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[reference to the provisions of the Budapest Convention]

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BUDAPEST CONVENTION	DOMESTIC LEGISLATION
<b>Chapter I – Use of terms</b>	
<p><b>Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”:</b></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>Article 2- (1) of the Law no. 5651 on regulating broadcasting in the internet and fighting against crimes committed through internet broadcasting contains a list of definitions. In the execution of this Law the following terms shall mean the following:</p> <p>e) Access provider: Any kind of real or legal persons or entities providing to their users access to Internet environment,</p> <p>f) Content provider: The real or legal persons or entities generating, changing and providing any kind of information and data for the users through the Internet,</p> <p>g) Internet environment: The environment established on Internet which is open to public and not covered by communications and personal or corporate computer systems, broadcasting through Internet: The data provided through the Internet environment and the content of which is accessible by indefinite number of people,</p> <p>i) Mass-use provider: The person or entity providing to the users the opportunity of using the Internet at a specific place and for a specific period,</p> <p>j) (Amended: 26/2/2014-6527/ Article 15) Traffic data: The values related with any kind of access through Internet environment including the parties, time, period, the type of service used, the transferred data quantity and the connection points, etc.;</p> <p>k) Data: Any kind of value that can be processed by a computer,</p> <p>m) Hosting provider: Real or legal persons or entities providing or operating the systems housing the services and contents.</p>
<b>Chapter II – Measures to be taken at the national level</b>	
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<p><b>Article 2 – Illegal access</b> Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.</p>	<p>Article 243 of the Turkish Penal Code No. 5237 - Accessing a data processing system</p> <p>(1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine.</p> <p>(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.</p> <p>(3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years.</p> <p>(4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.</p> <p>Article 244 - Preventing the functioning of a system and deletion, alteration or corrupting of data</p> <p>(1) Any person who prevents the functioning of a data processing system or renders it useless shall be subject to a penalty of imprisonment for a term of one to five years.</p> <p>(2) Any person who deletes, alters, corrupts or bars access to data, or introduces data into a system or sends existing data to another place shall be subject to a penalty of imprisonment for a term of six months to three years.</p> <p>(3) Where such acts are committed in relation to a data processing system of a bank or credit organization, or of a public institution or establishment, then the penalty to be imposed shall be increased by one half.</p> <p>(4) Where a person obtains an unjust benefit for himself or another by committing the acts defined in the aforementioned paragraphs, and such acts do not constitute a separate offence, he shall be subject to a penalty of imprisonment from two years to six years and a judicial fine of up to five thousand days.</p>
<p><b>Article 3 – Illegal interception</b> Each Party shall adopt such legislative and other measures as may be</p>	<p>Article 243 of the Turkish Penal Code No. 5237 - Accessing a data processing system</p>

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<p>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>(1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine.</p> <p>(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.</p> <p>(3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years.</p> <p>(4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.</p>
<p><b>Article 4 – Data interference</b></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>Article 243 of the Turkish Penal Code No. 5237 - Accessing a data processing system</p> <p>(1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine.</p> <p>(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.</p> <p>(3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years.</p> <p>(4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.</p> <p>Article 244 - Preventing the functioning of a system and deletion, alteration or corrupting of data</p>

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	Any person who deletes, alters, corrupts or bars access to data, or introduces data into a system or sends existing data to another place shall be subject to a penalty of imprisonment for a term of six months to three years.
<p><b>Article 5 – System interference</b> 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>Article 243 of the Turkish Penal Code No. 5237 - Accessing a data processing system (1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine. (2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half. (3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years. (4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.</p> <p>Article 244 (1) - Preventing the functioning of a system and deletion, alteration or corrupting of data 244 (1), (3), (4) of the Turkish Penal Code - Preventing the functioning of a system and deletion, alteration or corrupting of data (1) Any person who prevents the functioning of a data processing system or renders it useless shall be subject to a penalty of imprisonment for a term of one to five years. (3) Where such acts are committed in relation to a data processing system of a bank or credit organization, or of a public institution, then the penalty to be imposed shall be increased by one half. (4) Where a person obtains an unjust benefit for himself or another by committing the acts defined in the aforementioned paragraphs, and such acts do not constitute a separate offence, he shall be subject to a penalty of imprisonment from two years to six years and a judicial fine of up to five thousand days.</p>

**BUDAPEST CONVENTION****DOMESTIC LEGISLATION****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.

Article 243 of the Turkish Penal Code - Accessing a data processing system

(1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine.

(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.

(3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years.

(4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.

Article 244 - Preventing the functioning of a system and deletion, alteration or corrupting of data

(1) Any person who prevents the functioning of a data processing system or renders it useless shall be subject to a penalty of imprisonment for a term of one to five years.

(2) Any person who deletes, alters, corrupts or bars access to data, or introduces data into a system or sends existing data to another place shall be subject to a penalty of imprisonment for a term of six months to three years.

(3) Where such acts are committed in relation to a data processing system of a bank or credit organization, or of a public institution or establishment, then the penalty to be imposed shall be increased by one half.

(4) Where a person obtains an unjust benefit for himself or another by committing the acts defined in the aforementioned paragraphs, and such acts do not constitute a separate offence, he shall be subject to a penalty of imprisonment from two years to six years and a judicial fine of up to five thousand days.

Article 245 - (Amended: 29/6/2005 – 5377/Article 27) - Misuse of bank or credit cards

(1) If any person who acquires or retains a bank or credit card of another

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person secures a benefit for himself or another person by using or allowing the use of such cards without the consent of the card holder or the person to whom the card should be given, he shall be sentenced to a penalty of imprisonment for a term of three to six years and a judicial fine of up to five thousand days.

(2) Any person who produces, sells, transfers, purchases or receives a counterfeit bank or credit card related to the bank accounts of another person shall be sentenced to a penalty of imprisonment for a term of three years to seven years and imposed a judicial fine of up to ten thousand days.

(3) Any person who secures a benefit for himself or another person by using a counterfeit or falsified bank or credit card shall be sentenced to a penalty of imprisonment for a term of four to eight years and imposed a judicial a fine of up to five thousand days provided that the act does not constitute another offence that is punishable by a heavier penalty.

(4) Where an offence specified in paragraph one damages

a) a spouse of a marriage where a court decree of separation has not been made,

b) a direct-ascendant or direct-descendant, direct in-law, adoptive parent or adopted child, or

c) one of the siblings residing in the same dwelling, the relevant relative shall not be subject to a penalty.

(5) (Additional: 6/12/2006 – 5560/Article 11) Effective repentance provisions related to offences against property under this Law shall be applicable to the acts included in the scope of the paragraph one.

Article 245/A (Additional: 24/3/2016-6698/Article 30) - Prohibited devices or programs

If a device, computer program, encryption or any other security code is made or created exclusively for committing the offences specified in this Section and any other offence committed by means of data processing systems, those who produce, import, transport, store, receive, sell, expose for sale, purchase, give another person or keep them shall be sentenced to a penalty of imprisonment for a term of one year to three years and imposed a judicial fine of up to five thousand days.

