

North Macedonia

Cybercrime legislation

Domestic equivalent to the provisions of the Budapest Convention

Version 15 May 2020

Table of contents

[reference to the provisions of the Budapest Convention]

Chapter I – Use of terms

Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”

Chapter II – Measures to be taken at the national level

Section 1 – Substantive criminal law

Article 2 – Illegal access

Article 3 – Illegal interception

Article 4 – Data interference

Article 5 – System interference

Article 6 – Misuse of devices

Article 7 – Computer-related forgery

Article 8 – Computer-related fraud

Article 9 – Offences related to child pornography

Article 10 – Offences related to infringements of copyright and related rights

Article 11 – Attempt and aiding or abetting

Article 12 – Corporate liability

Article 13 – Sanctions and measures

Section 2 – Procedural law

Article 14 – Scope of procedural provisions

Article 15 – Conditions and safeguards

Article 16 – Expedited preservation of stored computer data

Article 17 – Expedited preservation and partial disclosure of traffic data

Article 18 – Production order

Article 19 – Search and seizure of stored computer data

Article 20 – Real-time collection of traffic data

Article 21 – Interception of content data

Section 3 – Jurisdiction

Article 22 – Jurisdiction

Chapter III – International co-operation

Article 24 – Extradition

Article 25 – General principles relating to mutual assistance

Article 26 – Spontaneous information

Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements

Article 28 – Confidentiality and limitation on use

Article 29 – Expedited preservation of stored computer data

Article 30 – Expedited disclosure of preserved traffic data

Article 31 – Mutual assistance regarding accessing of stored computer data

Article 32 – Trans-border access to stored computer data with consent or where publicly available

Article 33 – Mutual assistance in the real-time collection of traffic data

Article 34 – Mutual assistance regarding the interception of content data

Article 35 – 24/7 Network

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

www.coe.int/cybercrime

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

State:	
Signature of the Budapest Convention:	23/11/2001
Ratification/accession:	15/09/2004

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Chapter I – Use of terms	
<p>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</p> <p>For the purposes of this Convention:</p> <p>a “computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;</p> <p>b “computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;</p> <p>c “service provider” means:</p> <p>i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and</p> <p>ii any other entity that processes or stores computer data on behalf of such communication service or users of such service;</p> <p>d “traffic data” means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication’s origin, destination, route, time, date, size, duration, or type of underlying service</p>	<p>Criminal Code (CC) Article 122 – meaning of the concepts</p> <p>(26) Computer system shall imply any type of device or a group of interconnected devices, out of which, one or several of them, perform automatic processing of data, according to a certain program.</p> <p>(27) Computer data shall imply presentation of facts, information or concepts of a kind that is appropriate for processing through a computer system, including the appropriate program, necessary to activate the computer system</p> <p>The Law on electronic commerce, No. 07-4542/1, 26 October 2007</p> <p>“service provider” shall mean any natural or legal entity providing information society services by means of establishing a trade company for an indefinite period of time in the Republic of Macedonia; the presence and use, however, of technical equipment and technologies required to provide the information society services in themselves shall not constitute provision of such services</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</p>	<p>CC, Article 251, Damage and unauthorized entering in a computer system</p> <p>(1) One that will, without authorization, erase, change, damage, cover or in other</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>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>way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization.</p> <p>(3) The sentence referred in paragraph (1) of this article shall be applicable to anybody who unlawfully intercepts, using technical means, a transfer of non-public computer data to, from and within some computer system, including electromagnetic emissions from a computer system that supports such computer data.</p> <p>(5) If greater material gain is obtained with the crime stipulated in paragraphs 1, 2 and 3 of this article or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of six months to five years.</p>
<p>Article 3 – Illegal interception Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer system carrying such computer data. A Party may require that the offence be committed with dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>CC, Article 251, Damage and unauthorized entering in a computer system (1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(3) The sentence referred in paragraph (1) of this article shall be applicable to anybody who unlawfully intercepts, using technical means, a transfer of non-public computer data to, from and within some computer system, including electromagnetic emissions from a computer system that supports such computer data.</p> <p>(6) If greater material gain is obtained with the crime stipulated in the paragraph 3 or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of one to ten years.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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>CC, Article 251, Damage and unauthorized entering in a computer system</p> <p>(1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization.</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>CC, Article 251, Damage and unauthorized entering in a computer system</p> <p>(1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.</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>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</p>	<p>CC, Article 251, Damage and unauthorized entering in a computer system</p> <p>(2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>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>	
Title 2 – Computer-related offences	
<p>Article 7 – Computer-related forgery</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.</p>	<p>CC, Article 379-a, Computer forgery</p> <p>(1) One that unauthorized will produce, input, change, delete or make useless, with an intention to use them as real, computer data or programs which are determined or suitable to serve as evidence of facts with a value for the legal relations or one that will use such data or programs as real, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) If the crime stipulated in paragraph (1) is performed on computer data or programs that are used in the activities of the state authorities, public institutions, enterprises or other legal entities or individuals that perform activities of public interest or in the legal traffic with foreign countries or if significant damage is caused by their use, the stipulator shall be sentenced with imprisonment of one to five years.</p> <p>(3) One that unauthorized produces, purchases, sells, holds or makes available to other special devices, means, computer programs or computer data intended for or suitable for performing the crimes stipulated in paragraph 1, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(4) The attempt of the crimes stipulated in the paragraphs 1 and 3 is punishable.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>Article 8 – Computer-related fraud Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>(5) The special devices, means, computer programs or data for performing of the crime shall be confiscated</p> <p>CC, Article 251-b, Computer fraud</p> <p>(1) The one that, with intention to obtain an illegal material gain, with inputting of untrue data, not inputting true data, by changing, deleting or covering up computer data, forging electronic signature or in other way cause untrue result of the electronic processing and transfer of the data, shall be sentenced with a fine or imprisonment up to three years.</p> <p>(2) If the perpetrator obtained grater material gain, he/she shall be sentenced with imprisonment of three months to five years.</p> <p>(3) If the perpetrator obtained significant material gain, he/she shall be sentenced with imprisonment of one to ten years.</p> <p>(4) The one that will perform the crime with sole intention to damage somebody else shall be sentenced with a fine or imprisonment up to one year.</p> <p>(5) If the crime stipulated in the paragraph 4 caused greater material damage, the perpetrator shall be sentenced with imprisonment from three months to three years.</p> <p>(6) The one that, without authorization, produces, purchases, sells, holds or makes available to other, special facilities, equipment, computer programs or computer data intended or suitable for performing the crimes stipulated in the paragraph 1, shall be sentenced with a fine or imprisonment up to one year.</p> <p>(7) The attempt for the crimes stipulated in the paragraphs 1 and 4 is punishable.</p> <p>(8) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.</p> <p>(9) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.</p> <p>(10) For the crime stipulated in the paragraph 4, the procedure is performed upon private lawsuit.</p>
Title 3 – Content-related offences	

