> <ul style="list-style-type: none"> a a minor engaged in sexually explicit conduct; b a person appearing to be a minor engaged in sexually explicit conduct; 	<p><u>Section 5 of the Child Trafficking and Pornography Act 1998</u></p> <p>Producing, distributing, etc., child pornography.</p> <p>(1) Subject to sections 6 (2) and 6 (3), any person who—</p> <ul style="list-style-type: none"> (a) knowingly produces, distributes, prints or publishes any child pornography, (b) knowingly imports, exports, sells or shows any child pornography, (c) knowingly publishes or distributes any advertisement likely to be understood as conveying that the advertiser or any other person produces, distributes, prints, publishes, imports, exports, sells or shows any child pornography, (d) encourages or knowingly causes or facilitates any activity mentioned in paragraph (a), (b) or (c), or (e) knowingly possesses any child pornography for the purpose of distributing, publishing, exporting, selling or showing it, <p>shall be guilty of an offence and shall be liable—</p>

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<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>(i) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or both, or</p> <p>(ii) on conviction on indictment to a fine or to imprisonment for a term not exceeding 14 years or both.</p> <p>(2) In this section “distributes”, in relation to child pornography, includes parting with possession of it to, or exposing or offering it for acquisition by, another person, and the reference to “distributing” in that context shall be construed accordingly.</p> <p><u>Section 6 of the Child Trafficking and Pornography Act 1998</u></p> <p>Possession of child pornography.</p> <p>(1) Without prejudice to section 5 (1)(e) and subject to subsections (2) and (3), any person who knowingly possesses any child pornography shall be guilty of an offence and shall be liable—</p> <p>(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or both, or</p> <p>(b) on conviction on indictment to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 5 years or both.</p> <p>(2) Section 5 (1) and subsection (1) shall not apply to a person who possesses child pornography—</p> <p>(a) in the exercise of functions under the Censorship of Films Acts, 1923 to 1992, the Censorship of Publications Acts, 1929 to 1967, or the Video Recordings Acts, 1989 and 1992, or</p>

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	<p>(b) for the purpose of the prevention, investigation or prosecution of offences under this Act.</p> <p>(3) Without prejudice to subsection (2), it shall be a defence in a prosecution for an offence under section 5 (1) or subsection (1) for the accused to prove that he or she possessed the child pornography concerned for the purposes of bona fide research.</p>
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other</p>	<p><u>Section 140 of the Copyright and Related Rights Act 2000 (as amended)</u></p> <p>Offences</p> <p>(1) A person who, without the consent of the copyright owner—</p> <p>(a) makes for sale, rental or loan,</p> <p>(b) sells, rents or lends, or offers or exposes for sale, rental or loan,</p> <p>(c) imports into the State, otherwise than for his or her private and domestic use,</p> <p>(d) in the course of a business, trade or profession, has in his or her possession, custody or control, or makes available to the public, or</p>

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<p>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>(e) otherwise than in the course of a business, trade or profession, makes available to the public to such an extent as to prejudice the interests of the owner of the copyright,</p> <p>a copy of a work which is, and which he or she knows or has reason to believe is, an infringing copy of the work, shall be guilty of an offence.</p> <p>(2) In this section "loan" means a loan for reward and in particular does not include a loan to a family member or friend for private and domestic use, and "lends" shall be construed accordingly.</p> <p>(3) A person who—</p> <p>(a) makes,</p> <p>(b) sells, rents or lends, or offers or exposes for sale, rental or loan,</p> <p>(c) imports into the State, or</p> <p>(d) has in his or her possession, custody or control,</p> <p>an article specifically designed or adapted for making copies of a work, knowing or having reason to believe that it has been or is to be used to make infringing copies, shall be guilty of an offence.</p> <p>(4) A person who—</p>