Article 72- (Amended: 23/1/2008-5728/Article 139) of the Law no. 5846 on

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	<p>Intellectual and Artistic Works (LIAW)</p> <p>Any person, who produces, puts up for sale, sells or possesses for non- private use any programs and technical equipment which aim to circumvent additional programs developed to prevent illegal reproduction of a computer program shall be sentenced to imprisonment from six months to two years.</p>
<b>Title 2 – Computer-related offences</b>	
<p><b>Article 7 – Computer-related forgery</b></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>.Article 243 of the Turkish Penal Code – Accessing a data processing system</p> <p>(1) Any person who unlawfully accesses, partially or fully, a data processing system, or remains within such system, shall be subject to a penalty of imprisonment for a term of up to one year or a judicial fine.</p> <p>(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.</p> <p>(3) Where any data within any such system is deleted or altered as a result of this act, then the penalty to be imposed shall be a term of imprisonment of six months to two years.</p> <p>(4) (Additional: 24/3/2016-6698/Article 30) A person who monitors data transfers within a data processing system or among data processing systems by means of technical equipment without accessing the system shall be imposed a term of imprisonment of one year to three years.</p> <p>Article 244 - Preventing the functioning of a system and deletion, alteration or corrupting of data</p> <p>(1) Any person who prevents the functioning of a data processing system or renders it useless shall be subject to a penalty of imprisonment for a term of one to five years.</p> <p>(2) Any person who deletes, alters, corrupts or bars access to data, or introduces data into a system or sends existing data to another place shall be subject to a penalty of imprisonment for a term of six months to three years.</p> <p>(3) Where such acts are committed in relation to a data processing system of a bank or credit organization, or of a public institution or establishment, then the penalty to be imposed shall be increased by one half.</p> <p>(4) Where a person obtains an unjust benefit for himself or another by committing the acts defined in the aforementioned paragraphs, and such acts do not constitute a separate offence, he shall be subject to a penalty of imprisonment from two years to six years and a judicial fine of up to five</p>



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	<p>thousand days.</p> <p>Article 204 - Counterfeiting official documents            (1) Any person who issues a counterfeit official document, alters a genuine official document to deceive others or uses a counterfeit official document shall be sentenced to a penalty of imprisonment from two years to five years.            (2) Any public officer who issues a counterfeit official document that he is authorized to issue, or alters a genuine official document to deceive others, issues a document that does not reflect the truth or uses a counterfeit official document shall be sentenced to a penalty of imprisonment from three years to eight years.            (3) If the official document remains valid by operation of law until it is proven otherwise, the penalty to be imposed shall be increased by one half.</p> <p>Article 207- Counterfeiting private documents            (1) Any person who issues a counterfeit private document or alters a and uses a genuine private document in order to deceive others shall be sentenced to a penalty of imprisonment from one year to three years.            (2) Any person who knowingly uses a counterfeit private document shall be punished in accordance with the provisions of the aforementioned paragraph.</p> <p>Article 244 - Preventing the functioning of a system and deletion, alteration or corrupting of data            (2) Any person who deletes, alters, corrupts or bars access to data, or introduces data into a system or sends existing data to another place shall be subject to a penalty of imprisonment for a term of six months to three years.</p>

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<p><b>Article 8 – Computer-related fraud</b></p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:</p> <ul style="list-style-type: none"> <li>a any input, alteration, deletion or suppression of computer data;</li> <li>b any interference with the functioning of a computer system,</li> </ul> <p>with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.</p>	<p>Article 158 (1) f) of the Turkish Penal Code - Misuse of bank or credit cards</p> <p>(1) Where the offence of swindling is committed;</p> <p>f) with the data processing systems, bank or credit organizations used as an instrument</p> <p>Article 243 (2)- Accessing a data processing system</p> <p>(2) Where the act defined in the aforementioned paragraph is committed in relation to a system which is only accessible upon the payment of a fee, then the penalty to be imposed shall be decreased by up to one half.</p>
<b>Title 3 – Content-related offences</b>	
<p><b>Article 9 – Offences related to child pornography</b></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"> <li>a producing child pornography for the purpose of its distribution through a computer system;</li> <li>b offering or making available child pornography through a computer system;</li> <li>c distributing or transmitting child pornography through a computer system;</li> <li>d procuring child pornography through a computer system for oneself or for another person;</li> <li>e possessing child pornography in a computer system or on a computer-data storage medium.</li> </ul> <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"> <li>a a minor engaged in sexually explicit conduct;</li> <li>b a person appearing to be a minor engaged in sexually explicit conduct;</li> <li>c realistic images representing a minor engaged in sexually explicit conduct</li> </ul>	<p>Article 6 (1) b)of the Turkish Penal Code – Definitions</p> <p>(1) In the implementation of criminal laws;</p> <p>b) Minor shall mean any person under the age of eighteen.</p> <p>Article 226 of the Turkish Penal Code – Obscenity</p> <p>(1) a) Any person who gives a child any material that includes obscene images, texts or words or makes a child watch, read or listen the content of such materials,</p> <p>b) Shows or publicly exhibits the contents of such materials in places that are accessible to children, or reads, make others read, say or make others say such contents,</p> <p>c) Offers such materials for sale or rent in such a manner that reveals the contents of such materials,</p> <p>d) Offers such materials for sale or rent in any place other than those dedicated to the sale thereof,</p> <p>e) Gives or distributes such material free of charge with the sale of any product or service,</p> <p>f) Advertises such products, shall be sentenced to a penalty of imprisonment for a term of six months to two years and a judicial fine.</p> <p>(2) Any person who broadcasts or mediates the broadcast of obscene images, texts or words by press or media organs shall be sentenced to a penalty of imprisonment for a term of six months to three years and a judicial fine of up to</p>

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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.

five thousand days.

(3) Any person who uses children, representative images of children or those who look like children in producing materials that contain obscene images, texts or words shall be sentenced to a penalty of imprisonment for a term of five years to ten years and imposed a judicial fine of up to five thousand days. Any person who conveys such materials into the country, who copies or offers for sale such material or who sells, transports, stores, exports, retains possession of such material or offers such material for the use of others shall be sentenced to a penalty of imprisonment for a term of two years to five years and imposed a judicial fine of up to five thousand days.

(4) Any person who produces, conveys into the country, offers for sale, sells, transports, stores or offers for the use of others any materials containing text, sounds or images of sexual acts performed by brutal means, or on animals, human corpses, or in any other unnatural manner shall be sentenced to a penalty of imprisonment for a term of one year to four years and imposed a judicial fine of up to five thousand days.

(5) Any person who broadcasts or mediates the broadcast of the contents of materials specified in paragraphs three and four by press or media organs, or causes children to watch, listen or read such materials shall be sentenced to a penalty of imprisonment for a term of six years to ten years and a judicial fine of up to five thousand days.

(6) Legal entities shall be subject to specific security measures for involvement in these offences.

(7) The provisions of this article shall not be applicable to scientific works, and with the exception of paragraph three, to the works of artistic and literary value.

#### Article 103 - Child sexual abuse

(1) Any person who sexually abuses a child shall be sentenced to an imprisonment from eight years to fifteen years. If the sexual abuse is limited to the level of sexual disturbance, a penalty of imprisonment from three years to eight years shall be applicable. If the offence that is limited to sexual disturbance is committed by a minor, investigation and prosecution shall depend on the complaint of the victim's guardians or custodians. Sexual abuse covers the following acts; <sup>(1)</sup>

a) Any sexual act towards children who are under the age of fifteen or towards those who attained the age of fifteen but lack the ability to understand the legal meaning and consequences of such act,

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b) Sexual acts towards other children by force, threat or on the grounds that affect the will.