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>Article 9 – Offences related to child pornography</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> a producing child pornography for the purpose of its distribution through a computer system; b offering or making available child pornography through a computer system; c distributing or transmitting child pornography through a computer system; d procuring child pornography through a computer system for oneself or for another person; e possessing child pornography in a computer system or on a computer-data storage medium. <p>2 For the purpose of paragraph 1 above, the term “child pornography” shall include pornographic material that visually depicts:</p> <ul style="list-style-type: none"> a a minor engaged in sexually explicit conduct; b a person appearing to be a minor engaged in sexually explicit conduct; c realistic images representing a minor engaged in sexually explicit conduct <p>3 For the purpose of paragraph 2 above, the term “minor” shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.</p> <p>4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.</p>	<p>CC, Article 122 – meaning of the concepts</p> <p>24) Child pornography shall refer to pornographic material visually displaying obvious sexual intercourse with a juvenile or obvious sexual intercourse with an elder person resembling a juvenile or displaying the juvenile or the elder person resembling a juvenile in obvious sexual position, or realistic pictures displaying obvious sexual intercourse with a juvenile or displaying the juvenile or the elder person resembling a juvenile in obvious sexual position.</p> <p>CC, Article 193 – a, Production and distribution of child pornography</p> <p>(1) The person who produces child pornography with the purpose of its distribution or transfers it and offers it and makes child pornography available in any other manner shall be punished by imprisonment for at least five years.</p> <p>(2) The person who shall purchase child pornography for him/herself or for other person or owns child pornography shall be punished by imprisonment for five to eight years.</p> <p>(3) If the crime from paragraphs (1) and (2) of this article has been committed through a computer system or other means of mass communication, the perpetrator shall be punished by imprisonment for at least eight years.</p> <p>(4) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.</p> <p>CC, Art. 193, Showing pornographic materials to a juvenile</p> <p>(1) A person who sells, shows or by public presentation in some other way makes available pictures, audio-visual or other objects with a pornographic content to a juvenile, under the age of 14, or shows him a pornographic performance, shall be punished with imprisonment of six months up to three years.</p> <p>(2) If the crime has been committed through the public information media, the perpetrator shall be sentenced to imprisonment of three to five years.</p> <p>(3) The punishment from item 2 shall be applied to a person who abuses a juvenile in the production of audio-visual pictures or other objects with a pornographic</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>content or for pornographic presentations as well as the person who participates in such presentation.</p> <p>(4) If the crime referred to in paragraph (3) of this Article is committed against a child who has not turned 14, the offender shall be sentenced to imprisonment of at least four years.</p> <p>(5) The person who shall force a child who has turned 14 in making and taking photographs or other items with pornographic content or for pornographic show, shall be punished by imprisonment for at least eight years.</p> <p>(6) If the crime referred to in paragraph (4) of this Article is committed against minor younger than 14 years of age, the perpetrator shall be punished by imprisonment for at least four years.</p> <p>(7) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.</p> <p>(8) The items referred to in paragraphs 1, 2, 3, 4, 5, 6, and 7 shall be confiscated.</p> <p>CC, Article 193-b, Enticement of a child under the age of 14 into statutory rape or other sexual activities Any person who via computer-communication means entices a minor that is under the age of 14 into statutory rape or other sexual activities or into production of child pornography, by scheduling an appointment or in any other manner, and if direct encounter with the minor occurred with such intent shall be sentenced to imprisonment for one to five years.</p>
Title 4 – Offences related to infringements of copyright and related rights	
<p>Article 10 – Offences related to infringements of copyright and related rights</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the</p>	<p>CC, Article 157, Violation of an author's right and related rights</p> <p>(1) A person who in his own name or in the name of another unauthorized publishes, shows, reproduces, distributes, performs, transmits or in some other way unauthorized encroaches upon the author's right or some related right of another, respectively author's work, performance, or object of related right, shall be punished with imprisonment of six months to three years.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.</p>	<p>(2) The person who has committed the crime specified in paragraph 1 by using a computer system shall be punished with imprisonment of six months to three years.</p> <p>(3) A person who attained a larger property gain from the crime from item 1 shall be punished with imprisonment thereof six months to five years.</p> <p>(4) A person who attained a significant property gain from the crime from item 1 shall be punished with imprisonment of one to five years.</p> <p>(7) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.</p> <p>CC, Article 157-b, Piracy of audiovisual products</p> <p>(1) Any person who, without approval by the film producer or the authorized distributor to whom the film producer transferred his right to the audiovisual product, produces, imports, reproduces, distributes, stores, rents, trades in or in any other manner provides such products at disposal to the public, or undertakes other activities for the purpose of distribution, renting, public screening, trading, placing at disposal to the public or in any other manner unlawfully uses the audiovisual product, i.e. the video material or its unauthorized copies, shall be sentenced to imprisonment of six months, up to three years.</p> <p>(2) If the crime referred to in paragraph (1) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment of one, up to five years.</p> <p>CC, Article 157-c, Piracy of phonograms</p> <p>(1) Any person who, without approval by the phonogram producer or the association for collective protection of rights of phonogram producers, produces, reproduces (copies), distributes, stores, rents, trades in or in any other manner provides such products at disposal to the public, or undertakes other activities for the purpose of distribution, renting, trading, placing at disposal to the public or in any other manner unlawfully uses the phonogram or its unauthorized copies, shall be sentenced to imprisonment from six months, up to three years.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>(2) If the crime referred to in paragraph (1) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment, from one, up to five years.</p> <p>CC, Article 286, Violation of rights arising from reported or protected innovation and topography of integrated circuits</p> <p>(1) A person who with the intention to damage someone else or attain illegal property gain, files application for patent with no authorization or does not list or falsely lists the inventor or reveals to the public the essence of the invention prior to its publication in a manner determined by law, shall be sentenced with a fine or imprisonment of up to three years.</p> <p>(2) The punishment referred to in paragraph (1) of this article shall be also imposed upon a person who with the intention of damaging someone else or acquiring unlawful property gain, without authorization produces, puts into circulation, imports, exports, offers for sale or stores or uses products or procedures that are subject to protection with patent or without authorization uses, reproduces, imports, exports or distributes protected topography of integrated circuits or software.</p>
Title 5 – Ancillary liability and sanctions	
<p>Article 11 – Attempt and aiding or abetting</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.</p> <p>3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.</p>	<p>CC, 2.2. Preparation and attempt of a crime, Article 18, Preparation</p> <p>(1) A person intentionally preparing a crime shall be punished only when this is explicitly so determined by law.</p> <p>(2) The preparation of a crime may be determined by law as a special crime, or it may be prescribed by law that the preparation of a certain crime is punishable.</p> <p>(3) When the law prescribes punishment for the preparation of a certain crime, the preparation may consist of procurement or adaptation of means for the perpetration of a crime; of removing hindrances for committing the crime; of making agreements, planning or organizing together with other perpetrators of a crime; as well as of other activities with which conditions are created for direct perpetration of the crime, and which do not represent an action of perpetration.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>CC, Article 19, Attempt</p> <p>(1) A person that intentionally starts the perpetration of a crime, but who does not complete it, shall be punished for an attempted crime for which according to the law a sentence could be pronounced of five years of imprisonment or a more severe punishment, and for the attempt of some other crime only when the law explicitly prescribes the punishment of an attempt.</p> <p>(2) The offender shall be punished for an attempt within the limits of the punishment prescribed for the crime, and he may be punished more leniently.</p> <p>CC, Article 20, Unsuitable attempt</p> <p>The offender who attempts to perpetrate a crime with unsuitable means or towards and unsuitable object may be acquitted from punishment.</p> <p>CC, Article 23, Instigation</p> <p>(1) A person that instigates, with intent, another to committing a crime, shall be punished as if he had perpetrated the crime himself.</p> <p>(2) A person that instigates, with intent, another to commit a crime, for which a sentence of five years of imprisonment or a more severe sentence could be pronounced, and there is not even an attempt of this crime, shall be punished as for an attempted crime.</p> <p>CC, Article 24, Accessory</p> <p>(1) A person who with intent assists in the perpetration of a crime shall be punished as if he had committed the crime himself, and he may be punished more leniently.</p> <p>(2) As accessory to perpetrating a crime shall be considered especially: giving advice or instructions how to commit the crime; making available to the offender means for committing the crime; removal of hindrances for perpetrating the crime; as well as giving promise in advance for covering up the crime, the offender, the means with which the crime was perpetrated, the traces of the crimes or the objects obtained through the crime.</p> <p>CC, Article 31, Place of perpetration of a crime</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	(2) The preparation and the attempt of a crime are considered to be perpetrated both at the place where the offender acted, as well as at the place where according to his intent the consequence should have or could have appeared.