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	<p>(a) (i) makes,</p> <p>(ii) sells, rents or lends, or offers or exposes for sale, rental or loan,</p> <p>(iii) imports into the State, or</p> <p>(iv) has in his or her possession, custody or control,</p> <p>a protection-defeating device, knowing or having reason to believe that it has been or is to be used to circumvent rights protection measures, or</p> <p>(b) provides information, or offers or performs any service, intended to enable or assist a person to circumvent rights protection measures,</p> <p>shall be guilty of an offence.</p> <p>(5) Where copyright is infringed by—</p> <p>(a) the public performance of a literary, dramatic or musical work,</p> <p>(b) the playing or showing in public of a sound recording, artistic work, original database or film, or</p> <p>(c) broadcasting a work or including a work in a cable programme service,</p>

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	<p>the person who caused the work to be so performed, played, broadcast, included in a cable programme service or shown shall be guilty of an offence where he or she knew or had reason to believe that the copyright in the work would be infringed.</p> <p>(6) An offence shall not be committed under subsection (1) or (5) by the undertaking of an act which under this Part may be undertaken without infringing the copyright in a work.</p> <p>(7) A person guilty of an offence under subsection (1), (3) or (4) shall be liable—</p> <p>(a) on summary conviction, to a class C fine in respect of each infringing copy, article or device, or to imprisonment for a term not exceeding 12 months, or both, or</p> <p>(b) on conviction on indictment, to a fine not exceeding €130,000, or to imprisonment for a term not exceeding 5 years, or both.</p> <p>(8) A person guilty of an offence under subsection (5) shall be liable—</p> <p>(a) on summary conviction, to a fine not exceeding class C fine in respect of such offence or to imprisonment for a term not exceeding 12 months, or both, or</p> <p>(b) on conviction on indictment, to a fine not exceeding €130,000, or to imprisonment for a term not exceeding 5 years, or both.</p> <p><u>Section 258 of the Copyright and Related Rights Act 2000 (as amended)</u></p>

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	<p>Offences</p> <p>(1) A person who, without the consent of the rightsowner—</p> <ul style="list-style-type: none">(a) makes for sale, rental or loan,(b) sells, rents or lends, or offers or exposes for sale, rental or loan,(c) imports into the State, otherwise than for his or her private and domestic use,(d) in the course of a business, trade or profession, has in his or her possession, custody or control, or makes available to the public, or(e) otherwise than in the course of a business, trade or profession, makes available to the public to such an extent as to prejudice the interests of the rightsowner, <p>a recording which is, and which he or she knows or has reason to believe is, an illicit recording, shall be guilty of an offence.</p> <p>(2) A person who—</p> <ul style="list-style-type: none">(a) makes,(b) sells, rents or lends, or offers or exposes for sale, rental or loan,

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	<p>(c) imports into the State, or</p> <p>(d) has in his or her possession, custody or control,</p> <p>an article specifically designed or adapted for making recordings of a performance, knowing or having reason to believe that it has been or is to be used to make illicit recordings, shall be guilty of an offence.</p> <p>(3) A person who—</p> <p>(a) (i) makes,</p> <p>(ii) sells, rents or lends, or offers or exposes for sale, rental or loan,</p> <p>(iii) imports into the State, or</p> <p>(iv) has in his or her possession, custody or control,</p> <p>a protection-defeating device, knowing or having reason to believe that it has been or is to be used to circumvent rights protection measures, or</p> <p>(b) provides information, or offers or performs any service intended to enable or assist persons to circumvent rights protection measures,</p> <p>shall be guilty of an offence.</p>

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	<p>(4) Where the rights conferred by this Part are infringed—</p> <p>(a) by the playing or showing in public of a recording of a performance, or</p> <p>(b) by the broadcasting or inclusion in a cable programme service of a performance or a recording of a performance,</p> <p>the person who caused the recording of the performance to be shown or played, or the performance or the recording of the performance to be broadcast or included in a cable programme service, shall be guilty of an offence where he or she knew or had reason to believe that the rights conferred by this Part would be infringed.</p> <p>(5) An offence shall not be committed under subsection (1) or (4) by the undertaking of an act which under this Part may be undertaken without infringing the rights conferred by this Part.</p> <p>(6) A person guilty of an offence under subsection (1), (2) or (3) shall be liable—</p> <p>(a) on summary conviction, to a class C fine in respect of each illicit recording, article or device, or to imprisonment for a term not exceeding 12 months, or both, or</p> <p>(b) on conviction on indictment, to a fine not exceeding €130,000, or to imprisonment for a term not exceeding 5 years, or both.</p> <p>(7) A person guilty of an offence under subsection (4) shall be liable—</p>

