Peru

Cybercrime legislation

Domestic equivalent to the provisions of the Budapest Convention

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Version [27.03.2020]

[reference to the provisions of the Budapest Convention]

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

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

State:	
Signature of the Budapest Convention:	Yes
Ratification/accession:	Yes

BUDAPEST CONVENTION	DOMESTIC LEGISLATION
Chapter I – Use of terms	
Article 1 – "Computer system", "computer data", "service provider", "traffic data": For the purposes of this Convention: a "computer system" means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data; b "computer data" means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function; c "service provider" means: i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and ii any other entity that processes or stores computer data on behalf of such communication service or users of such service; d "traffic data" means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration, or type of underlying service	En la **Novena Disposición Complementaria Final Transitoria de la LEY N° 30096** se encuentran regulados los siguientes términos: "**NOVENA. Terminología** Para efectos de la presente Ley se entenderá, de conformidad con el artículo 1 del Convenio sobre la Ciberdelincuencia, Budapest, 23.XI.2001: a. **Per sistema informático:** todo dispositivo aislado o conjunto de dispositivos interconectados o relacionados entre sí, cuya función, o la de alguno de sus elementos, sea el tratamiento automatizado de datos en ejecución de un programa. b. **Por datos informáticos:** toda representación de hechos, información o conceptos expresados de cualquier forma que se preste a tratamiento informático, incluidos los programas diseñados para que un sistema informático ejecute una función".
Article 2 – Illegal access Each Party shall adopt such legislative and other measures as may be	**Law on Computer Crimes** **Art. 2 Acceso ilícito**

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necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.	El que deliberada e ilegítimamente accede a todo o en parte de un sistema informático, siempre que se realice con vulneración de medidas de seguridad establecidas para impedirlo, será reprimido con pena privativa de libertad no menor de uno ni mayor de cuatro años y con treinta a noventa días-multa. Será reprimido con la misma pena, el que accede a un sistema informático excediendo lo autorizado.
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.	**Law on Computer Crimes** **Art. 7 Interceptación de datos informáticos** El que deliberada e ilegítimamente intercepta datos informáticos en transmisiones no públicas, dirigidos a un sistema informático, originados en un sistema informático o efectuado dentro del mismo, incluidas las emisiones electromagnéticas provenientes de un sistema informático que transporte dichos datos informáticos, será reprimido con una pena privativa de libertad no menor de tres ni mayor de seis años. La pena privativa de libertad será no menor de cinco ni mayor de ocho años cuando el delito recaiga sobre información clasificada como secreta, reservada o confidencial de conformidad con la Ley 27806, Ley de Transparencia y Acceso a la Información Pública. La pena privativa de libertad será no menor de ocho ni mayor de diez cuando el delito comprometa la defensa, seguridad o soberanía nacionales. Si el agente comete el delito como integrante de una organización criminal, la pena se incrementa hasta en un tercio por encima del máximo legal previsto en los supuestos anteriores.
Article 4 – Data interference 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right. 2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.	**Law on Computer Crimes** **Art. 3 Atentado a la integridad de datos informáticos** El que deliberada e ilegítimamente daña, introduce, borra, deteriora, altera, suprime o hace inaccesibles datos informáticos, será reprimido con pena privativa de libertad no menor de tres ni mayor de seis años y con ochenta a ciento veinte días-multa.

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Article 5 – System interference Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data	**Law on Computer Crimes** **Art. 4 Atentado a la integridad de sistemas informáticos** El que deliberada e ilegítimamente inutiliza, total o parcialmente, un sistema informático, impide el acceso a este, entorpece o imposibilita su funcionamiento o la prestación de sus servicios, será reprimido con pena privativa de libertad no menor de tres ni mayor de seis años y con ochenta a ciento veinte días-multa.
Article 6 – Misuse of devices 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right: a the production, sale, procurement for use, import, distribution or otherwise making available of: i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5; ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches. 2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system. 3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.	**Law on Computer Crimes** **Art. 10 Abuso de mecanismos y dispositivos informáticos** El que deliberada e ilegítimamente fabrica, diseña, desarrolla, vende, facilita, distribuye, importa u obtiene para su utilización, uno o más mecanismos, programas informáticos, dispositivos, contraseñas, códigos de acceso o cualquier otro dato informático, específicamente diseñados para la comisión de los delitos previstos en la presente Ley, o el que ofrece o presta servicio que contribuya a ese propósito, será reprimido con pena privativa de libertad no menor de uno ni mayor de cuatro años y con treinta a noventa días-multa.