<p>Article 12 – Corporate liability</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:</p> <ul style="list-style-type: none"> a a power of representation of the legal person; b an authority to take decisions on behalf of the legal person; c an authority to exercise control within the legal person. <p>2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.</p> <p>3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.</p> <p>4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.</p>	<p>CC, Article 28-a, Criminal accountability of a legal entity, Conditions for criminal accountability of a legal entity</p> <p>(1) In cases as prescribed by law, the legal entity is liable for the criminal act committed by the responsible person of the legal entity, on behalf, on the account or for the benefit of the legal entity.</p> <p>(2) The legal entity is also liable for a criminal act which is committed by its employee or representative of the legal entity that resulted in significant benefit in assets or resulted in damages for someone else, if:</p> <ul style="list-style-type: none"> 1) the execution of a conclusion, order or any other decision or approval by administrative body, management body or supervisory body, means perpetration of a criminal act; or 2) the crime was committed due to omission of obligatory supervision by the administrative body, management body or supervisory body; or 3) The administrative body, management body or supervisory body failed to prevent the criminal act or concealed it or failed to report the crime before the initiation of criminal proceeding against the perpetrator. <p>(3) Under the terms specified in paragraphs (1) and (2) of this article, all legal entities are liable, with the exception of the State.</p> <p>(4) The Self-Government units are liable only for acts committed outside their public competences.</p> <p>(4) Under the conditions specified in paragraphs (1) and (2) of this article, a foreign legal entity is criminally liable, if the act has been committed within the territory of the Republic of Macedonia, regardless whether there is a representative office or subsidiary of the legal entity that operates within the territory of the country.</p> <p>CC, Article 28-b, Limitations of legal entity’s liability</p> <p>(1) The liability of the legal entity does not exclude the criminal liability of a physical person as perpetrator of the criminal act.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>(2) Under the conditions specified in Article 28-a, paragraphs (1) and (2) thereof, the legal entity is also liable for a criminal act in case when there are actual or legal obstacles to determine the criminal liability of the physical person as perpetrator of the crime.</p> <p>(3) If the criminal act has been committed due to negligence, the legal entity is liable under the conditions specified in Article 28-a of this law if the law provides punishment for a crime committed due to negligence (Article 11, paragraph 2).</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>CC, Article 4, Criminal sanctions Criminal sanctions are: punishments, alternative measures, security measures and educational measures.</p> <p>Illegal damage and access to a computer system –imprisonment of six months up to five years (CC, Art. 251, para. (5)).</p> <p>Illegal interception of computer data transmissions: imprisonment of one up to ten years (CC, Art. 251, para. (6)).</p> <p>Data interference: fine or imprisonment up to three years (CC, Art. 251).</p> <p>Computer-related forgery: fine or imprisonment up to five years (CC, Art. 379-a).</p> <p>Computer-related fraud: fine or imprisonment up to ten years (CC, Art. 251-b)</p> <p>Child pornography: imprisonment up to 8 years (CC, Art. 193 – a and Art, 193)</p> <p>Offences related to infringements of copyright and related rights: fine or imprisonment up to five years (CC, Art. 157).</p> <p>2. Chapter six – a of the Criminal Code prescribes the sentencing of the legal persons (main and secondary sentences of legal persons, conditions for imposing and e.c.t)</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Section 2 – Procedural law	
<p>Article 14 – Scope of procedural provisions</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.</p> <p>2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:</p> <ul style="list-style-type: none"> a the criminal offences established in accordance with Articles 2 through 11 of this Convention; b other criminal offences committed by means of a computer system; and c the collection of evidence in electronic form of a criminal offence. <p>3 a Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20.</p> <ul style="list-style-type: none"> b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system: <ul style="list-style-type: none"> i is being operated for the benefit of a closed group of users, and 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>Criminal Procedure Code (CPC), Article 184, Search of a computer system and computer data</p> <p>CPC, Article 198, Temporary seizure of computer data</p> <p>1) The provisions of Article 194 (Order for temporary seizure of objects, paragraph 1, Article 195 (Rules for temporary seizure of objects) paragraph 1 and Article 197 (Objects which may not be seized) of this Law shall also apply to any data stored on a computer and similar devices for automatic, i.e. electronic data processing, devices used for collection and transfer of data, data carriers and subscriber information at the disposal of the service provider. Upon a written request by the public prosecutor, this data shall have to be delivered to the public prosecutor within the deadline determined by him or her. If the provisioning thereof is refused, it shall be acted pursuant to Article 196, paragraph 1 of this Law.</p> <p>(2) The judge of the preliminary procedure, upon proposal by the public prosecutor, by means of a decision, may impose the safeguarding and storing of all computer data as referred to in Article 185 (Search of a person) of this Law, for as long as necessary, but for no more than 6 months. Upon the expiry of this period, the data shall be returned, unless: they have been involved in the committing of the criminal offence of Damage and unauthorized access to a computer system as referred to in Article 251, Computer fraud from Article 251-b and Computer forgery from Article 379-a, all of them stipulated in the Criminal Code; they have been involved in the commission of another computer-assisted crime; and unless they are to be used as evidence for a crime.</p> <p>CPC, Article 251, Electronic evidence</p> <p>Unless prescribed otherwise in this Law, any electronic evidence shall be collected through the application of the provisions in Articles 198 (Temporary seizure of computer data) and 199 (Temporary seizure of letters, telegrams and other dispatches) of this Law.</p> <p>CPC, Chapter XIX Special investigative measures, Article 252 Purpose and types of special investigative measures</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	(1) If likely to obtain data and evidence necessary for successful criminal procedure, which cannot be obtained by other means, the following special investigative measures may be ordered: 1) Monitoring and recording of the telephone and other electronic communications under a procedure as stipulated with a separate law; [...] 3) secret access and search of computer systems; [...] 6) inspection of telephone or other electronic communication.
<p>Article 15 – Conditions and safeguards</p> <p>1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.</p> <p>2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, <i>inter alia</i>, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.</p> <p>3 To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.</p>	<p>Basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution is one of the fundamental values of the constitutional legal order in “the former Yugoslav Republic of Macedonia”.</p> <p>Title II of the Constitution guarantees basic freedoms and rights of the individual and citizen, among which:</p> <p>Article 16 – Freedom of expression and free access to information</p> <p>Article 17 - Freedom and confidentiality of correspondence and other forms of communication</p> <p>Article 18 - Security and confidentiality of personal information</p> <p>Article 25 – Right to privacy of his/her personal and family life</p> <p>Article 26 - Right to the inviolability of the home.</p> <p>The Criminal Procedure Code provides for safeguards in the application of procedural powers. For example, Chapter XIX on special investigative measures specifies that these should be applied as a last resort measure, enumerates the categories of crimes to which these may be applied, identifies the persons against whom special investigative measures may be ordered, specifies the duration of the measures, the authorisation of the measures, as well as the procedure for informing the concerned person, termination of special investigative measures and destroying collected information if it is not relevant for the procedure.</p> <p>According to Article 256 of the Criminal Procedure Code monitoring and recording of the telephone and other electronic communications and secret access and search of computer systems is authorised by the preliminary procedure judge with a written order upon an elaborated motion by the public prosecutor. Inspection of</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	telephone or other electronic communications is ordered by the public prosecutor with a written order. Basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution is one of the fundamental values of the constitutional legal order in "the former Yugoslav Republic of Macedonia".
<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</p>	