(2) If the sexual abuse is committed by inserting an organ or an object into a body, a term of imprisonment that is not less than sixteen years shall be imposed. <sup>(2)</sup>

(3) If the offence is committed;

a) together by more than one person,

b) by taking advantage of environments where people have to live together,

c) against a person within the first three degrees of kinship or kinship by marriage, or by a stepfather, stepmother, stepsibling or an adoptive parent,

d) by the child's guardian, tutor, instructor, caregiver, custodial parents or by those who provide the child with health care or are under an obligation to protect, look after or supervise the child,

e) by the abuse of the influence provided by the public office or service relationship,

the penalty to be imposed in according to the above paragraphs shall be increased by one half.

(4) If the sexual abuse is committed by force or threat against the children specified in the item (a) of the paragraph one, or by the use of arms against the children specified in the item (b) of the paragraph one, the penalty to be imposed in according to the above paragraphs shall be increased by one half.

(5) In case of use of force and violence during sexual abuse in such a way that results in severe consequences of intentional injury, the provisions related to intentional injury shall also be applicable.

(6) If the victim enters vegetative state or dies as a result of the offence, the offender shall be sentenced to aggravated life imprisonment.

#### Article 227- Prostitution

(1) Any person who encourages a child to prostitution, furnishes or accommodates a child for such purpose, or mediates for the prostitution of a child shall be sentenced to imprisonment for a term of four years to ten years and imposed a judicial fine up to five thousand days. The acts of preparation to committing this offence shall also be punishable as a completed offence.

(2) Any person who encourages another person to prostitution, or who facilitates or acts as an intermediary, or provides a place for this purpose shall be sentenced to imprisonment for two years to four years and a imposed a judicial fine up to three thousand days. Earning a living in part or in full by the

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	<p>earnings of a person who is forced to prostitution shall be considered encouragement to prostitution.</p> <p>(3) (Repealed: 6/12/2006 – 5560/Article 45)</p> <p>(4) The penalty to be imposed on a person who directs another person to, or engages such person in, prostitution by force or threat or taking advantage of the despair of the said person shall be increased by one half to twice the penalty to be imposed in accordance with the above paragraphs.</p> <p>(5) If the offences described in the above paragraphs are committed by a spouse, ascendant by marriage, adopter, guardian, tutor, instructor, caregiver, custodial parents or by those who provide the child, or by the abuse of the influence provided by the public office or service relationship, the penalty to be imposed shall be increased by one half.</p> <p>(6) If such offences are committed within the framework of the activities of a criminal organization, the penalty to be imposed in accordance with the above paragraphs shall be increased by one half.</p> <p>(7) Legal entities shall be subject to specific security measures for involvement in these offences.</p> <p>(8) The person who is forced into prostitution may be given treatment or psychotherapy.</p>
<b>Title 4 – Offences related to infringements of copyright and related rights</b>	
<p><b>Article 10 – Offences related to infringements of copyright and related rights</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International</p>	<p>Law no. 5846 on Intellectual and Artistic Works</p> <p>Article 71 – (Amended: 23/1/2008-5728/Article 138) - Infringement of Moral, Economic or Related Rights</p> <p>Any person who, by violating the moral, economic and related rights regarding intellectual and artistic works protected under this Law:</p> <ol style="list-style-type: none"> <li>1. Processes, represents, reproduces, alters, distributes, publishes by means of instruments that transmit audio or video, broadcasts a work, performance, phonogram, or production, or offers for sale, sells, propagates by renting or lending or by any other means, purchases for commercial purposes, imports or exports, retains for non-personal use or stores a work that is illegally processed or reproduced, shall be sentenced to imprisonment from one year to five years or imposed a judicial fine.</li> <li>2. Titles another person's work as his own shall be sentenced to imprisonment from six months to two years or imposed a judicial fine. If this act is committed</li> </ol>

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Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.

3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.

by distributing or broadcasting, the offender shall be sentenced no more than five years of imprisonment, and no judicial fine shall be imposed.

3. Cites from a work without referring to the source shall be sentenced to imprisonment from six months to two years or imposed a judicial fine.

4. Makes a declaration to the public without the permission of its right-holders about a work that has not yet been made public, shall be sentenced to imprisonment up to six months.

5. Gives an incomplete, wrong or misleading reference with regard to a work, shall be sentenced to imprisonment for up to six months.

6. Reproduces, distributes, publishes or broadcasts a work, performance, phonogram or a production by using the name of another well-known other person shall be sentenced to imprisonment from three months to one year or imposed a judicial fine.

Any person who commits the acts mentioned in the paragraph one of the additional article 4 of this Law and data service providers who continue to violate the rights provided by this Law shall be sentenced to imprisonment from three months to two years, provided that their acts do not constitute an offence that is punishable by a heavier penalty.

If a person who offers for sale, sells or purchases a work, performance, phonogram or production that is processed, reproduced, distributed or broadcast illegally, reports the person from whom he obtained such materials and enables them to be captured before the stage of prosecution, the penalty to be imposed to the former may be reduced or omitted.

Article 72- (Amended: 23/1/2008-5728/Article 139) - Preparation Actions Which Aim at Circumventing Protective Programs

Any person, who produces, puts up for sale, sells or possesses for non-private use any programs and technical equipment which aim to circumvent additional programs developed to prevent illegal reproduction of a computer program shall be sentenced to imprisonment from six months to two years.

Article 75 - (Amended: 23/1/2008-5728/Article 140) - Prosecution and Recidivism

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	<p>The investigation and prosecution of the crimes specified in Articles 71 and 72 shall be subject to complaint. To make the complaint valid, the right holders or the affiliated collecting societies must submit the documents and other evidences proving their rights to the public prosecutor. In case these documents and other evidences are not submitted within the period of complaint, a decision of non-prosecution shall be issued.</p> <p>The moral and economic right holders shall be informed by the relevant natural or legal persons and especially by the authorized persons of the Ministry of Education and the Ministry of Culture and Tourism to enable them to use their right of complaint due to the crimes whose prosecution and investigation are subject to complaint in accordance with this Law.</p> <p>Upon the complaint the public prosecutor shall carry out the necessary procedures for confiscation of the property subject to the crime pursuant to Code of Criminal Procedure numbered 5271. Where the public prosecutor considers it necessary, he may also decide to stop business activities limited by the production of works alleged to have been produced illegally. However, this decision shall be presented to the judge's approval in twenty-four hours. A decision which is not approved in twenty-four hours by the judge shall be null and void.</p>
<b>Title 5 – Ancillary liability and sanctions</b>	
<p><b>Article 11 – Attempt and aiding or abetting</b></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>Article 35 of the Turkish Penal Code - Criminal attempt</p> <p>(1) Any person who begins directly to commit a crime by appropriate actions but fails to complete it for reasons beyond his control, he shall be held responsible for criminal attempt.</p> <p>(2) In the event of a criminal attempt, the offender shall be sentenced to a penalty of imprisonment for a term from thirteen years to twenty years instead of aggravated life imprisonment, or from nine years to fifteen years instead of life imprisonment depending on the severity of the damage or hazard that is caused by the attempted crime. In other cases, the penalty is reduced by one-quarter to three-quarters.</p> <p>Article 37 – Perpetration</p> <p>(1) Each person who jointly performs an act mentioned in the legal definition of an offence shall be responsible as perpetrator of the act.</p> <p>(2) Any person who uses another person as a means of committing the offence shall also be held responsible as the perpetrator. The penalty imposed on a</p>

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person who uses a person without the ability to commit a fault as a means of committing an offence shall be increased by one-third to one-half.