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	<p>(a) on summary conviction, to a class C fine in respect of each offence, or to imprisonment for a term not exceeding 12 months, or both, or</p> <p>(b) on conviction on indictment, to a fine not exceeding €130,000, or to imprisonment for a term not exceeding 5 years, or both.</p>
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.</p> <p>3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.</p>	<p><u>Section 7 of the Criminal Law Act 1997 (as amended)</u></p> <p>Penalties for assisting offenders</p> <p>(1) Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.</p> <p>(1A) Any person who, outside the State, aids, abets, counsels or procures the commission of an indictable offence in the State shall be liable to be indicted, tried and punished as a principal offender if —</p> <p>(a) the person does so on board an Irish ship,</p> <p>(b) the person does so on an aircraft registered in the State,</p> <p>(c) the person is an Irish citizen, or</p> <p>(d) the person is ordinarily resident in the State.</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</p>	<p><u>Section 9 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Liability for offences by body corporate, etc.</p>

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<p>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>(1) Where a relevant offence (other than an offence under this subsection) is committed for the benefit of a body corporate by a relevant person and the commission of the relevant offence is attributable to the failure, by a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, to exercise, at the time of the commission of the relevant offence and in all the circumstances of the case, the requisite degree of supervision or control of the relevant person, the body corporate shall be guilty of an offence.</p> <p>(2) In proceedings for an offence under subsection (1), it shall be a defence for a body corporate against which such proceedings are brought to prove that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.</p> <p>(3) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.</p> <p>(4) Subsection (1)—</p> <p>(a) is without prejudice to the other circumstances, under the general law, whereby acts of a natural person are attributed to a body corporate resulting in criminal liability of that body corporate for those acts, and</p> <p>(b) does not exclude criminal proceedings against natural persons who are involved as perpetrators, inciters or accessories in an offence under this Act.</p> <p>(5) In this section—</p> <p>“relevant person”, in relation to a body corporate, means—</p>

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	<p>(a) a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, or</p> <p>(b) an employee, subsidiary or agent of the body corporate;</p> <p>“subsidiary”, in relation to a body corporate, has the meaning it has in the Companies Act 2014.</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><u>Section 8 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Penalties</p> <p>(1) A person who commits an offence under section 2 , 4 , 5 , 6 or 9 (1) shall be liable—</p> <p>(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.</p> <p>(2) A person who commits an offence under section 3 shall be liable—</p> <p>(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.</p> <p>(3) A person who commits an offence under section 7 (7) shall be liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both.</p>

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	<p>(4) (a) Where a court is determining the sentence to be imposed on a person for an offence under section 3 or 4 , the fact that the commission of the offence involved misusing the personal data of another person (“rightful identity owner”) with the aim of gaining the trust of a third party, thereby causing prejudice to the rightful identity owner, shall be treated as an aggravating factor for the purpose of determining the sentence.</p> <p>(b) Accordingly, the court shall (except when the court considers that there are exceptional circumstances justifying it not doing so) impose a sentence that is greater than that which would have been imposed in the absence of such a factor.</p> <p>(c) The sentence imposed shall not be greater than the maximum sentence permissible under this section for the offence concerned under section 3 or 4 .</p>
<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</p>	

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<p>a reservation to enable the broadest application of the measure referred to in Article 20.</p> <p>b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system:</p> <ul style="list-style-type: none"> 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, <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>	