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	
<p>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>CPC, Article 287, Duty to deliver the requested information to the public prosecutor</p> <p>(1) Upon request by the public prosecutor, state entities, units of the local self-government, organizations, natural and legal persons with public authority and other legal entities shall be obliged to deliver the information that he or she requested. The public prosecutor may ask these entities to control the work of a legal or natural person and temporary seizure of money, securities, objects and documents that may be used as evidence, until the enactment of a final and enforceable judgment, to perform tax revisions and ask for data that may serve as evidence of a committed criminal offense or property acquired through the commission of a criminal offense, perform inspection and ask for reports on information related to unusual and suspicious financial transactions.</p> <p>(2) Any entities referred to in paragraph 1 of this Article shall be obliged to deliver to the public prosecutor any data, notifications, documents, objects, bank account information and files that he or she might need during the procedure. The public prosecutor shall have the right to ask for data and information, documents, files, objects and bank accounts information also from other legal persons and citizens, for whom he or she reasonably believes that they dispose of such data and information.</p> <p>(3) Any entities referred to in paragraph 1 of this Article shall be obliged to undertake the necessary measures immediately and in a period not longer than 30 days, deliver to the public prosecutor all requested data, information, documents, objects, bank accounts information or files.</p> <p>(8) Upon request from the public prosecutor the operators of public communications networks and providers of public communication services shall be obligated to submit data on any established contacts in the communication traffic.</p>
<p>Article 19 – Search and seizure of stored computer data</p>	<p>CPC, Article 194, Order for temporary seizure of objects</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> a a computer system or part of it and computer data stored therein; and b a computer-data storage medium in which computer data may be stored <p>in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; 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>1) Any objects which are to be seized in accordance with the Criminal Code or which may serve as evidence in the criminal procedure shall be temporarily seized and handed to the public prosecutor or to the body determined in a special law or their safekeeping shall be ensured in another manner.</p> <p>(2) The order for temporary seizure of objects shall be issued by the court, upon proposal by the judicial police or the public prosecutor.</p> <p>(3) The order for temporary seizure of objects shall contain the following: title of the court, legal grounds for temporary seizure of objects, determination and accurate description of the objects that are to be temporarily seized, name and surname of the person from whom the objects are to be temporarily seized, place at which, i.e. where the objects are to be temporarily seized, deadline within which they are to be seized and advice on possible legal remedies.</p> <p>CPC, Article 195, Rules for temporary seizure of objects</p> <p>(1) Any person keeping objects as referred to in Article 194, paragraph 1 of this Law, shall have the duty of turning them in. The judge of the preliminary 88 procedure, upon receiving an elaborated proposal by the public prosecutor, shall fine the person who refuses to turn in the objects with a fine as referred to in the provisions of Article 88, paragraph 1 of this Law, and if the person continues to refuse to turn in the objects, he or she will be punished as provided for in Article 88, paragraph 7 of this Law. The Trial Chamber in accordance with Article 25, paragraph 5 shall rule on the appeal against the decision whereby a fine has been imposed. The appeal shall not prevent the enforcement of the decision. The same procedure shall apply for an official or responsible person in a state authority, institution with public authorizations or a legal person.</p> <p>(2) When seizing objects, it shall be stated where they were found and they shall be described, and if necessary, their identity shall be established otherwise. A receipt shall be issued for the seized objects.</p> <p>(3) The punishments referred to in paragraph 1 of this Article may not be applied to the suspect.</p> <p>(4) Any seized narcotic drugs, psychotropic substances, precursors and other objects whose circulation is banned or restricted, and are not retained as forensic</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>samples, may be destroyed with a decision issued by the competent court, even before the judgment enters into full legal effect.</p> <p>CPC, Article 198, Temporary seizure of computer data</p> <p>1) The provisions of Article 194 (Order for temporary seizure of objects, paragraph 1, Article 195 (Rules for temporary seizure of objects) paragraph 1 and Article 197 (Objects which may not be seized) of this Law shall also apply to any data stored on a computer and similar devices for automatic, i.e. electronic data processing, devices used for collection and transfer of data, data carriers and subscriber information at the disposal of the service provider. Upon a written request by the public prosecutor, this data shall have to be delivered to the public prosecutor within the deadline determined by him or her. If the provisioning thereof is refused, it shall be acted pursuant to Article 196, paragraph 1 of this Law.</p> <p>(2) The judge of the preliminary procedure, upon proposal by the public prosecutor, by means of a decision, may impose the safeguarding and storing of all computer data as referred to in Article 185 (Search of a person) of this Law, for as long as necessary, but for no more than 6 months. Upon the expiry of this period, the data shall be returned, unless: they have been involved in the committing of the criminal offence of Damage and unauthorized access to a computer system as referred to in Article 251, Computer fraud from Article 251-b and Computer forgery from Article 379-a, all of them stipulated in the Criminal Code; they have been involved in the commission of another computer-assisted crime; and unless they are to be used as evidence for a crime.</p> <p>(3) The person using the computer and the person providing the service shall be entitled to file an appeal, within 24 hours, against the decision of the judge of the preliminary procedure imposing the measures referred to in paragraph 2 of this Article. The Trial Chamber referred to in Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.</p>
<p>Article 20 – Real-time collection of traffic data</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:</p>	