**Article 38 - Incitement**

(1) A person who incites another person to committing an offence shall be punished by the penalty of the offence.

(2) If the offence is incited using the influence arising from direct ascendant, direct descendant kinship, the penalty to be imposed on the instigator shall be increased by one-third to one-half. Where a minor is incited to commit an offence, a direct descendant or direct ascendant kinship is not necessary for increasing the penalty in accordance with this paragraph.

(3) Where the identity of the instigator is not known and a perpetrator or another accomplice reports the identity of the instigator, the reporting perpetrator and accomplice shall be sentenced to imprisonment for a term of twenty years to twenty-five years if the offence committed requires aggravated life imprisonment and to a term of fifteen years to twenty years if the offence committed requires life imprisonment. In other cases, the penalty to be imposed may be reduced by one-third.

**Article 39 - Assistance**

(1) A person who assists with the commission of an offence shall be sentenced to a penalty of imprisonment for a term of fifteen years to twenty years if the offence committed is punishable by aggravated life imprisonment, and to a term of ten years to fifteen years if the offence committed is punishable by life imprisonment. Otherwise, the penalty is reduced by half. However, in this case, the penalty to be imposed shall not exceed eight years.

(2) A person shall be responsible for assisting an offence if he:

- a) Encourages the commission of an offence or reinforces the decision to commit a crime or promises to assist after the commission of the offence.
- b) Provides guidance as to how an offence is to be committed or provides the means to be used in committing the offence.
- c) Facilitates the commission of an offence by assisting before or during the commission of the offence.

**Article 40 - Rule of dependency**

(1) Intentional commission of an unlawful act is sufficient for participation in an offence. Each person that participates in the commission of the offence shall be



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	<p>punished on the grounds of his own unlawful act regardless of the individual reasons that may prevent penalization of the other.</p> <p>(2) For specific offences, only the person who has the quality of specific perpetrator shall be the perpetrator. Other persons who participate in committing such offences shall be held responsible for incitement or assistance.</p> <p>(3) In order to be held responsible for participation in committing an offence, at least, an attempt should have been made to commit the offence.</p>
<p><b>Article 12 – Corporate liability</b></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"> <li>a a power of representation of the legal person;</li> <li>b an authority to take decisions on behalf of the legal person;</li> <li>c an authority to exercise control within the legal person.</li> </ul> <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>Article 20 of the Turkish Penal Code - Individuality of criminal responsibility</p> <p>(2) No penalty shall be imposed on legal entities. However, security measures prescribed by law to be applied to such entities for an offence shall be reserved.</p> <p>Article 60 - Security measures for legal entities</p> <p>(1) Where there is a conviction in relation to an intentional offence committed for the benefit of a private law legal entity with the participation of the organs or representatives of the legal entity by the abuse of the authority based on the permit issued by a public authority, under which the private law legal entity operates, the permit shall be revoked.</p> <p>(2) The provisions related to confiscation shall also be applicable to private law legal entities with regard to the offences committed for their benefit.</p> <p>(3) Where the provisions of the above paragraphs may cause more severe consequences than caused by the committed offence, the judge may not impose such measures.</p> <p>(4) The provisions of this article shall only be applicable where specifically stated in the law.</p> <p>Article 226 (6) Obscenity</p> <p>(6) Legal entities shall be subject to specific security measures for involvement in these offences.</p> <p>Article 246 – Implementation of Security Measures on Legal Entities</p> <p>(1) Specific security measures shall be applicable to legal entities, for which unjust benefit is derived by commission of the offences mentioned in this part.</p>
<p><b>Article 13 – Sanctions and measures</b></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</p>	<p>Each criminal offence is punishable according to the Turkish Penal Code and other relevant legislation.</p> <p>No penalty for offences shall be imposed on legal entities. However, security measures prescribed by law are applied to such entities.</p>

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with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.	
<b>Section 2 – Procedural law</b>	
<p><b>Article 14 – Scope of procedural provisions</b></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"> <li>a the criminal offences established in accordance with Articles 2 through 11 of this Convention;</li> <li>b other criminal offences committed by means of a computer system; and</li> <li>c the collection of evidence in electronic form of a criminal offence.</li> </ul> <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"> <li>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"> <li>i is being operated for the benefit of a closed group of users, and</li> <li>ii does not employ public communications networks and is not connected with another computer system, whether public or private,</li> </ul> </li> </ul> <p>that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to</p>	<p>Article 160 of the Code No. 5271 on Criminal Procedure – The duty of a public prosecutor upon being informed about the commission of an offence</p> <p>(1) Upon being informed by denunciation or any other means about a circumstance that gives the impression that an offence is committed, a public prosecutor takes immediate action to decide whether a public lawsuit should be filed.</p> <p>(2) In order to investigate the material fact and ensure a fair trial, the public prosecutor shall be obliged to collect the evidence for an against the suspect through assigning law enforcement officers under his command, and to protect the rights of the suspect.</p> <p>Article 161 - Duties and powers of the public prosecutor</p> <p>(1) The public prosecutor may conduct any investigation directly or through the law enforcement officers under his command; and request any information from any public authority to reach the conclusion mentioned in the article above. Where a need emerges to carry out an action out of the jurisdiction of the Court at which he performs his judicial tasks, the public prosecutor shall request the public prosecutor of that other jurisdiction to carry out the action.</p> <p>(2) Judicial police officers shall be obliged to report the incidents that they have taken over, the persons that they have apprehended, and the measures that are implemented to the particular public prosecutor, under the command of which they operate, and to comply with the judicial orders of the said public prosecutor without delay.</p> <p>(3) Public Prosecutor shall give his orders to the law enforcement officers in written but the orders may be given verbally in urgent cases. (Additional provision: 25/5/2005 - 5353/Article 24) A verbal order shall be given in written as soon as possible.</p> <p>(4) Other public officials shall as well be obliged to furnish the information and documents requested under the scope of the ongoing investigation to the public prosecutor.</p> <p>(5) Public prosecutor shall directly launch an investigation about public officials,</p>

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enable the broadest application of the measures referred to in Articles 20 and 21

who abuse or breach their duties or functions pertaining to their official status or those related with the judiciary requested from them within the context of law, and about law enforcement officials and their senior officers, who abuse or breach their duties concerning the verbal or written orders given by the public prosecutors. The provisions of the Law No. 4483 dated 2.12.1999 on the Trial of Civil Servants and Other Public Employees shall be applicable to provincial governors and district governors, and the trial procedures that the judges are subject to with regard to their duties shall be applicable to highest degree chiefs of law enforcement. <sup>(1)</sup>

(6) (Amendment: 2/1/2017-KHK-680/9 art .; Exactly accepted: 1/2 / 2018-7072 / 8 art.) Office of Chief Public Prosecutor and Serious Criminal Court on the location of Regional Court of Justice of where the relevant person works is attached to have the authority to investigate and prosecute the governors and district governors about their personal crimes. In case of *flagrante delicto* which calls for heavy punishment the prosecution is carried out according to general provisions.