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

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<p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 18 – Production order</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:</p> <p>a a person in its territory to submit specified computer data in that person’s possession or control, which is stored in a computer system or a computer-data storage medium; and</p> <p>b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider’s possession or control.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p> <p>3 For the purpose of this article, the term “subscriber information” means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:</p> <p>a the type of communication service used, the technical provisions taken thereto and the period of service;</p> <p>b the subscriber’s identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;</p> <p>c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.</p>	<p><u>Section 3 of the Criminal Justice Act 2011</u></p> <p>Relevant offences for purposes of this Act</p> <p>(1) In this Act a relevant offence means—</p> <p>(a) an arrestable offence under a provision of an enactment, or at common law, specified in Schedule 1 ,</p> <p>(b) an arrestable offence under a provision of an enactment, or at common law, specified in an order made under subsection (2) ,</p> <p>(c) an offence consisting of aiding, abetting, counselling or procuring the commission of an offence specified in Schedule 1 or in an order made under subsection (2), or</p> <p>(d) an offence consisting of conspiring to commit, or inciting the commission of, an offence specified in Schedule 1 or in an order made under subsection (2).</p> <p>(2) The Minister may by order specify as a relevant offence an arrestable offence under a provision of an enactment, or at common law, relating to any of the following areas, namely—</p> <p>(a) banking, investment of funds and other financial activities,</p> <p>(b) company law,</p> <p>(c) money laundering and financing terrorism,</p> <p>(d) theft and fraud,</p> <p>(e) bribery and corruption,</p>

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	<p>(f) competition and consumer protection,</p> <p>(g) criminal acts involving the use of electronic communication networks and information systems or against such networks or systems or both, or</p> <p>(h) the raising and collection of taxes and duties,</p> <p>if the Minister considers that it is proper to do so and he or she is of opinion that the powers conferred by this Act in relation to the investigation of relevant offences are necessary for the investigation of such an offence by reason of the nature of the offence concerned and the prolonged period of time that is generally required for the investigation of such an offence as a result of the complexity that generally arises in such an investigation due to any one or more of the following factors, namely—</p> <p>(i) the number of witnesses,</p> <p>(ii) the volume of documents,</p> <p>(iii) the wide distribution and proliferation of documents arising from the use of electronic means of communication,</p> <p>(iv) the number of transactions,</p> <p>(v) the complexity of transactions, or</p> <p>(vi) other factor,</p> <p>that may be expected to be involved.</p> <p>(3) An order under subsection (2) shall only be made after consultation by the Minister with any other Minister of the Government who, in the opinion of the Minister, having regard to the functions of that other Minister of the Government</p>

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	<p>under the enactment concerned or in relation to the offence at common law concerned, ought to be consulted.</p> <p><u>Section 15 of the Criminal Justice Act 2011</u></p> <p>Order to produce documents or provide information</p> <p>15.— (1) For the purposes of the investigation of a relevant offence, a member of the Garda Síochána may apply to a judge of the District Court for an order under this section in relation to—</p> <p>(a) the making available by a person of any particular documents or documents of a particular description, or</p> <p>(b) the provision by a person of particular information by answering questions or making a statement containing the information,</p> <p>or both.</p> <p>(2) On an application under subsection (1) , a judge of the District Court, if satisfied by information on oath of the member of the Garda Síochána making the application that—</p> <p>(a) there are reasonable grounds for suspecting that a person has possession or control of particular documents or documents of a particular description,</p> <p>(b) there are reasonable grounds for believing that the documents are relevant to the investigation of the relevant offence concerned,</p> <p>(c) there are reasonable grounds for suspecting that the documents (or some of them) may constitute evidence of or relating to the commission of that offence, and</p>

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	<p>(d) there are reasonable grounds for believing that the documents should be produced or that access to them should be given, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,</p> <p>may order the person to—</p> <p>(i) produce the documents to a member of the Garda Síochána for the member to take away and, if the judge considers it appropriate, to identify and categorise the documents to be so produced in the particular manner (if any) sought in the application or in such other manner as the judge may direct and to produce the documents in that manner, or</p> <p>(ii) give such a member access to them,</p> <p>either immediately or within such period as the order may specify.</p> <p>(3) On an application under subsection (1) , a judge of the District Court, if satisfied by information on oath of the member of the Garda Síochána making the application that—</p> <p>(a) there are reasonable grounds for suspecting that a person has information which he or she has failed or refused without reasonable excuse to give to the Garda Síochána having been requested to do so,</p> <p>(b) there are reasonable grounds for believing that the information is relevant to the investigation of the relevant offence concerned,</p> <p>(c) there are reasonable grounds for suspecting that the information (or some of it) may constitute evidence of or relating to the commission of that offence, and</p> <p>(d) there are reasonable grounds for believing that the information should be provided, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,</p> <p>may, subject to subsection (4), order the person to—</p>