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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, 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</p>	<p>Law on Interception of Communications. Chapter II Conditions and procedure for interception of communications for detection and prosecution of perpetrators of criminal acts</p> <p>Article 8</p> <p>The interception of communications of a certain person may be ordered by the court when there is reasonable doubt that the person is a perpetrator of a criminal act for which act a punishment of at least four years is prescribed, or a criminal act for which act a punishment of five years is prescribed there is a reasonable doubt that is being performed or is performed by an organised group, gang or another criminal association, for the purpose of providing data and evidence necessary for successful conducting of the criminal procedure which cannot be collected in another way.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.</p> <p>4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Article 9 A request for establishing an order for interception of communications on the basis of Article 8 of this Law shall be submitted to the court by the Public Prosecutor in charge on their own initiative or on the proposal of the authorised officer by the Minister of Interior that is employed in the Ministry of Interior.</p> <p>Article 10 The request for interception of communications shall be submitted to the investigative judge in charge in a written form and contains data on:</p> <ol style="list-style-type: none"> 1. the body that submits the request for interception of communications; 2. data on the natural person or on the responsible person in the legal person whose communications are requested to be subject to interception; 3. reasonable doubt of a committed criminal act; 4. description of the criminal act; 5. the reasons for inability to collect the data and the evidence in another way ; 6. the type of communications whose interception is requested; 7. the type of the possible technical means that should be applied and the possible locations of the means for interception of communications; 8. the manner and the scope of implementation of measures and 9. the time for which interception of communications is requested. <p>If it is necessary to enter in a home or in other premises or in transport means, for the purpose of installing, maintaining, using or removing the means for interception of communications, in the request referred to in paragraph 1 of this Article, it is stated as a different proposal, and for which the time period proposed for its performing should be specified.</p> <p>Article 14 In cases of emergency when there is danger of causing death or serious bodily injury of one or more persons or a material damage of property on a large scale, or when there is danger of escape of a person which is a perpetrator of a criminal act for which lifetime imprisonment is sentenced, interception of communications can be undertaken on the basis of an oral order of the investigative judge. The investigative judge prepares an official note for the issued oral order which is recorded in the court register.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>The oral order of the investigative judge referred to in paragraph 1 of this Article is issued on oral request for interception of communications, for which the public prosecutor in charge prepares an official note. For oral request on interception of communications the public prosecutor in charge is bound to immediately and within 3 hours at latest after the received oral order on interception of communications, to deliver a written request, pursuant to Article 10 of this Law.</p> <p>If after the issued oral request a written request has not been issued pursuant to paragraph 3 of this Article, it will be deemed that the order on interception of communications has not been issued and the interception of communications is interrupted, which is noted by the judge in the official note referred to in paragraph 1 of this Article. The collected data on interception of communications referred to in paragraph 4 of this Article are destroyed pursuant to Article 26 paragraph 2 of this Law.</p> <p>Article 15</p> <p>With the order on interception of communications the court will allow interception of communications for the necessary time, but no longer than 30 days from the day of its establishment.</p> <p>After the expiry of the term referred to in paragraph 1 of this Article, the applicant is bound to inform the court in written form on the results of the interception of communications, and if necessary to extend it, to submit an additional proposal with a special explanation on the reasons for the extension of interception of communications.</p> <p>On the basis of the additional proposal referred to in paragraph 2 of this Article, the investigative judge may establish an order for extension of interception on communications for another 90 days at most.</p> <p>In the case of disagreement with the additional proposal on extension of interception of communications, the public prosecutor in charge is entitled to an objection pursuant to Article 11 paragraph 4 and 5 of this Law.</p> <p>Article 18</p> <p>When the interception of communications is performed through a telecommunications system, the authorised officer referred to in Article 17 of this</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>Law is bound to inform the person in charge in the provider of telecommunications services about the order.</p> <p>The person in charge referred to in paragraph 1 of this Article is obliged to implement the measures and procedures determined in the order on interception of communications.</p> <p>Implementing data from the court order on interception of communications at the provider of telecommunications services, the person in charge referred to in paragraph 1 of this Article is bound to keep them as official secret and to act according to the law.</p> <p>The costs incurred with interception of communications through the telecommunications system are paid from budget funds of the Ministry of Interior, on the basis of a contract concluded between the Minister for Interior and the legal person performing telecommunications services. If criminal procedure has been initiated against the person whose communications have been subject of interception, the paid funds referred to in paragraph 4 of this Article are considered to be costs of the procedure and are charged pursuant to the Law on Criminal Procedure.</p>
Section 3 – Jurisdiction	
<p>Article 22 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <ol 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</p>	<p>CC, 12 Application of the Criminal Legislature According to the Place of Perpetration of the Crime</p> <p>Application of the criminal legislature to everyone who commits a crime on the territory of the Republic of Macedonia</p> <p>Article 116</p> <p>(1) The criminal legislature is applicable to everyone who commits a crime on the territory of the Republic of Macedonia.</p> <p>(2) The criminal legislature is also applicable to everyone who commits a crime on a domestic ship, regardless where the ship is at the time the crime is committed.</p> <p>(3) The criminal legislature is also applicable to everyone who commits a crime in a domestic civil aircraft during flight, or on a domestic military aircraft, regardless where the aircraft is at the time the crime is committed.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.</p> <p>When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.</p>	<p>Application of the criminal legislature to certain crimes committed abroad</p> <p>Article 117</p> <p>The criminal legislature is applicable to everyone who commits a crime abroad, from articles 268 of this Code, if the forgery concerns domestic currency and as referred to in articles 305 to 326, 357 to 359 – a, 394 – a to 394 – d and articles 403 to 422 of this Code.</p> <p>Application of the criminal legislature to a citizen of the Republic of Macedonia who commits a crime abroad</p> <p>Article 118</p> <p>The criminal legislature is also applicable to a citizen of the Republic of Macedonia when he commits some crime abroad, except for the crimes listed in article 117, if he finds himself on the territory of the Republic of Macedonia or is extradited. <i>Application of the criminal legislature to a foreigner who commits a crime abroad</i></p> <p>Article 119</p> <p>(1) The criminal legislature is applicable also to a foreigner who commits a crime outside the territory of the Republic of Macedonia but directed against her or against her citizen, also when this does not concern crimes listed in article 117, if he finds himself on the territory of the Republic of Macedonia or is extradited.