(7) (Additional: 31/3/2011-6217/Article 21) In an investigation that comes with the decision of lack of jurisdiction, if the public prosecutor reaches the conclusion that he also lacks jurisdiction, he shall decide on lack of jurisdiction and submits the investigation file to the high criminal court that is closest to the jurisdiction of the high criminal court, to which he is assigned. The decision made by the court in this respect is final.

(8) (Addition:21/2/2014-6526/Article 15) Public prosecutors are subject to direct investigation for the crimes mentioned in the articles 302, 309, 311, 312, 313, 314, 315 and 316 of Turkish Penal Code even if they are committed during the performance of their duty or as necessitated by their duty. The article 26 of the Law no. 2937 dated 1/11/1983 on State Intelligence Services and National Intelligence Organization shall be reserved.

Article 162 (1)- Public prosecutor's request for a decision from a judge in an investigation

(1) If the public prosecutor considers it necessary to carry out an investigation that may only be conducted by a judge, he shall notify the justice of the peace of the jurisdiction where such investigation is to be carried out. The justice of the peace shall decide whether the request is in compliance with the law, and take necessary action.

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Article 163 – Performance of the investigation by justice of the peace  
 (1) In the event of *flagrant delicto* and where delay is not acceptable, if the public prosecutor cannot be contacted or if the incident exceeded the work capacity of the public prosecutor in terms of its size, any investigation process may be performed by the justice of the peace.  
 (2) Law enforcement chiefs and officers shall take the measures and conduct the investigations ordered by the justice of the peace.

Article 164 – The judicial police and its duties  
 (1) The term judicial police stands for the security personnel who fulfills the investigation procedures outlined in Articles 8, 9 and 12 of Law No.3201 dated 4.6.1937 on the Security Forces, Article 7 of Law No.2803 dated 10.3.1983 on the Organization, Duties and Powers of the Gendarmerie, Article 8 of the Decree having the force of law No.485 dated 2.7.1993 on the Organization and Duties of the Under secretariat of Customs and Article 3 of Law No.2692 dated 9.7.1982 on the Coast Guard Command. <sup>(1)</sup>  
 (2) Investigation procedures shall be performed primarily by the judicial police in accordance with the orders and instructions of the public prosecutor. (3) Members of the judicial police shall carry out the instructions given by the public prosecutors with respect to judicial duties.  
 (3) Judicial police is under the command of its superiors for the services other than the judicial duties.

Article 165 (1) – Judicial police duties of other law enforcement units  
 (1) When needed or upon the request of the public prosecutor, other law enforcement units shall be obliged to carry out the duties of the judicial police. In such cases, the provisions of this Law shall be applicable to such law enforcement officers for their judicial duties.

Article 170 – The duty to file a public prosecution  
 (1) The duty to bring a public prosecution rests with the public prosecutor.  
 (2) If the evidence collected at the end of the investigation phase creates sufficient suspicion that a crime has been committed; then the public prosecutor shall prepare an indictment.  
 (3) The indictment that addresses the court of competent jurisdiction shall include;  
 a) The identity of the suspect,

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b) The defense lawyer,  
c) The identity of the deceased, victim or the person who suffered from the offence,  
d) Legal representative of the victim or the person who suffered from the offence,  
e) The identity of the informant if its disclosure is acceptable,  
f) The identity of the person who filed the complaint,  
g) Date of the complaint,  
h) The attributed crime and the applicable articles of the law,  
i) The location, date, and duration of the attributed crime,  
j) Evidence of the crime,  
k) Whether the suspect is under arrest; and the dates and durations of detention and arrest if the suspect is arrested.

(4) The indictment shall state the incidents that form the attributed crime by explaining its link with the evidence available.

(5) The conclusion of the indictment shall not only state the issues against the suspect but also the ones in his favor.

(6) The conclusion of the indictment shall state the punishment prescribed in the law for that particular offence and the security measures requested; and the security measures that may be implemented to the legal entity if such crime has been committed within the framework of the operations of a legal entity.

Article 171 – (Amended: 6/12/2006 – 5560/Article 22) - Discretion in filing a public prosecution

(1) In the presence of conditions calling for the implementation of effective repentance provisions as a personal reason requiring the dismissal of the punishment or in the presence of personal impunity, the public prosecutor may not bring a public prosecution.

(2) (Amended: 17/10 / 2019-7188 / 19 art.) Except for offenses within the scope of reconciliation and prepayment, the public prosecutor, despite the presence of sufficient suspicion for the crimes requiring a prison sentence of three years or less, he can decide to postpone initiating criminal case for five years. Person who are harmed by the crime or the suspect can appeal this decision in accordance with the provisions of Article 173.

(3) Provided that the provisions related to mediation are reserved, all of the following requirements must be fulfilled in order to decide to postpone filing of a public prosecution:

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	<p>a) The suspect should not have been convicted previously with imprisonment for an intended crime,</p> <p>b) The investigation that has been conducted must give the impression that the suspect would refrain from committing crimes if the filing of the public prosecution is postponed,</p> <p>c) Postponing the filing of a prosecution must be more beneficial to the suspect and the public,</p> <p>d) The damage suffered by the victim or the public due to the commission of the crime must be fully recovered by giving back, restoring to the condition before the crime or by paying the damages,</p> <p>(4) Where no intended crime is committed in the period of postponement, decision of no ground for prosecution shall be made. A public prosecution is filed if an intended crime is committed in the period of postponement. Time limit shall not apply during the period of postponement.</p> <p>(5) Decisions related to postponement of the filing of a public prosecution shall be recored in a system specific for this purpose. Such records may only be used for purposes specified in this article if requested by a public prosecutor, judge or court in relation to an investigation or prosecution.</p> <p>(6) (Annex: 17/10 / 2019-7188 / 19 art.) The provisions of this article doesn't apply to;</p> <p>a) The crimes of establishing, managing or being a member of an organization to commit a crime and crimes committed within the framework of organization activity,</p> <p>b) Crimes committed by the public official related to his duty or against public official due to his duty and military crimes committed by military persons,</p> <p>c) Crimes against sexual immunity.</p>
<p><b>Article 15 – Conditions and safeguards</b></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>The Constitution guarantees a series of fundamental rights and freedoms, among which: Article 20 - Privacy of private life; Article 21 - Inviolability of the domicile; Article 22 – Freedom and privacy of communication; Article 26 - Freedom of expression.</p> <p>Article 13 of the Constitution provides that fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. At the same time, restrictions shall not be contrary to the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular republic and the principle of proportionality.</p> <p>Following the principle of protection of fundamental rights and freedoms the</p>

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<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>criminal legislation provides for safeguards and conditions for application of procedural measures during criminal proceedings. For example, for interception of communications and covert surveillance judicial authorisation is required.</p>
<p><b>Article 16 – Expedited preservation of stored computer data</b></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>No preservation power is provided by the national legislation. However, Article 5 (3) of the Law no. 5651 on regulating broadcasting in the internet and fighting against crimes committed through internet broadcasting requires hosting provider to retain traffic information concerning services it provides for the period specified in the regulation which cannot be less than one year and not more than two years, and ensure the accuracy, integrity and confidentiality of that information.</p> <p>Article 6 (1) (b requires access provider to retain all traffic data about the services that it provides for the period specified in the regulation which cannot be less than six months and more than two years and to maintain accuracy, integrity and confidentiality of such data.</p>
<p><b>Article 17 – Expedited preservation and partial disclosure of traffic data</b></p>	<p>No preservation power is provided by the national legislation. However, Article 5 (3) of the Law no. 5651 on regulating broadcasting in the</p>