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	<p>(i) provide the information to a member of the Garda Síochána by answering the questions specified in the application or making a statement setting out the answers to those questions or both, and</p> <p>(ii) make a declaration of the truth of the answers to such questions, either immediately or within such period as the order may specify.</p> <p>(4) The references in subsections (1)(b) and (3) to information that may be the subject of an order under this section are references to information that the person concerned has obtained in the ordinary course of business.</p> <p>(5) An order under this section relating to documents in any place may, on the application of the member of the Garda Síochána concerned under subsection (1), require any person, being a person who appears to the judge of the District Court to be entitled to grant entry to the place, to allow a member of the Garda Síochána to enter it so as to obtain access to the documents.</p> <p>(6) Where the documents concerned are not in legible form, an order under this section shall have effect as an order—</p> <p>(a) to give to a member of the Garda Síochána any password necessary to make the documents legible and comprehensible,</p> <p>(b) otherwise to enable the member of the Garda Síochána to examine the documents in a form in which they are legible and comprehensible, or</p> <p>(c) to produce the documents to the member of the Garda Síochána in a form in which they can be removed and in which they are, or can be made, legible and comprehensible.</p> <p>(7) An order under this section—</p>

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	<p>(a) in so far as it may empower a member of the Garda Síochána to take away a document, or to be given access to it, shall also have effect as an order empowering the member to make a copy of the document and to take the copy away,</p> <p>(b) shall not confer any right to production of, or access to, any document subject to legal professional privilege, and</p> <p>(c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.</p> <p>(8) (a) Where a document is, or may be, taken away by a member of the Garda Síochána pursuant to an order under this section, any person to whom the order relates, or who is affected by the order, may request the member of the Garda Síochána to permit the person to retain the document, or to have it returned to the person, while the member takes or retains a copy of it.</p> <p>(b) The member of the Garda Síochána concerned may accede to a request under paragraph (a) but only if he or she is satisfied that—</p> <p>(i) the document is required by the person for the purposes of his or her business or for some other legitimate purpose, and</p> <p>(ii) the person undertakes in writing—</p> <p>(I) to keep the document safely and securely, and</p> <p>(II) when requested by the Garda Síochána to do so, to furnish it to the Garda Síochána in connection with any criminal proceedings for which it is required.</p> <p>(c) A failure or refusal by a person to comply with an undertaking given by him or her under paragraph (b) (ii) shall not prejudice the admissibility in evidence in any criminal proceedings of a copy of the document concerned.</p>

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	<p>(9) Any documents taken away by a member of the Garda Síochána pursuant to an order under this section may be retained by the member for use as evidence in any criminal proceedings.</p> <p>(10) A statement or admission made by a person pursuant to an order under this section shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under subsection (15) , (16) or (17)).</p> <p>(11) (a) An order under this section providing that documents be produced, or that access to them be given, by a person may, if the judge of the District Court considers it appropriate to do so, require the person to furnish a certificate to a member of the Garda Síochána affirming—</p> <p>(i) the authenticity of the documents, and</p> <p>(ii) in the case of documents in non-legible form that are reproduced in legible form, the system and manner of that reproduction,</p> <p>either when the documents are produced, or access to them is given, or at such time thereafter as may be specified in the order.</p> <p>(b) The Minister may by regulations made under this subsection specify the manner in which documents of different types or classes, or copies of them, may be authenticated.</p> <p>(12) Where a person who produces documents pursuant to an order under this section claims a lien on those documents or some of them, the production shall be without prejudice to the lien.</p> <p>(13) A judge of the District Court may, on the application of any person to whom an order under this section relates or a member of the Garda Síochána, vary or discharge the order.</p>