</p> <p>(2) The criminal legislature is also applicable to a foreigner who commits a crime abroad, against a foreign country or a foreigner, who according to that legislature may be sentenced to five years of imprisonment or to a more severe punishment, when he finds himself on the territory of the Republic of Macedonia, and when he is not extradited to the foreign country. If not otherwise determined by this Code, in such a case the court may not pronounce a punishment more severe than the punishment that is prescribed by law of the country in which the crime was committed.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>Special conditions of prosecution</p> <p>Article 120</p> <p>(1) If in the cases from article 116, the criminal procedure is violated or completed in a foreign country, the prosecution in the Republic of Macedonia shall be initiated only after approval from the Public Prosecutor of the Republic of Macedonia.</p> <p>(2) In the cases from articles 118 and 119, no prosecution shall be initiated if:</p> <ol style="list-style-type: none"> 1) the offender has served out the punishment to which he was sentenced abroad; 2) a safety measure involving imprisonment has been applied with regard to the perpetrator abroad; 3) the offender was acquitted abroad with a sentence that has come into effect, or his punishment has become null and void or it was pardoned; 4) according to the foreign law a crime is prosecuted upon request from the damaged and no such request was submitted. <p>(3) In the cases from articles 118 and 119, prosecution shall be initiated only when the crime is punishable according to the law of the country in which the crime was committed. When in the cases from article 118 and article 119, item 1, there is no punishment for that crime according to the law in the country in which it was committed; prosecution may be initiated only after approval from the Public Prosecutor of the Republic of Macedonia.</p> <p>(4) Only after approval from the Public Prosecutor of the Republic of Macedonia may prosecution be initiated in the Republic of Macedonia in the cases from article 119, item 2, regardless of the law of the country in which the crime was committed, if this concerns a crime which, at the time it was perpetrated, was considered to be a crime according to the general legal principles, recognized by the international community.</p> <p>(5) In the cases from article 116, the prosecution of a foreigner may be handed over to a foreign country, under the condition of reciprocity.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Chapter III – International co-operation	
<p>Article 24 – Extradition</p> <p>1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.</p> <p>b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.</p> <p>2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.</p> <p>3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis 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</p>	<p>Law on International Cooperation in Criminal Matters, Nr. 124 20 September 2010</p> <p>Article 23, Temporary extradition and transit of person deprived of freedom</p> <p>(1) If for the needs of an investigation or criminal proceedings which is in progress in a foreign state the foreign competent authority delivers a summons for a detained person or a person who is serving a prison sentence in the Republic of Macedonia to be interrogated in capacity of a witness or because of confrontation, the Republic of Macedonia may temporary extradite this person to the foreign country.</p> <p>(2) The decision for temporary extradition of the requested person shall make the criminal council of the competent court after receiving a previous opinion of the state prosecutor.</p> <p>(3) The person from paragraph (1) of this article shall be temporary extradited to the foreign competent authority if it provides a guarantee in respect of his or her protection and under the condition the person to be returned in a period specified by the Republic of Macedonia.</p> <p>(4) The domestic judicial authority can reject the temporary extradition if:</p> <ul style="list-style-type: none"> • the person deprived of freedom does not give a consent to the minutes for his or her temporary extradition; • the temporary extradition of the person deprived of freedom leads to a prolongation of his or her deprivation of freedom, and • there are other reasons that are contrary to the temporary extradition. <p>(5) The temporary extradition can be adjourned if the presence of the person deprived of freedom is necessary in a criminal proceedings conducted before the domestic judicial authorities.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.</p> <p>7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.</p> <p>b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure</p>	<p>(6) In the case of paragraph (1) from this article, the temporary extradited person remains in custody in the foreign state for the needs of a proceeding before the foreign competent authority until his or her return to the Republic of Macedonia.</p> <p>(7) When a third state shall extradite a detained person or a person serving a prison sentence to another state through the territory of the Republic of Macedonia and if that person is not a citizen of the Republic of Macedonia, the transit of the person shall be approved by the Minister of Justice of the Republic of Macedonia</p> <p>Article 50, Offences for which an extradition is permitted</p> <p>(1) Extradition of a person based on issued international arrest warrant shall be permitted for criminal offences for which according to the domestic legislation a prison sentence minimum of one year is stipulated.</p> <p>(2) The extradition shall be permitted because of enforcement of the effective prison sentence if the wanted person has to serve a sentence minimum of four months.</p> <p>(3) The extradition in the cases from paragraph (1) and (2) of this article shall be permitted if the offence an extradition is requested for is punishable under the Criminal Code of the Republic of Macedonia.</p> <p>Article 51, Principle of speciality</p> <p>The extradited person cannot be prosecuted, brought into court or subject to a sentence or any other measure of deprivation of freedom or extradited to another state for any criminal offence committed prior to the extradition, and which is not subject of the extradition, unless:</p> <p>1) the competent authority gives authorisation for the extradition and delivers documents in accordance with Article 58 of this Law together with a statement for the minutes by the extradited person or</p> <p>2) the extradited person did not leave the territory of the state to which he or she was extradited despite having the possibility to do so in a period of 45 days after</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>the day of his release, or if the persons returns in the territory after leaving it first.</p> <p>Procedure when the extradition is requested from the Republic of Macedonia, Article 52, Preconditions for extradition</p> <p>The preconditions for authorising extradition shall be the following:</p> <ol style="list-style-type: none">1) the person whose extradition is requested shall not be citizen of the Republic of Macedonia;2) the identity of the person whose extradition is requested shall be determined;3) the offence for which extradition has been requested shall not be committed in the territory of the Republic of Macedonia against it or against one of its citizens;4) the offence for which extradition has been requested shall be a criminal offence both according to the domestic legislation and according to the legislation of the state where it was committed and which requested the extradition;5) the criminal prosecution or the enforcement of the sentence shall not become time-barred;6) the person whose extradition is requested shall not be sentenced for the same criminal offence by a domestic court or effectively released by a domestic court for the same criminal offence or the criminal proceeding against him or her shall not be effectively stopped or the accusation shall not be effectively rejected or no proceedings shall be initiated for the same criminal offence in the Republic of Macedonia or against it or against a citizen of the Republic of Macedonia, unless a guarantee has been provided for the exercise of the right to legal claim on property of the injured party;7) there shall be sufficient evidence for the reasonable doubt that the person whose extradition is requested committed a certain criminal offence, or that there exists another final judgment;