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<p>1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:</p> <p>a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and</p> <p>b ensure the expeditious disclosure to the Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted.</p> <p>2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>internet and fighting against crimes committed through internet broadcasting requires hosting provider to retain traffic information concerning services it provides for the period specified in the regulation which cannot be less than one year and not more than two years, and ensure the accuracy, integrity and confidentiality of that information.</p> <p>Article 6 (1) (b requires access provider to retain all traffic data about the services that it provides for the period specified in the regulation which cannot be less than six months and more than two years and to maintain accuracy, integrity and confidentiality of such data.</p>
<p><b>Article 18 – Production order</b></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</p>	



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agreement or arrangement.	
<p><b>Article 19 – Search and seizure of stored computer data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:</p> <ul style="list-style-type: none"> <li>a a computer system or part of it and computer data stored therein; and</li> <li>b a computer-data storage medium in which computer data may be stored</li> </ul> <p style="padding-left: 40px;">in its territory.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:</p> <ul style="list-style-type: none"> <li>a seize or similarly secure a computer system or part of it or a computer-data storage medium;</li> <li>b make and retain a copy of those computer data;</li> <li>c maintain the integrity of the relevant stored computer data;</li> <li>d render inaccessible or remove those computer data in the accessed computer system.</li> </ul> <p>4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.</p> <p>5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.</p>	<p>Article 134 of the Code No. 5271 on Criminal Procedure (CPC) - Search, copy and seizure of computers, computer programs and logs</p> <p>(1) (Amended by Law number: 7145 Article 16 on 25/07/2018) During an investigation with respect to a crime , the judge or in cases of peril of delay the public prosecutor shall issue a decision on the search of computers and computer programs and records used by the suspect, the copying, analyzing, and textualization of those records, if there is existence of strong suspicion reasons based on concrete evidence and if it is not possible to obtain the evidence by other means.</p> <p>(2) Where it is not possible to access a computer, computer program, computer logs or hidden data as the passwords are not known, such equipment may be seized to solve the passwords and take necessary copies. Seized devices shall be returned without delay if the passwords are solved and necessary copies are made.</p> <p>(3) All data on the system shall be backed up during the seizure of computers and computer logs.</p> <p>(4) A copy of the backup taken in accordance with the paragraph three shall be given to the suspect, and this shall be recorded and signed.</p> <p>(5) It is also permissible to produce a copy of the entire data or some of the data included on the system, without seizing the computer or the computer logs. Copied data shall be printed on paper and this shall be recorded and signed by the relevant persons.</p>

**BUDAPEST CONVENTION****DOMESTIC LEGISLATION****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.

Article 135 Of the CPC (1) (Amended: 21/2/2014 - 6526/Article 12) - Location, listening and recording of communication

(1) Where there are strong reasons for suspicion based on concrete evidence and it is not possible to obtain evidence by other means during the prosecution performed for a crime, the high criminal court or, in case of peril in delay, the public prosecutor, may decide to listen, record, and utilize the signal data of the communication of the suspect or the accused. The public prosecutor shall submit his decision immediately to the approval of the court and the court shall make a decision within twenty-four hours. In case of expiration of the duration or the court decides otherwise, the measure shall be removed immediately by the public prosecutor. The measures to be taken in accordance with this paragraph shall be decided unanimously by the high criminal court. Unanimous decision is also required for making this decision upon objection.

(2) (Additional: 21/2/2014- 6526/Article 12.) If the owner of the line or means of communication, on which a decision of measure is to be made in accordance with this article is known, a document or report that shows the identity of such owner shall be attached while making the request.

(3) The communication between the suspect or the accused and the persons who may refrain from testimony shall not be recorded. If this circumstance is revealed after the record is taken, the relevant record shall be deleted immediately.

(4) The decision that is made in accordance with the paragraph 1 shall include the nature of the charged crime, the identity of the person who will be subject to the measure, type of the means of communication, telephone number or code that has enabled location of the connection of the communication, and the type, scope and duration of the measure. The duration of the measure shall not exceed two months, and this period may be extended by a month. (Additional provision: 25/5/2005-5353/Article 17) However, for crimes committed within the activities of a criminal organization, the court may decide to extend the duration several times, each time for no longer than one month and no longer than three months in total.

(5) In order to apprehend the suspect or the accused, the location of the mobile phone may be identified upon the decision of the judge, or in case of peril in delay, upon the decision of the public prosecutor. The decision made in this regard shall include the mobile telephone number and the duration of the identification. The duration of the identification shall not exceed two months, and this period may be extended by a month.

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(6) (Additional: 2/12/2014-6572/Article 42) Identification of the communication of the suspect or the accused by means of telecommunication shall be based on the decision of the judge at the stage of investigation and on the court decision at the stage of prosecution. The decision shall include the nature of the charged crime, the identity of the person who will be subject to the measure, type of the means of communication, telephone number or code that has enabled location of the connection of the communication, and duration of the measure. The decision of the public prosecutor shall be submitted to the approval of the judge within 24 hours. The judge shall issue its decision within 24 hours. If the judge decides otherwise or if the time expires the records are destroyed immediately.

(7) Decisions made and procedures conducted according to the provisions of this article shall be kept confidential while the measure is pending.

(8) The provisions in this article with regard to recording and utilizing the signal data only be applicable for the crimes specified below:

a) The following crimes in the Turkish Penal Code;

1. Migrant smuggling and human trafficking (articles 79, 80),
2. Intentional killing (articles 81, 82, 83),
3. Torture (articles, 94, 95),
4. Sexual assault (except the first paragraph, article 102),
5. Child sexual abuse (article 103),
6. (Additional: 21/2/2014 – 6526/Article 12) Qualified theft (article 142) and robbery (article 148, 149),
7. Production and trade of narcotics and psychotropic substances (article 188),
8. Counterfeiting money (article 197),
9. (Repealed: 21/2/2014 – 6526/Article 12)
10. Prostitution (article 227),
11. Fraud during a tender (article 235),
12. Bribery (article 252),
13. Laundering of assets acquired by an offence (article 282),
14. (Amended: 2/12/2014-6572/Article 42) Disrupting the unity and integrity of the state (article 302),
15. (Additional: 2/12/2014-6572/Article 42) Offences against the constitutional order and its functioning (articles 309, 311, 312, 313, 314, 315, 316),
16. Offences against the secrets of the state, and espionage (articles 328, 329, 330, 331, 333, 334, 335, 336, 337).

(b) Arms trafficking crimes (article 12) defined in the Law for Firearms, Knives and Other Tools.