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	<p>(14) A judge of the District Court may, on the application of any person who is affected by an order under this section whose request for the return of documents under subsection (8) has not been acceded to, make an order regarding the return of the documents concerned to that person if the judge considers it appropriate to do so subject to such conditions (if any) as the judge may direct.</p> <p>(15) A person who without reasonable excuse fails or refuses to comply with an order under this section shall be guilty of an offence and shall be liable—</p> <p>(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.</p> <p>(16) A person who, in purported compliance with an order under this section provides information or makes a statement which is false or misleading in a material particular knowing it to be so false or misleading, or being reckless as to whether it is so, shall be guilty of an offence and shall be liable—</p> <p>(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.</p> <p>(17) A person who without reasonable excuse fails or refuses to comply with an undertaking given by him or her under subsection (8)(b)(ii) shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.</p> <p>(18) An application for an order under subsection (1) shall be made to a judge of the District Court who is assigned to the district court district in which the documents sought are located or the person from whom the documents or</p>

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	<p>information are sought ordinarily resides or carries on any profession, business or occupation or, if that person is a company (within the meaning of the Companies Acts), the district court district in which the registered office of the company is situated or the company carries on any business.</p> <p>(19) Nothing in this section shall affect the operation of a provision in any other enactment under which a court may order a person to produce any documents to a member of the Garda Síochána or any other person in connection with the investigation of an offence.</p> <p><u>Schedule 1 to the Criminal Justice Act 2011 (as amended)</u></p> <p>“Relevant offences” for the purposes of this Act</p> <p>30A. An offence under section 2 , 3 , 4 , 5 or 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017 in so far as the offence relates to data (within the meaning of that Act).</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 style="padding-left: 20px;">a a computer system or part of it and computer data stored therein;</p> <p>and</p> <p style="padding-left: 20px;">b a computer-data storage medium in which computer data may be stored</p> <p style="padding-left: 40px;">in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure</p>	<p><u>Section 7 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Search Warrant</p> <p>(1) If a judge of the District Court is satisfied by information on oath of a member that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of a relevant offence is to be found in any place, the judge may issue a warrant for the search of that place and any persons found at that place.</p> <p>(2) A search warrant under this section shall be expressed, and shall operate, to authorise a named member, accompanied by such other members or persons or both as the member thinks necessary—</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>(a) to enter, at any time within one week of the date of issue of the warrant, on production if so requested of the warrant, and if necessary by the use of reasonable force, the place named in the warrant,</p> <p>(b) to search it and any persons found at that place, and</p> <p>(c) to examine, seize and retain anything found at that place, or anything found in possession of a person present at that place at the time of the search, that that member reasonably believes to be evidence of, or relating to, the commission of a relevant offence.</p> <p>(3) The authority conferred by subsection (2)(c) to seize and retain anything includes, in the case of a document or record, authority—</p> <ul style="list-style-type: none"> (a) to make and retain a copy of the document or record, and (b) where necessary, to seize and, for long as is necessary, retain any computer in which any record is kept. <p>(4) A member acting under the authority of a search warrant under this section may—</p> <ul style="list-style-type: none"> (a) operate any computer at the place that is being searched or cause any such computer to be operated by a person accompanying the member for that purpose, and (b) require any person at that place who appears to the member to have lawful access to the information in any such computer—

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	<p>(i) to give to the member any password necessary to operate it and any encryption key or code necessary to unencrypt the information accessible by the computer,</p> <p>(ii) otherwise to enable the member to examine the information accessible by the computer in a form in which the information is visible and legible, or</p> <p>(iii) to produce the information in a form in which it can be removed and in which it is, or can be made, visible and legible.</p> <p>(5) A member acting under the authority of a search warrant under this section may, for the purpose of investigating the commission of a relevant offence, require any person at the place to which the search warrant relates to—</p> <p>(a) give to the member his or her name and address, and</p> <p>(b) provide such information to the member as he or she may reasonably require.</p> <p>(6) The Police (Property) Act 1897 or, where appropriate, section 25 of the Criminal Justice Act 1951 shall apply to property which has come into the possession of the Garda Síochána under this section as that Act or such section 25, as the case may be, applies to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act concerned.</p> <p>(7) A person who—</p> <p>(a) obstructs or attempts to obstruct a member acting under the authority of a search warrant under this section,</p>