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>8) the person whose extradition is requested shall have committed the criminal offence after the age of 14; and</p> <p>9) the person whose extradition is requested was tried in absentia, and the requesting foreign state shall provide a guarantee that the person will be tried in his presence.</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</p>	<p>Law on International Cooperation in Criminal Matters, Nr. 124 20 September 2010 Chapter I, General Provisions, Art. 1 -14</p> <p>Ways of communication</p> <p>Article 6</p> <p>(1) The domestic competent authority shall send a letter rogatory for international legal assistance (herein after referred to as: letter rogatory) or a request for international cooperation in criminal matters (herein after referred to as: request) to the foreign competent authorities according to the provisions of this Law.</p> <p>(2) The letter rogatory or the request by the foreign competent authority shall be sent in writing through the Ministry of Justice (herein after referred to as: the Ministry).</p> <p>(3) The domestic competent authority shall send the letter rogatory or the request directly to the foreign competent authority in terms of mutuality or if provided for by an international agreement, and a copy of the letter rogatory or the request shall be sent to the Ministry as well.</p> <p>(4) Referring to paragraph 3 of this article, in case of emergency the letter rogatory or the request shall be sent through the channels of the international police cooperation, and a copy of the letter rogatory or the request shall be sent to the Ministry.</p> <p>(5) If an international agreement does not exist or if under the international agreement a diplomatic way of communication is not provided, the Ministry shall send the letter rogatory or the request using the diplomatic way through the Ministry of Interior.</p> <p>(6) The letter rogatory or the request can be received electronically or through another way of telecommunication for which a record shall be kept, and the original shall be sent through a regular mail.</p> <p>Urgency in handling</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	<p>Article 7</p> <p>The Ministry shall immediately deliver the letter rogatory or the request to the domestic competent authority, unless the letter rogatory or the request has to be rejected.</p> <p>Acting upon letter rogatory or request</p> <p>Article 8</p> <p>The domestic competent authority shall act upon the letter rogatory or the request in accordance with the domestic legislation unless otherwise provided under the international agreement.</p> <p>Delivery of the letter rogatory or the request</p> <p>Article 9</p> <p>If the domestic competent authority which the letter rogatory or the request has been sent to is not competent to act upon it, it shall immediately deliver the letter rogatory or the request to the domestic competent authority and shall notify the sending authority about that.</p> <p>Rejection of international cooperation</p> <p>Article 10</p> <p>(1) The domestic competent authority shall reject the letter rogatory if:</p> <ol style="list-style-type: none"> 1) acting upon it is contrary to the Constitution of the Republic of Macedonia or it violates the sovereignty, the security and the safety of the Republic of Macedonia; 2) it refers to an act that is considered as a political criminal offence or an act that is related to a political criminal offence;