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	<p>c) (Additional: 25/5/2005-5353/Article 17) The crime of embezzlement as defined the paragraphs (3) and (4) of the article 22 of the Banking Act,</p> <p>d) Crimes defined in the Law on Combating Smuggling, which require imprisonment.</p> <p>e) Crimes defined in the articles 68 and 74 of the Law on Protection of Cultural and Natural Property.</p> <p>(9) No one may listen and record the communication of another person by means of telecommunication except under the principles and procedures determined in this article.</p>
<p><b>Article 21 – Interception of content data</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:</p> <p>a collect or record through the application of technical means on the territory of that Party, and</p> <p>b compel a service provider, within its existing technical capability:</p> <p>i to collect or record through the application of technical means on the territory of that Party, or</p> <p>ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.</p> <p>2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time 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 135 Of the CPC (1) (Amended: 21/2/2014 - 6526/Article 12) - Location, listening and recording of communication</p> <p>(1) Where there are strong reasons for suspicion based on concrete evidence and it is not possible to obtain evidence by other means during the prosecution performed for a crime, the high criminal court or, in case of peril in delay, the public prosecutor, may decide to listen, record, and utilize the signal data of the communication of the suspect or the accused. The public prosecutor shall submit his decision immediately to the approval of the court and the court shall make a decision within twenty-four hours. In case of expiration of the duration or the court decides otherwise, the measure shall be removed immediately by the public prosecutor. The measures to be taken in accordance with this paragraph shall be decided unanimously by the high criminal court. Unanimous decision is also required for making this decision upon objection.</p> <p>(2) (Additional: 21/2/2014- 6526/Article 12.) If the owner of the line or means of communication, on which a decision of measure is to be made in accordance with this article is known, a document or report that shows the identity of such owner shall be attached while making the request.</p> <p>(3) The communication between the suspect or the accused and the persons who may refrain from testimony shall not be recorded. If this circumstance is revealed after the record is taken, the relevant record shall be deleted immediately.</p> <p>(4) The decision that is made in accordance with the paragraph 1 shall include the nature of the charged crime, the identity of the person who will be subject to the measure, type of the means of communication, telephone number or code that has enabled location of the connection of the communication, and the type, scope and duration of the measure. The duration of the measure shall not exceed two months, and this period may be extended by a month. (Additional provision: 25/5/2005-5353/Article 17) However, for crimes committed within</p>

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the activities of a criminal organization, the court may decide to extend the duration several times, each time for no longer than one month and no longer than three months in total.

(5) In order to apprehend the suspect or the accused, the location of the mobile phone may be identified upon the decision of the judge, or in case of peril in delay, upon the decision of the public prosecutor. The decision made in this regard shall include the mobile telephone number and the duration of the identification. The duration of the identification shall not exceed two months, and this period may be extended by a month.

(6) (Additional: 2/12/2014-6572/Article 42) Identification of the communication of the suspect or the accused by means of telecommunication shall be based on the decision of the judge at the stage of investigation and on the court decision at the stage of prosecution. The decision shall include the nature of the charged crime, the identity of the person who will be subject to the measure, type of the means of communication, telephone number or code that has enabled location of the connection of the communication, and duration of the measure.

(Additional sentences: 24/11/2016-6763 / 26 art.) The decision of the public prosecutor shall be submitted to the approval of the judge within 24 hours. The judge shall issue its decision within 24 hours. If the judge decides otherwise or if the time expires the records are destroyed immediately.

(7) Decisions made and procedures conducted according to the provisions of this article shall be kept confidential while the measure is pending.

(8) The provisions in this article with regard to recording and utilizing the signal data only be applicable for the crimes specified below:

a) The following crimes in the Turkish Penal Code;

1. Migrant smuggling and human trafficking (articles 79, 80),
2. Intentional killing (articles 81, 82, 83),
3. Torture (articles, 94, 95),
4. Sexual assault (except the first paragraph, article 102),
5. Child sexual abuse (article 103),
6. (Additional: 21/2/2014 – 6526/Article 12) Qualified theft (article 142) and robbery (article 148, 149),
7. Production and trade of narcotics and psychotropic substances (article 188),
8. Counterfeiting money (article 197),
9. (Repealed: 21/2/2014 – 6526/Article 12)
10. Prostitution (article 227),
11. Fraud during a tender (article 235),
12. Bribery (article 252),

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	<p>13. Laundering of assets acquired by an offence (article 282),</p> <p>14. (Amended: 2/12/2014-6572/Article 42) Disrupting the unity and integrity of the state (article 302),</p> <p>15. (Additional: 2/12/2014-6572/Article 42) Offences against the constitutional order and its functioning (articles 309, 311, 312, 313, 314, 315, 316),</p> <p>16. Offences against the secrets of the state, and espionage (articles 328, 329, 330, 331, 333, 334, 335, 336, 337).</p> <p>(b) Arms trafficking crimes (article 12) defined in the Law for Firearms, Knives and Other Tools.</p> <p>c) (Additional: 25/5/2005-5353/Article 17) The crime of embezzlement as defined the paragraphs (3) and (4) of the article 22 of the Banking Act,</p> <p>d) Crimes defined in the Law on Combating Smuggling, which require imprisonment.</p> <p>e) Crimes defined in the articles 68 and 74 of the Law on Protection of Cultural and Natural Property.</p> <p>(9) No one may listen and record the communication of another person by means of telecommunication except under the principles and procedures determined in this article.</p>
<b>Section 3 – Jurisdiction</b>	
<p><b>Article 22 – Jurisdiction</b></p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:</p> <ul style="list-style-type: none"> <li>a in its territory; or</li> <li>b on board a ship flying the flag of that Party; or</li> <li>c on board an aircraft registered under the laws of that Party; or</li> <li>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.</li> </ul> <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</p>	<p>Article 8 Turkish Penal Code no. 5237 - Territorial jurisdiction</p> <p>(1) Turkish law shall apply to all criminal offences committed in Turkey. If the act is partially or fully committed in Turkey or its consequence occurs in Turkey, the offence is considered to be committed in Turkey.</p> <p>(2) If the criminal offence is committed;</p> <ul style="list-style-type: none"> <li>a) within Turkish territory, airspace or in Turkish territorial waters,</li> <li>b) on the open sea or in the space extending directly above these waters and in, or by using, Turkish sea and air vessels,</li> <li>c) in, or by using, Turkish military sea and air vehicles,</li> <li>d) on or against a fixed platforms erected on the continental or in the economic zone of Turkey, the offence is considered to have been committed in Turkey.</li> </ul> <p>Article 9 (1) - Conviction in a foreign country</p> <p>(1) Any person who is convicted in a foreign country for an offence committed in Turkey shall be subject to retrial in Turkey.</p> <p>Article 10 (1) - Offences related to a duty</p>

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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.

(1) Where a person employed as a public officer or assigned a duty in Turkey and commits an offence related to such office or duty shall be subject to retrial in Turkey even if he is convicted in a foreign country.

Article 11- Offences committed by citizens

(1) If a Turkish citizen commits in a foreign country a crime other than those specified in the 13, which is punishable by an imprisonment of at least one year under Turkish laws, and if the said offender is in Turkey, he shall be punished under Turkish law provided that no conviction is made in the foreign country and prosecution is possible in Turkey.

(2) Where the offence is punishable by imprisonment with a lower limit less than one year, trial depends on a complaint filed by the victim or the foreign government. In such cases, the complaint must be filed within six months following the entry of the citizen into Turkey.

Article 12 - Offences committed by foreigners

(1) If a foreigner commits in a foreign country a crime to the detriment of Turkey other than those specified in the 13, which is punishable by an imprisonment of at least one year under Turkish laws, and if the said offender is in Turkey, he shall be punished under Turkish laws. Trial is subject to the request by the Minister of Justice.

(2) Where the aforementioned offence is committed to the detriment of a Turkish citizen or to the detriment of a legal entity established under Turkish civil law and the offender is present in Turkey, and there has been no conviction in a foreign country for the same offence, upon the making of a complaint by the victim, he shall be subject to penalty under Turkish law.