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Article 7 – Computer-related forgery Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.	**Law on Computer Crimes** **Art. 9.- Suplantación de identidad** El que, mediante las tecnologias de la informacion o de la comunicacion suplanta la identidad de una persona natural o juridica, siempre que de dlcha conducta resulte algun perjuicio, material o moral, sera reprimido con pena privativa de libertad no menor de tres ni mayor de cinco anos.
Article 8 – Computer-related fraud Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by: a any input, alteration, deletion or suppression of computer data; b any interference with the functioning of a computer system, with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.	**Criminal Code** **Artículo 196.- Estafa** El que procura para sí o para otro un provecho ilícito en perjuicio de tercero, induciendo o manteniendo en error al agraviado mediante engaño, astucia, ardid u otra forma fraudulenta, será reprimido con pena privativa de libertad no menor de uno ni mayor de seis años. **Law on Computer Crimes** **Art. 8 Fraude informático** El que deliberada e ilegítimamente procura para sí o para otro un provecho ilícito en perjuicio de tercero mediante el diseño, introducción, alteración, borrado, supresión, clonación de datos informáticos o cualquier interferencia o manipulación en el funcionamiento de un sistema informático, será reprimido con una pena privativa de libertad no menor de tres ni mayor de ocho años y con sesenta a ciento veinte días-multa. La pena será privativa de libertad no menor de cinco ni mayor de diez años y de ochenta a ciento cuarenta días-multa cuando se afecte el patrimonio del Estado destinado a fines asistenciales o a programas de apoyo social.
Article 9 – Offences related to child pornography 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:	**Criminal Code** **Artículo 183-A. Pornografía infantil** El que posee, promueve, fabrica, distribuye, exhibe, ofrece, comercializa, publicita, publica, importa o exporta por cualquier medio objetos, libros,

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a producing child pornography for the purpose of its distribution through a computer system; b offering or making available child pornography through a computer system; c distributing or transmitting child pornography through a computer system; d procuring child pornography through a computer system for oneself or for another person; e possessing child pornography in a computer system or on a computer-data storage medium. 2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts: a a minor engaged in sexually explicit conduct; b a person appearing to be a minor engaged in sexually explicit conduct; c realistic images representing a minor engaged in sexually explicit conduct 3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years. 4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.	escritos, imágenes, videos o audios, o realiza espectáculos en vivo de carácter sexual, en los cuales participen menores de dieciocho años de edad, será sancionado con pena privativa de libertad no menor de seis ni mayor de diez años y con ciento veinte a trescientos sesenta y cinco días multa. La pena privativa de libertad será no menor de diez ni mayor de quince años y de cincuenta a trescientos sesenta y cinco días multa cuando: 1. La víctima tenga menos de catorce años de edad. 2. El material se difunda a través de cualquier tecnología de la información o de la comunicación o cualquier otro medio que genere difusión masiva. 3. El agente actúe como miembro o integrante de una banda u organización criminal. En todos los casos se impone, además, la pena de inhabilitación conforme al artículo 36, incisos 1, 2, 3, 4, 5, 6, 8, 9,10 y 11. **Artículo 183-B. Proposiciones sexuales a niños, niñas y adolescentes** El que contacta con un menor de catorce años para solicitar u obtener de él material pornográfico, o para llevar a cabo actividades sexuales con él, será reprimido con una pena privativa de libertad no menor de cuatro ni mayor de ocho años e inhabilitación conforme a los numerales 1, 2 y 4 del artículo 36. Cuando la víctima tiene entre catorce y menos de dieciocho años de edad y medie engaño, la pena será no menor de tres ni mayor de seis años e inhabilitación conforme a los numerales 1, 2 y 4 del artículo 36.
Article 10 – Offences related to infringements of copyright and related rights 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed	**Criminal Code** **TITULO VII** **DELITOS CONTRA LOS DERECHOS INTELECTUALES** **CAPITULO I** **DELITOS CONTRA LOS DERECHOS DE AUTOR Y CONEXOS** **Artículo 216. Copia o reproducción no autorizada** Será reprimido con pena privativa de la libertad de uno a tres años y de diez a sesenta días-multa, a quien estando autorizado para publicar una obra, lo hiciere en una de las formas siguientes:

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wilfully, on a commercial scale and by means of a computer system. 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system. 3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.	a. Sin mencionar en los ejemplares el nombre del autor, traductor, adaptador, compilador o arreglador. b. Estampe el nombre con adiciones o supresiones que afecte la reputación del autor como tal, o en su caso, del traductor, adaptador, compilador o arreglador. c. Publique la obra con abreviaturas, adiciones, supresiones, o cualquier otra modificación, sin el consentimiento del titular del derecho. d. Publique separadamente varias obras, cuando la autorización se haya conferido para publicarlas en conjunto; o las publique en conjunto, cuando solamente se le haya autorizado la publicación de ellas en forma separada." **Artículo 217.- Reproducción, difusión, distribución y circulación de la obra sin la autorización del autor** Será reprimido con pena privativa de libertad no menor de dos ni mayor de seis años y con treinta a noventa días-multa, el que con respecto a una obra, una interpretación o ejecución artística, un fonograma o una emisión o transmisión de radiodifusión, o una grabación audiovisual o una imagen fotográfica expresada en cualquier forma, realiza alguno de los siguientes actos sin la autorización previa y escrita del autor o titular de los derechos: a. La modifique total o parcialmente. b. La distribuya mediante venta, alquiler o préstamo público. c. La comunique o difunda públicamente, transmita o retransmita por cualquiera de los medios o procedimientos reservados al titular del respectivo derecho.**"** d. La reproduzca, distribuya o comunique en mayor número que el autorizado por escrito. La pena será no menor de cuatro años ni mayor de ocho y con sesenta a ciento veinte días multa, cuando el agente la reproduzca total o parcialmente, por cualquier medio o procedimiento y si la distribución se realiza mediante venta, alquiler o préstamo al público u otra forma de transferencia de la posesión del soporte que contiene la obra o producción que supere las dos (2) Unidades Impositivas Tributarias, en forma fraccionada, en un solo acto o en diferentes actos de inferior importe cada uno.

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	Artículo 218.- Formas agravadas La pena será privativa de libertad no menor de cuatro ni mayor de ocho años y con noventa a ciento ochenta días multa cuando: a. Se dé a conocer al público una obra inédita o no divulgada, que haya recibido en confianza del titular del derecho de autor o de alguien en su nombre, sin el consentimiento del titular. b. La reproducción, distribución o comunicación pública se realiza con fines comerciales u otro tipo de ventaja económica, o alterando o suprimiendo el nombre o seudónimo del autor, productor o titular de los derechos. c. Conociendo el origen ilícito de la copia o reproducción, la distribuya al público, por cualquier medio, la almacene, oculte, introduzca en el país o la saque de éste. d. Se fabrique, ensamble, importe, exporte, modifique, venda, alquile, ofrezca para la venta o alquiler, o ponga de cualquier otra manera en circulación dispositivos, sistemas tangibles o intangibles, esquemas o equipos capaces de soslayar otro dispositivo destinado a impedir o restringir la realización de copias de obras, o a menoscabar la calidad de las copias realizadas, o capaces de permitir o fomentar la recepción de un programa codificado, radiodifundido o comunicado en otra forma al público, por aquellos que no están autorizados para ello. e. Se inscriba en el Registro del Derecho de Autor la obra, interpretación, producción o emisión ajenas, o cualquier otro tipo de bienes intelectuales, como si fueran propios, o como de persona distinta del verdadero titular de los derechos. **Artículo 219.- Plagio** Será reprimido con pena privativa de libertad no menor de cuatro ni mayor de ocho años y noventa a ciento ochenta días multa, el que con respecto a una obra, la difunda como propia, en todo o en parte, copiándola o reproduciéndola textualmente, o tratando de disimular la copia mediante ciertas alteraciones, atribuyéndose o atribuyendo a otro, la autoría o titularidad ajena. **Formas agravadas** **Artículo 220.-** Será reprimido con pena privativa de libertad no menor de cuatro ni mayor de ocho años y noventa a trescientos sesenticinco días-multa: a. Quien se atribuya falsamente la calidad de titular originario o derivado, de cualquiera de los derechos protegidos en la legislación del derecho de autor y derechos conexos y, con esa indebida atribución, obtenga que la autoridad

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	competente suspenda el acto de comunicación, reproducción o distribución de la obra, interpretación, producción, emisión o de cualquier otro de los bienes intelectuales protegidos. b. Quien realice actividades propias de una entidad de gestión colectiva de derecho de autor o derechos conexos, sin contar con la autorización debida de la autoridad administrativa competente. c. El que presente declaraciones falsas en cuanto certificaciones de ingresos; asistencia de público; repertorio utilizado; identificación de los autores; autorización supuestamente obtenida; número de ejemplares producidos, vendidos o distribuidos gratuitamente o toda otra adulteración de datos susceptible de causar perjuicio a cualquiera de lo titulares del derecho de autor o conexos. d. Si el agente que comete el delito integra una organización destinada a perpetrar los ilícitos previstos en el presente capítulo. e. Si el agente que comete cualquiera de los delitos previstos en el presente capítulo, posee la calidad de funcionario o servidor público. **Artículo 220-A.- Elusión de medida tecnológica efectiva** El que, con fines de comercialización u otro tipo de ventaja económica, eluda sin autorización cualquier medida tecnológica efectiva que utilicen los productores de fonogramas, artistas, intérpretes o ejecutantes, así como los autores de cualquier obra protegida por derechos de propiedad intelectual, será reprimido con pena privativa de libertad no mayor de dos años y de diez a sesenta días multa. **Artículo 220-B.- Productos destinados a la elusión de medidas tecnológicas** El que, con fines de comercialización u otro tipo de ventaja económica, fabrique, importe, distribuya, ofrezca al público, proporcione o de cualquier manera comercialice dispositivos, productos o componentes destinados principalmente a eludir una medida tecnológica que utilicen los productores de fonogramas, artistas intérpretes o ejecutantes, así como los autores de cualquier obra protegida por derechos de propiedad intelectual, será reprimido con pena privativa de libertad no mayor de dos años y de diez a sesenta días-multa. **Artículo 220-C.- Servicios destinados a la elusión de medidas tecnológicas** El que, con fines de comercialización u otro tipo de ventaja económica, brinde u ofrezca servicios al público destinados principalmente a eludir una medida tecnológica efectiva que utilicen los productores de fonogramas, artistas intérpretes o ejecutantes, así como los autores de cualquier obra protegida por