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	<p>(b) fails to comply with a requirement under subsection (4)(b) or (5), or</p> <p>(c) in relation to a requirement under subsection (5), gives a name and address or provides information which the member has reasonable cause for believing is false or misleading in a material respect,</p> <p>shall be guilty of an offence.</p> <p>(8) The power to issue a warrant under this section is without prejudice to any other power conferred by statute to issue a warrant for the search of any place or person.</p> <p>(9) In this section—</p> <p>“computer” includes a personal organiser or any other electronic means of information storage and retrieval;</p> <p>“computer at the place that is being searched” includes any other computer, whether at the place being searched or at any other place, which is lawfully accessible by means of that computer;</p> <p>“member” means a member of the Garda Síochána who falls within paragraph (a) of the definition of “member” in section 3 (1) of the Garda Síochána Act 2005 .</p> <p><u>Section 7 of the Child Trafficking and Pornography Act 1998</u></p> <p>Entry, search and seizure</p>

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	<p>(1) Where, on the sworn information of a member of the Garda Síochána not below the rank of sergeant, a judge of the District Court is satisfied that there are reasonable grounds for suspecting that evidence of or relating to an offence under section 3, 4, 5 or 6 is to be found at a place specified in the information, the judge may issue a warrant for the search of that place and any persons found at that place.</p> <p>(2) A warrant issued under this section shall authorise a named member of the Garda Síochána, alone or accompanied by such other members of the Garda Síochána and such other persons as may be necessary—</p> <p>(a) to enter, within 7 days from the date of the warrant, and if necessary by the use of reasonable force, the place named in the warrant,</p> <p>(b) to search it and any persons found there, and</p> <p>(c) to seize anything found there, or anything found in the possession of a person present there at the time of the search, which that member reasonably believes to be evidence of or relating to an offence under section 3, 4, 5 or 6 .</p> <p>(3) A member of the Garda Síochána acting in accordance with a warrant issued under this section may require any person found at the place where the search is carried out to give the member his or her name and address.</p> <p>(4) Any person who—</p> <p>(a) obstructs or attempts to obstruct any member of the Garda Síochána acting in accordance with a warrant issued under subsection (1),</p>

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	<p>(b) fails or refuses to comply with a requirement under this section, or</p> <p>(c) gives a name or address which is false or misleading,</p> <p>shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or both.</p> <p>(5) A member of the Garda Síochána may arrest without warrant any person whom the member suspects of having committed an offence under subsection (4).</p> <p>(6) In this section " place" includes any dwelling, any building or part of a building and any vehicle, vessel or structure.</p> <p><u>Section 10 of the Criminal Justice (Miscellaneous Provisions) Act 1997 (as amended)</u></p> <p>Search warrants in relation to arrestable offences</p> <p>(1) If a judge of the District Court is satisfied by information on oath of a member not below the rank of sergeant that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of an arrestable offence is to be found in any place, the judge may issue a warrant for the search of that place and any persons found at that place.</p> <p>(2) A search warrant under this section shall be expressed, and shall operate, to authorise a named member, accompanied by such other members or persons or both as the member thinks necessary—</p>

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	<p>(a) to enter, at any time or times within one week of the date of issue of the warrant, on production if so requested of the warrant, and if necessary by the use of reasonable force, the place named in the warrant,</p> <p>(b) to search it and any persons found at that place, and</p> <p>(c) to seize anything found at that place, or anything found in the possession of a person present at that place at the time of the search, that that member reasonably believes to be evidence of, or relating to, the commission of an arrestable offence.</p> <p>(3) A member acting under the authority of a search warrant under this section may—</p> <p>(a) require any person present at the place where the search is being carried out to give to the member his or her name and address, and</p> <p>(b) arrest without warrant any person who—</p> <p>(i) obstructs or attempts to obstruct the member in the carrying out of his or her duties,</p> <p>(ii) fails to comply with a requirement under paragraph (a), or</p> <p>(iii) gives a name or address which the member has reasonable cause for believing is false or misleading.</p>