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>3) it refers to a criminal offence that is related to violation of the military duty, and</p> <p>4) it can be reasonably assumed that the person whose extradition is requested was criminally prosecuted or sentenced because of its racial, ethnical and social affiliation or because of his or her political or religious beliefs in the time of extradition, respectively that his or her position would become more difficult because of one of those reasons.</p> <p>(2) The domestic competent authority shall reject the request if:</p> <p>1) the proceedings in the Republic of Macedonia against the accused for the same criminal offence has been stopped as a result of material legal reasons or the person has been acquitted or has been released from a sentence or the sanction has been enforced or it cannot be enforced according to the legislation of the state where the verdict has been reached;</p> <p>2) a criminal proceedings has been initiated in the Republic of Macedonia against the accused for the same criminal offence, and</p> <p>3) the criminal prosecution, the enforcement of the sanction, the safety and the protection measures are excluded because of absolute prescription according to the legislation of the Republic of Macedonia.</p> <p>(3) The provisions from paragraph (2), number 1 and 3 of this article shall not be applied in cases when there is a repetition of the criminal proceedings in the Republic of Macedonia.</p> <p>(4) The decision for rejection of the letter rogatory or of the request shall be elaborated unless otherwise specified by an international agreement.</p> <p>Adjournment of international cooperation</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>Article 11</p> <p>The domestic competent authority may adjourn the international cooperation if that affects the criminal prosecution, the course of the investigation or the proceedings in progress before the domestic competent authority, and which is related to the letter rogatory or the request and it shall notify the foreign competent authority that sent the letter rogatory or the request about that.</p> <p>Mutuality</p> <p>Article 12</p> <p>(1) The domestic competent authority shall act upon a request by a foreign competent authority that the Republic of Macedonia has not concluded an agreement for international cooperation with, only if the foreign competent authority provides a guarantee in writing that it shall also act upon such request by the domestic competent authority.</p> <p>(2) The guarantee in writing from paragraph (1) of this article shall be immediately delivered by the foreign competent authority to the domestic competent authority.</p> <p>(3) The guarantee in writing from paragraph (1) of this article shall not be requested for enforcement of delivery of court decisions, petitions and other documents.</p> <p>Way of acting</p> <p>Article 17</p> <p>(1) The domestic competent authority shall act upon the letter rogatory in a way</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<p>that is specified in the letter rogatory.</p> <p>(2) The domestic competent authority shall immediately decide upon the letter rogatory by the foreign competent authority.</p> <p>(3) If the domestic competent authority decides that it is not in a position to act upon the letter rogatory in the frame of the time limit specified therein, and having regard to the explanation in paragraph (2) of this article that each adjournment leads to a significant disorder of the proceedings before the foreign competent authorities, the domestic competent authority shall immediately notify the foreign competent authority about the time needed for acting upon the letter rogatory.</p> <p>(4) If it is not possible completely or partially to act upon the letter rogatory by the foreign competent authority, the domestic competent authority shall immediately notify the foreign competent authority stating the way it can be acted upon and the reasons for not being able to act completely upon the letter rogatory.</p> <p>Cases when the letter rogatory cannot be rejected</p> <p>Article 18</p> <p>The domestic competent authority cannot reject the letter rogatory for criminal offences against humanity and the international law and attempt for committing or complicity in these criminal offences.</p>
<p>Article 26 – Spontaneous information</p> <p>1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.</p>	<p>Law on International Cooperation in Criminal Matters, Nr.124 20 September 2010</p> <p>Article 15</p> <p>The international legal assistance shall include:</p> <ul style="list-style-type: none"> • delivery of spontaneous information; <p>Article 25, Delivery of spontaneous information</p> <p>(1) The domestic judicial authority has the right under the principle of mutuality and without receiving previous letter rogatory to deliver information to the foreign</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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>competent authority related to the criminal offences which has been collected during its own investigations if it shall be deemed that the delivery of such information might help to initiate or implement an investigation or court proceedings or if that might lead to sending letter rogatory for international legal assistance.</p> <p>(2) The domestic judicial authority shall ask the foreign competent authority to which the information from paragraph (1) of this article has been delivered to submit a report on all activities that have been undertaken on the basis of this information, as well as a delivery of transcript of all decisions that have been reached.</p> <p>(3) According to the regulations for protection of personal data the domestic judicial authority that delivered the information from paragraph (1) of this article has the right to set certain conditions for the usage of the information in the foreign state where it has been delivered.</p> <p>Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters allows for fast and direct communication between authorized state bodies in obtaining spontaneous information related to criminal proceedings and therefore, the primary evidence might be directly obtained without an MLA request.</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</p>	<p>Law on International Cooperation in Criminal Matters, Nr. 124 20 September 2010</p> <p>Article 2</p> <p>The international cooperation shall be provided in accordance with the provisions of this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution of the Republic of Macedonia (herein after referred to as: international agreement) or other legal act which governs the criminal proceedings of an international court whose jurisdiction is accepted by the Republic of Macedonia.</p> <p>Article 12, Mutuality</p> <p>(1) The domestic competent authority shall act upon a request by a foreign competent authority that the Republic of Macedonia has not concluded an agreement for international cooperation with, only if the foreign competent</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;</p> <p>d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.</p> <p>3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.</p> <p>4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b it considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.</p> <p>6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.</p> <p>7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.</p> <p>8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.</p> <p>9 a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.</p>	<p>authority provides a guarantee in writing that it shall also act upon such request by the domestic competent authority.</p> <p>(2) The guarantee in writing from paragraph (1) of this article shall be immediately delivered by the foreign competent authority to the domestic competent authority.</p> <p>(3) The guarantee in writing from paragraph (1) of this article shall not be requested for enforcement of delivery of court decisions, petitions and other documents.</p> <p>Article 5, Definition of certain terms used in this law The terms used in this law shall have the following meaning:</p> <p>1. "Domestic competent authority" shall mean the Ministry of Justice, a domestic judicial authority or misdemeanour authority that act upon the requests for international cooperation in the Republic of Macedonia.</p> <p>Article 10, Rejection of international cooperation (1) The domestic competent authority shall reject the letter rogatory if:</p> <p>1) acting upon it is contrary to the Constitution of the Republic of Macedonia or it violates the sovereignty, the security and the safety of the Republic of Macedonia;</p> <p>2) it refers to an act that is considered as a political criminal offence or an act that is related to a political criminal offence;</p> <p>3) it refers to a criminal offence that is related to violation of the military duty, and</p> <p>4) it can be reasonably assumed that the person whose extradition is requested was criminally prosecuted or sentenced because of its racial, ethnical and social affiliation or because of his or her political or religious beliefs in the time of extradition, respectively that his or her position would become more difficult because of one of those reasons.</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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>(2) The domestic competent authority shall reject the request if:</p> <ol style="list-style-type: none"> 1) the proceedings in the Republic of Macedonia against the accused for the same criminal offence has been stopped as a result of material legal reasons or the person has been acquitted or has been released from a sentence or the sanction has been enforced or it cannot be enforced according to the legislation of the state where the verdict has been reached; 2) a criminal proceedings has been initiated in the Republic of Macedonia against the accused for the same criminal offence, and 3) the criminal prosecution, the enforcement of the sanction, the safety and the protection measures are excluded because of absolute prescription according to the legislation of the Republic of Macedonia. <p>(3) The provisions from paragraph (2), number 1 and 3 of this article shall not be applied in cases when there is a repetition of the criminal proceedings in the Republic of Macedonia.</p> <p>(4) The decision for rejection of the letter rogatory or of the request shall be elaborated unless otherwise specified by an international agreement.</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> <ol style="list-style-type: none"> a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or b not used for investigations or proceedings other than those stated in the request. <p>3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.</p>	<p>Law on International Cooperation in Criminal Matters, Nr. 124 20 September 2010</p> <p>Article 30, Confidentiality</p> <ol style="list-style-type: none"> (1) The foreign competent authority can ask the Ministry and the domestic judicial authority that the letter rogatory remains confidential unless it is required for its implementation. (2) If it is not possible to implement the letter rogatory from paragraph (1) of this article, the foreign competent authority shall be notified immediately.

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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> <p>5 In addition, a request for preservation may only be refused if:</p>	

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<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>	
<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</p>	

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<p>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> <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>Law on International Cooperation in Criminal Matters, Nr. 124 20 September 2010</p> <p>Article 15</p> <p>The international legal assistance shall include:</p>

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
	<ul style="list-style-type: none"> • monitoring communications;
<p>Article 35 – 24/7 Network</p> <p>1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:</p> <p>a the provision of technical advice;</p> <p>b the preservation of data pursuant to Articles 29 and 30;</p> <p>c the collection of evidence, the provision of legal information, and locating of suspects.</p> <p>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>In accordance with Article 35 of the Budapest Convention the 24/7 point of contact was established in the Office of the Public Prosecutor, Department to combat against crime and corruption.</p>
<p>Article 42 – Reservations</p> <p>By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.</p>	