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	derechos de propiedad intelectual, será reprimido con pena privativa de libertad no mayor de dos años y de diez a sesenta días-multa. **Artículo 220-D.- Delitos contra la información sobre gestión de derechos** El que, sin autorización y con fines de comercialización u otro tipo de ventaja económica, suprima o altere, por sí o por medio de otro, cualquier información sobre gestión de derechos, será reprimido con pena privativa de libertad no mayor de dos años y de diez a sesenta días-multa. La misma pena será impuesta al que distribuya o importe para su distribución información sobre gestión de derechos, a sabiendas que esta ha sido suprimida o alterada sin autorización; o distribuya, importe para su distribución, transmita, comunique o ponga a disposición del público copias de las obras, interpretaciones o ejecuciones o fonogramas, a sabiendas que la información sobre gestión de derechos ha sido suprimida o alterada sin autorización. **Artículo 222.- Fabricación o uso no autorizado de patente** El que fabrica producto o usa un medio o proceso patentado de fabricación, sin estar autorizado por quien tiene derecho a hacerlo, será reprimido con pena privativa de libertad no menor de dos ni mayor de cuatro años, con sesenta a trescientos sesenticinco días-multa e inhabilitación conforme el artículo 36, inciso 4. **Artículo 222-A.- Penalización de la clonación o adulteración de terminales de telecomunicaciones** Será reprimido con pena privativa de libertad no menor de cuatro (4) ni mayor de seis (6) años, con sesenta (60) a trescientos sesenta y cinco (365) días multa, el que altere, reemplace, duplique o de cualquier modo modifique un número de línea, o de serie electrónico, o de serie mecánico de un terminal celular, o de IMEI electrónico o físico de modo tal que pueda ocasionar perjuicio al titular, al usuario del mismo, a terceros o para ocultar la identidad de los que realizan actos ilícitos.
Article 11 – Attempt and aiding or abetting 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	**Criminal Code** **Artículo 16.- Tentativa** En la tentativa el agente comienza la ejecución de un delito, que decidió cometer, sin consumarlo.

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offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed. 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention. 3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.	El Juez reprimirá la tentativa disminuyendo prudencialmente la pena. **Artículo 17.- Tentativa impune**. No es punible la tentativa cuando es imposible la consumación del delito, por la ineficacia absoluta del medio empleado o absoluta impropiedad del objeto. **Artículo 18.- Desistimiento voluntario - Arrepentimiento activo.** Si el agente desiste voluntariamente de proseguir los actos de ejecución del delito o impide que se produzca el resultado, será penado sólo cuando los actos practicados constituyen por sí otros delitos. **Artículo 19.- Participación de varios agentes en la tentativa.** Si varios agentes participan en el hecho, no es punible la tentativa de aquél que voluntariamente impidiera el resultado, ni la de aquél que se esforzara seriamente por impedir la ejecución del delito aunque los otros partícipes prosigan en su ejecución o consumación. **Artículo 25.- Complicidad primaria y complicidad secundaria** El que, dolosamente, preste auxilio para la realización del hecho punible, sin el cual no se hubiere perpetrado, será reprimido con la pena prevista para el autor. A los que, de cualquier otro modo, hubieran dolosamente prestado asistencia se les disminuirá prudencialmente la pena. El cómplice siempre responde en referencia al hecho punible cometido por el autor, aunque los elementos especiales que fundamentan la penalidad del tipo legal no concurran en él. A los que, de cualquier otro modo, hubieran dolosamente prestado asistencia se les disminuirá prudencialmente la pena.
Article 12 – Corporate liability 1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on: a a power of representation of the legal person;	**Criminal Code** **Artículo 105.- Medidas aplicables a las personas jurídicas** Si el hecho punible fuere cometido en ejercicio de la actividad de cualquier persona jurídica o utilizando su organización para favorecerlo o encubrirlo, el Juez deberá aplicar todas o algunas de las medidas siguientes: 1. Clausura de sus locales o establecimientos, con carácter temporal o definitivo. La clausura temporal no excederá de cinco años.