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	<p>(4) A person who obstructs or attempts to obstruct a member acting under the authority of a search warrant under this section, who fails to comply with a requirement under subsection (3)(a) or who gives a false or misleading name or address to a member shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both.</p> <p>(5) The power to issue a warrant under this section is without prejudice to any other power conferred by statute to issue a warrant for the search of any place or person.</p> <p>(6) In this section—</p> <p>‘arrestable offence’ has the meaning it has in section 2 (as amended by section 8 of the Criminal Justice Act 2006) of the Criminal Law Act 1997;</p> <p>‘place’ means a physical location and includes—</p> <ul style="list-style-type: none"> (a) a dwelling, residence, building or abode, (b) a vehicle, whether mechanically propelled or not, (c) a vessel, whether sea-going or not, (d) an aircraft, whether capable of operation or not, and (e) a hovercraft.
<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 	

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<p>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> <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>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:</p> <p> i to collect or record through the application of technical means on the territory of that Party, or</p> <p> ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.</p> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time</p>	

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<p>collection or recording of content data on specified communications in its territory through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>Article 22 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <ul style="list-style-type: none"> a in its territory; or b on board a ship flying the flag of that Party; or c on board an aircraft registered under the laws of that Party; or d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State. <p>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,</p>	<p><u>Section 10 of the Criminal Justice (Offences Relating to Information Systems) Act 2017</u></p> <p>Jurisdiction</p> <p>(1) A person may be tried in the State for a relevant offence in relation to an act, to which this subsection applies by virtue of subsection (2), committed, whether in whole or in part—</p> <p>(a) by the person in the State in relation to an information system outside the State,</p> <p>(b) by the person outside the State in relation to an information system in the State, or</p> <p>(c) by the person outside the State in relation to an information system outside the State if—</p> <p>(i) that person is a person to whom this subparagraph applies by virtue of subsection (3), and</p> <p>(ii) the act is an offence under the law of the place where the act was committed.</p>

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<p>where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<p>(2) Subsection (1) applies to an act which, if it had been committed by a person in the State in relation to an information system in the State, would constitute a relevant offence.</p> <p>(3) Subsection (1)(c)(i) applies to each of the following persons:</p> <p>(a) an Irish citizen;</p> <p>(b) a person ordinarily resident in the State;</p> <p>(c) a body corporate established under the law of the State;</p> <p>(d) a company formed and registered under the Companies Act 2014 ;</p> <p>(e) an existing company within the meaning of the Companies Act 2014 .</p> <p>(4) For the purpose of this section, a person shall be deemed to be ordinarily resident in the State if he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the relevant offence concerned.</p> <p>(5) Proceedings for an offence to which subsection (1)(c) applies may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.</p>
<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.</p>	

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<p>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 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>	

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<p>b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure</p>	
<p>Article 25 – General principles relating to mutual assistance</p> <p>1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.</p> <p>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>Article 26 – Spontaneous information</p>	

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<p>1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.</p> <p>2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.</p>	
<p>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</p> <p>1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.</p> <p>2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.</p> <p>b The central authorities shall communicate directly with each other;</p> <p>c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p>	

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

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<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 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>	

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<p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	
<p>Article 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> <ul style="list-style-type: none"> 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. <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>	

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<p>5 In addition, a request for preservation may only be refused if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.</p> <p>4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.</p>	
<p>Article 30 – Expedited disclosure of preserved traffic data</p> <p>1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.</p> <p>2 Disclosure of traffic data under paragraph 1 may only be withheld if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p>	

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<p>Article 31 – Mutual assistance regarding accessing of stored computer data</p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <ul style="list-style-type: none"> 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>Article 32 – Trans-border access to stored computer data with consent or where publicly available</p> <p>A Party may, without the authorisation of another Party:</p> <ul style="list-style-type: none"> 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. 	
<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>	

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<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>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>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <ul style="list-style-type: none"> a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. <p>2 a A Party’s point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.</p> <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</p>	

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