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b an authority to take decisions on behalf of the legal person; c an authority to exercise control within the legal person. 2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority. 3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative. 4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.	2. Disolución y liquidación de la sociedad, asociación, fundación, cooperativa o comité. 3. Suspensión de las actividades de la sociedad, asociación, fundación, cooperativa o comité por un plazo no mayor de dos años. 4. Prohibición a la sociedad, fundación, asociación, cooperativa o comité de realizar en el futuro actividades, de la clase de aquellas en cuyo ejercicio se haya cometido, favorecido o encubierto el delito. La prohibición podrá tener carácter temporal o definitivo. La prohibición temporal no será mayor de cinco años. 5. Multa no menor de cinco ni mayor de quinientas unidades impositivas tributarias Cuando alguna de estas medidas fuera aplicada, el Juez ordenará a la autoridad competente que disponga la intervención de la persona jurídica para salvaguardar los derechos de los trabajadores y de los acreedores de la persona jurídica hasta por un período de dos años. El cambio de la razón social, la personería jurídica o la reorganización societaria, no impedirá la aplicación de estas medidas.
Article 13 – Sanctions and measures 1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty. 2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.	**Criminal Code** **Clases de Penas** **Artículo 28.-** Las penas aplicables de conformidad con este Código son: - Privativa de libertad; - Restrictivas de libertad; - Limitativas de derechos; y - Multa.
Article 14 – Scope of procedural provisions 1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings. 2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to: a the criminal offences established in accordance with Articles 2	

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through 11 of this Convention; b other criminal offences committed by means of a computer system; and c the collection of evidence in electronic form of a criminal offence. 3 a Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20. b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system: i is being operated for the benefit of a closed group of users, and ii does not employ public communications networks and is not connected with another computer system, whether public or private, that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in Articles 20 and 21	
Article 15 – Conditions and safeguards 1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, 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.	

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2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, *inter alia,* include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure. 3 To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.	
Article 16 – Expedited preservation of stored computer data 1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification. 2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person's possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed. 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law. 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	**Artículo 221°.- Conservación y exhibición** 1- Según la naturaleza y estado del bien incautado, se dispondrá su debida conservación o custodia.
Article 17 – Expedited preservation and partial disclosure of traffic data	

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1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to: a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and b ensure the expeditious disclosure to the Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted. 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	
Article 18 – Production order 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order: a a person in its territory to submit specified computer data in that person's possession or control, which is stored in a computer system or a computer-data storage medium; and b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider's possession or control. 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15. 3 For the purpose of this article, the term "subscriber information" means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established: a the type of communication service used, the technical provisions taken thereto and the period of service; b the subscriber's identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement; c any other information on the site of the installation of communication equipment, available on the basis of the service	

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agreement or arrangement.	
Article 19 – Search and seizure of stored computer data 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access: a a computer system or part of it and computer data stored therein; and b a computer-data storage medium in which computer data may be stored in its territory. 2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system. 3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to: a seize or similarly secure a computer system or part of it or a computer-data storage medium; b make and retain a copy of those computer data; c maintain the integrity of the relevant stored computer data; d render inaccessible or remove those computer data in the accessed computer system. 4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2. 5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	

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Article 20 – Real-time collection of traffic data 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to: a collect or record through the application of technical means on the territory of that Party, and b compel a service provider, within its existing technical capability: i to collect or record through the application of technical means on the territory of that Party; or ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system. 2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory. 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it. 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	**Criminal Code** **Artículo 230. - Intervención, grabación o registro de comunicaciones telefónicas o de otras formas de comunicación y geolocalización de teléfonos móviles.** 4. Los concesionarios de servicios públicos de telecomunicaciones deben facilitar, en forma inmediata, la geolocalización de teléfonos móviles y la diligencia de intervención, grabación o registro de las comunicaciones que haya sido dispuesta mediante resolución judicial, en tiempo real y en forma ininterrumpida, las 24 horas de los 365 días del año, bajo apercibimiento de ser pasible de las responsabilidades de Ley en caso de incumplimiento. Los servidores de las indicadas empresas deben guardar secreto acerca de las mismas, salvo que se les citare como testigo al procedimiento.
Article 21 – Interception of content data 1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to: a collect or record through the application of technical means on the territory of that Party, and b compel a service provider, within its existing technical capability: i to collect or record through the application of technical means on the territory of that Party, or ii to co-operate and assist the competent authorities in the collection or	**Criminal Code** **Artículo 230. - Intervención, grabación o registro de comunicaciones telefónicas o de otras formas de comunicación y geolocalización de teléfonos móviles.** 1. El Fiscal, cuando existan suficientes elementos de convicción para considerar la comisión de un delito sancionado con pena superior a los cuatro años de privación de libertad y la intervención sea absolutamente necesaria para proseguir las investigaciones, podrá solicitar al Juez de la Investigación Preparatoria la intervención y grabación de comunicaciones telefónicas, radiales o de otras formas de comunicación. Rige lo dispuesto en el numeral 4) del

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recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system. 2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory. 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it. 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.	artículo 226. (…) 3. El requerimiento del Fiscal y, en su caso, la resolución judicial que la autorice, deberá indicar el nombre y dirección del afectado por la medida si se conociera, así como, de ser posible, la identidad del teléfono u otro medio de comunicación o telecomunicación a intervenir, grabar o registrar. También indicará la forma de la interceptación, su alcance y su duración, al igual que la dependencia policial o Fiscalía que se encargará de la diligencia de intervención y grabación o registro. 4. Los concesionarios de servicios públicos de telecomunicaciones deben facilitar, en forma inmediata, la geolocalización de teléfonos móviles y la diligencia de intervención, grabación o registro de las comunicaciones que haya sido dispuesta mediante resolución judicial, en tiempo real y en forma ininterrumpida, las 24 horas de los 365 días del año, bajo apercibimiento de ser pasible de las responsabilidades de Ley en caso de incumplimiento. Los servidores de las indicadas empresas deben guardar secreto acerca de las mismas, salvo que se les citare como testigo al procedimiento. Dichos concesionarios otorgarán el acceso, la compatibilidad y conexión de su tecnología con el Sistema de Intervención y Control de las Comunicaciones de la Policía Nacional del Perú. Asimismo, cuando por razones de innovación tecnológica los concesionarios renueven sus equipos y software, se encontrarán obligados a mantener la compatibilidad con el sistema de intervención y control de las comunicaciones de la Policía Nacional del Perú. (…) 6. La interceptación no puede durar más de sesenta días. Excepcionalmente podrá prorrogarse por plazos sucesivos, previo requerimiento sustentado del Fiscal y decisión motivada del Juez de la Investigación Preparatoria. **Artículo 231. Registro de la intervención de comunicaciones telefónicas o de otras formas de comunicación.** La intervención de comunicaciones telefónicas, radiales o de otras formas de comunicación que trata el artículo anterior será registrada mediante la grabación y aseguramiento de la fidelidad de la misma. Las grabaciones, indicios y/o evidencias recolectadas durante el desarrollo de la ejecución de la medida dispuesta por mandato judicial y el Acta de Recolección y Control serán

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	entregados al Fiscal, quien dispone su conservación con todas las medidas de seguridad al alcance y cuida que las mismas no sean conocidas por personas ajenas al procedimiento.
Article 22 – Jurisdiction 1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed: a in its territory; or b on board a ship flying the flag of that Party; or c on board an aircraft registered under the laws of that Party; or d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State. 2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof. 3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition. 4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.	**Criminal Code** **Principio de Territorialidad** **Artículo 1**.- La Ley Penal peruana se aplica a todo el que comete un hecho punible en el territorio de la República, salvo las excepciones contenidas en el Derecho Internacional. También se aplica a los hechos punibles cometidos en: 1. Las naves o aeronaves nacionales públicas, en donde se encuentren; y, 2. Las naves o aeronaves nacionales privadas, que se encuentren en alta mar o en espacio aéreo donde ningún Estado ejerza soberanía. **Artículo 2.- Principio de Extraterritorialidad, Principio Real o de Defensa y Principio de Personalidad Activa y Pasiva** La Ley Penal peruana se aplica a todo delito cometido en el extranjero, cuando: 1. El agente es funcionario o servidor público en desempeño de su cargo; 2. Atenta contra la seguridad o la tranquilidad pública o se traten de conductas tipificadas como lavado de activos, siempre que produzcan sus efectos en el territorio de la República; 3. Agravia al Estado y la defensa nacional; a los Poderes del Estado y el orden constitucional o al orden monetario; 4. Es perpetrado contra peruano o por peruano y el delito esté previsto como susceptible de extradición según la Ley peruana, siempre que sea punible también en el Estado en que se cometió y el agente ingresa de cualquier manera al territorio de la República; 5. El Perú está obligado a reprimir conforme a tratados internacionales. **Principio de Representación** **Artículo 3.-** La Ley Penal peruana podrá aplicarse cuando, solicitada la extradición, no se entregue al agente a la autoridad competente de un Estado extranjero.

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Article 24 – Extradition 1 a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty. b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply. 2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them. 3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article. 4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves. 5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition. 6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.	**Criminal Procedural Code** **SECCIÓN II** **LA EXTRADICIÓN** **TÍTULO I** **CONDICIONES GENERALES** **Artículo 513°.- Procedencia** 1.- La persona procesada, acusada, o condenada como autor o partícipe que se encuentra en otro estado, puede ser extraditada a fin de ser juzgada o de cumplir la sanción penal que le haya sido impuesta como acusada presente. 2.- Cuando la extradición en ausencia de tratado, se sustente en el principio de reciprocidad, la fiscalía de la Nación y el Ministerio de Relaciones Exteriores informarán al Poder Judicial los casos en que tal principio ha sido invocado por el Perú y en los que ha sido aceptado por el país extranjero involucrado en el procedimiento de extradición, así como, lo casos en los que el pais extranjero ha hecho lo propio y el Perú le hubiere dado curso y aceptado. **Artículo 517 Rechazo de la extradición.-** 1. No procede la extradición si el hecho materia del proceso no constituya delito tanto en el Estado requirente como en el Perú, y si en ambas legislaciones no tenga prevista una pena privativa de libertad igual o mayor a los dos años. Si se requiere una extradición por varios delitos, bastará que uno de ellos cumpla con esa condición para que proceda respecto de los restantes delitos. 2. La extradición no tendrá lugar, igualmente: a) Si el Estado solicitante no tuviera jurisdicción o competencia para juzgar el delito; b) Si el extraditado ya hubiera sido absuelto, condenado, indultado, amnistiado o sujeto a otro derecho de gracia equivalente; c) Si hubiera transcurrido el término de la prescripción del delito o de la pena, conforme a la ley nacional o del Estado requirente; siempre que no sobrepase el término de la legislación peruana; d) Si el extraditado hubiere de responder en el Estado requirente ante tribunal de excepción o el proceso al que se le va a someter no cumple las exigencias internacionales del debido proceso; e) Si el delito fuere exclusivamente militar, contra la religión, político o conexo con él, de prensa, o de opinión. La circunstancia de que la víctima del hecho punible de que se trata ejerciera funciones públicas, no justifica por sí sola que dicho delito sea calificado como político. Tampoco politiza el hecho de que el extraditado ejerciere funciones políticas. De igual manera están fuera de la

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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. 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	consideración de delitos políticos, los actos de terrorismo, los delitos contra la humanidad y los delitos respecto de los cuales el Perú hubiera asumido una obligación convencional internacional de extraditar o enjuiciar; f) Si el delito es perseguible a instancia de parte y si se trata de una falta; y, g) Si el delito fuere tributario, salvo que se cometa por una declaración intencionalmente falsa, o por una omisión intencional, con el objeto de ocultar ingresos provenientes de cualquier otro delito. 3. Tampoco se dispondrá la extradición, cuando: a) La demanda de extradición motivada por una infracción de derecho común ha sido presentada con el fin de perseguir o de castigar a un individuo por consideraciones de raza, religión, nacionalidad o de opiniones políticas o que la situación del extraditado se exponga a agravarse por una u otra de estas razones; b) Existan especiales razones de soberanía nacional, seguridad u orden público u otros intereses esenciales del Perú, que tornen inconveniente el acogimiento del pedido; c) El Estado requirente no diere seguridades de que se computará el tiempo de privación de libertad que demande el trámite de extradición, así como el tiempo que el extraditado hubiese sufrido en el curso del proceso que motivó el requerimiento. d) El delito por el que se solicita la extradición tuviere pena de muerte en el Estado requirente y éste no diere seguridades de que no será aplicable.
Article 25 – General principles relating to mutual assistance 1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. 2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35. 3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where	**Criminal Procedural Code** **SECCIÓN III** **LA ASISTENCIA JUDICIAL INTERNACIONAL** **Artículo 528 Ámbito y procedencia.** 1. Esta sección rige los actos de cooperación judicial internacional previstos en los incisos b) a j) del numeral 1) del artículo 511. 2. En estos casos, la solicitud de asistencia judicial internacional o carta rogatoria sólo procederá cuando la pena privativa de libertad para el delito investigado o juzgado no sea menor de un año y siempre que no se trate de delito sujeto exclusivamente a la legislación militar. **Artículo 529 Motivos de denegación.**

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required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication. 4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence. 5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.	1. Podrá denegarse, asimismo, la asistencia cuando: a) El imputado hubiera sido absuelto, condenado, indultado o amnistiado por el delito que origina dicha solicitud; b) El proceso ha sido iniciado con el objeto de perseguir o de castigar a un individuo por razones de sexo, raza, religión, nacionalidad, ideología o condición social; c) La solicitud se formula a petición de un tribunal de excepción o Comisiones Especiales creadas al efecto; d) Se afecta el orden público, la soberanía, la seguridad o los intereses fundamentales del Estado; y, e) La solicitud se refiera a un delito tributario, salvo que el delito se comete por una declaración intencionalmente falsa, o por una omisión intencional, con el objeto de ocultar ingresos provenientes de cualquier otro delito. 2. En las solicitudes de asistencia previstas en el literal h) del numeral 1) del artículo 511 se requiere que el hecho que origina la solicitud sea punible en los dos Estados.
Article 26 – Spontaneous information 1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter. 2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.	

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Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements 1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof. 2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution. b The central authorities shall communicate directly with each other; c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph; d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times. 3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party. 4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or b it considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests. 5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities. 6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions	**Criminal Procedural Code** **Artículo 512 Autoridad Central** 1. La Fiscalía de la Nación es la Autoridad Central en materia de cooperación jurídica internacional, quien, cuando así lo permitan los tratados, se comunica de manera directa con las Autoridades Centrales extranjeras. 2. Corresponde a la Autoridad Central, con el apoyo del Ministerio de Relaciones Exteriores cuando así corresponda, gestionar y realizar el seguimiento de las solicitudes de cooperación jurídica internacional, cautelar los plazos y absolver consultas formuladas por las autoridades extranjeras y nacionales. **Artículo 529 Motivos de denegación.** 1. Podrá denegarse, asimismo, la asistencia cuando: (…) d) Se afecta el orden público, la soberanía, la seguridad o los intereses fundamentales del Estado; y

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as it deems necessary. 7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly. 8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed. 9 a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party. b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol). c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so. d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party. e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.	
Article 28 – Confidentiality and limitation on use 1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of	**Criminal Procedural Code** **Artículo 535 Prohibiciones.** 1. Los documentos, antecedentes, informaciones o pruebas obtenidas en aplicación de la asistencia judicial no podrán divulgarse o utilizarse para propósitos diferentes de aquellos especificados en la carta rogatoria, sin

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this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof. 2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is: a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or b not used for investigations or proceedings other than those stated in the request. 3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it. 4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.	previo consentimiento de la Fiscalía de la Nación. 2. La autoridad judicial nacional al aceptar la solicitud de asistencia o, en su caso y posteriormente, la Fiscalía de la Nación podrá disponer que la información o las pruebas suministradas al Estado requirente se conserven en confidencialidad. Corresponde a la Fiscalía de la Nación realizar las coordinaciones con la autoridad central del país requirente para determinar las condiciones de confidencialidad que mutuamente resulten convenientes.
Article 29 – Expedited preservation of stored computer data 1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data. 2 A request for preservation made under paragraph 1 shall specify: a the authority seeking the preservation; b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts; c the stored computer data to be preserved and its relationship to the offence; d any available information identifying the custodian of the stored computer data or the location of the computer system; e the necessity of the preservation; and f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data. 3 Upon receiving the request from another Party, the requested Party	

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shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation. 4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled. 5 In addition, a request for preservation may only be refused if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests. 6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed. 4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.	
Article 30 – Expedited disclosure of preserved traffic data 1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the	

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communication was transmitted. 2 Disclosure of traffic data under paragraph 1 may only be withheld if: a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.	
Article 31 – Mutual assistance regarding accessing of stored computer data 1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29. 2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter. 3 The request shall be responded to on an expedited basis where: a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.	
Article 32 – Trans-border access to stored computer data with consent or where publicly available A Party may, without the authorisation of another Party: a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.	
Article 33 – Mutual assistance in the real-time collection of traffic data 1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the	

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provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law. 2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.	
Article 34 – Mutual assistance regarding the interception of content data The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.	
Article 35 – 24/7 Network 1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures: a the provision of technical advice; b the preservation of data pursuant to Articles 29 and 30; c the collection of evidence, the provision of legal information, and locating of suspects. 2 a A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis. b If the point of contact designated by a Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis. 3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.	El Perú está suscrito a la Red 24/7, siendo la Jefa de la Unidad de Cooperación Judicial Internacional y Extradiciones de la Fiscalía de la Nación el puntode contacto titular de dicha red.

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Article 42 – Reservations By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.	Mediante la publicación efectuada en el Diario Oficial El Peruano de fecha 22 de setiembre de 2019, se efectuaron los siguientes textos de reserva: En relación al artículo 6 del Convenio sobre la Ciberdelincuencia, la República del Perú se reserva el derecho de no aplicar el artículo 6, párrafo 1, literal b del Convenio. En relación al artículo 9 del Convenio, el Perú considera que el bien jurídico tutelado en el derecho interno con respecto a la pornografía infantil es la libertad y/o indemnidad sexual de un menor, por lo que formula una reserva a los apartados b) y c) del citado numeral, debido a que las conductas contempladas en dichas disposiciones no involucran la participación de un menor de edad. Y respecto al artículo 29, la República del Perú se reserva el derecho a denegar la solicitud de conservación en virtud de dicho artículo en el caso que tenga motivos para creer que, en el momento de la revelación de los datos, no se cumplirá con la condición de la doble tipificación penal.

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