If the victim is a foreigner, the offender shall be subject to criminal proceedings, upon the request of the Minister of Justice, provided the following conditions are fulfilled:

a) The offence is punishable by imprisonment of at least three years under Turkish laws.

b) There is not an extradition agreement in force or the extradition request is not accepted by the government of the country where the offence was committed or the country of the perpetrator's nationality.

(4) A foreign national who is convicted by a foreign court for an offence described in the first paragraph or who acquits or whose case was dismissed or has lost its prosecutable status for any reason shall be subject to another trial in

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	<p>Turkey.</p> <p>Article 13- Other offences</p> <p>(1) Where the following offences are committed by a citizen or a non-citizen of Turkey in a foreign country, Turkish laws shall be applicable:</p> <p>a) The offences described under Volume II, Chapter 1.</p> <p>b) The offences described under Volume II, Chapter 4, Part 3, 4, 5, 6, 7, and 8.</p> <p>c) Torture (articles, 94, 95).</p> <p>d) Intentional pollution of the environment (Article 181).</p> <p>e) Production and trade of narcotics or psychotropic substances (Article 188), facilitating the use of narcotics or psychotropic substances (Article 190).</p> <p>f) Counterfeiting money (Article 197), manufacturing and trading of instruments used in the production of money and valuable seals (Article 200); counterfeiting a seal (Article 202).</p> <p>g) Prostitution (article 227).</p> <p>h) (Repealed: 26/6/2009 – 5918/Article 1)</p> <p>Seizing control or hijacking of air, sea or rail transport vehicles (Article 223, paragraphs 2 and 3) and offences related to the damaging of such vehicles (Article 152).</p> <p>(2) (Additional paragraph 2: 29/6/2005 – 5377/Article 3) Except for the offences described under Volume II, Chapter 4, Parts 3, 4, 5, 6, and 7, conducting criminal proceedings in Turkey for crimes within the scope of paragraph one shall be subject to a request of the Minister of Justice.</p> <p>(3) Even where a conviction or acquittal pursuant to the offences listed in paragraph 1, subparagraphs (a) and (b) have occurred in a foreign country, trial shall be conducted in Turkey upon the request of the Ministry of Justice.</p> <p>CPC No. 5271, Article 15 – Jurisdiction for offences committed in or with vessels, aircrafts and railway vehicles</p> <p>(1) If the offence is committed in a vessel that is authorized to bear the Turkish flag or while such a vessel is outside the Turkish territory, the court located in the Turkish port that the vessel first arrives or in the port that the vessel is registered shall have jurisdiction.</p> <p>(2) The provisions of the above paragraph shall also be applicable to aircrafts and railroad vehicles that are entitled to bear the Turkish flag.</p> <p>(3) The court competent in the first place of arrival of the vessel, aircraft or railroad vehicle in or with which the crime is committed shall have jurisdiction.</p>
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<b>Chapter III – International co-operation</b>	
<p><b>Article 24 – Extradition</b></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</p>	<p>Article 10 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Extradition from Turkey to a foreign state</p> <p>(1) A foreigner who is being investigated or prosecuted or convicted with imprisonment by judicial authorities due to a crime that is committed in a foreign country may be extradited to the requesting country for conclusion of the investigation or prosecution or execution of the penalty.</p> <p>(2) Requests for extradition may be accepted for the crimes restricting freedom for a maximum period of one year or more during the investigation or prosecution under the law of the requesting state or Turkey. The penalty that is imposed must be restricting freedom for at least four months in order for the request of extradition to be accepted with regard to finalized imprisonment decisions. If the person requested for extradition has committed multiple offences, the terms of imprisonment may be added up for extradition even if some the term of imprisonment for some of such offences are below the specified periods.</p> <p>(3) If multiple requests from different states for extradition are made for the same person, the Central Authority shall decide which request to prioritize based on the severity and location of offences, reception order of requests, citizenship of the offender, and the possibility of re-extradition.</p> <p>(4) In the event of extradition, a person may be subject to trial or the penalty convicted to the person may be executed for the crimes that make the basis of the decision of extradition only.</p> <p>Article 11- Rejection of extradition request</p> <p>(1) The request for extradition shall not be accepted if:</p> <p>a) the person requested for extradition is a Turkish citizen except for the liabilities brought by being a party to the International Criminal Court.</p> <p>b) there is strong suspicion that the person requested for extradition would be subject to an investigation or prosecution, punished or subject to torture or maltreatment due to his race, ethnic origins, religion, citizenship, membership of a social group.</p> <p>c) the act that makes the basis of the request for extradition is;</p> <p>1) a thought crime, political crime or a crime related to a political crime,</p> <p>2) merely a military crime,</p>

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authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.

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

3) committed against the security of the Turkish State, or to the detriment of a Turkish citizen or a legal entity that was established under Turkish laws,

4) a crime that is in the jurisdiction of Turkey,

5) subject to time limitation or pardoned.

ç) a former decision of acquittal or imprisonment was made in Turkey for the act subject to the request with regard to the person requested for extradition.

d) the request for extradition is for crimes that are punishable by death or a penalty that does not comply with human dignity.

(2) When all characteristics, particularly the way of commission, the means by which the crime is committed, and the severity of the consequences are considered for an act that makes the basis for the extradition request in the item (1) of the subparagraph (c) of the first paragraph, the relevant act may not be accepted as a political crime. Genocide and crimes against humanity shall not be considered political crimes.

(3) If there are grounds for rejection with regard to the nature of the crime in the item (d) of the first paragraph, the extradition request may be accepted if sufficient guarantee is given by the requesting state for non-execution of the predicted penalty.

(4) The request for extradition may not be accepted for personal reasons such as the requested person is younger than eighteen years as of the date of the request, lives in Turkey for a long time or is married, which would cause the said person or his family suffer disproportionately to the severity of the act.

#### Article 13 - Examination by the Central Authority

(1) The Central Authority shall examine the extradition requests, and may request additional information and documents if it considers necessary, and it declines the requests that do not fulfill necessary conditions.

(2) The requests that fulfill necessary conditions shall be submitted to the public prosecutor affiliated with the competent high criminal court.

#### Article 15- Duties and powers

(1) The high criminal court of the place where the offender is located shall have jurisdiction for deciding for the extradition request. If the location of the offender is not clear, Ankara high criminal court shall have jurisdiction.

(2) The public prosecutor shall request the high criminal court to make a decision on the extradition request.

**BUDAPEST CONVENTION****DOMESTIC LEGISLATION****Article 18- Extradition hearing**

(1) If the person does not accept the procedure of consented extradition, the court shall decide whether the extradition request is acceptable based on its examination of the terms of extradition in accordance with the provisions of this Law and international treaties signed by Turkey.

(2) If the documents submitted by the requesting state are not considered sufficient, the court may request submission of additional information and documents within an appropriate period.

(3) No request for participation shall be made in extradition hearings.

(4) Court decision can be appealed. The Court of Cassation shall conclude such applications within three months. When the decision is finalized, extradition documents shall be submitted to the Central Authority with the decision.

**Decision of extradition****Article 19 - Extradition decision**

(1) If the high criminal court decides that the extradition request is acceptable, execution of this decision shall be subject to the proposal of the Minister of Justice and approval of the Prime Minister with the opinions of the Ministry of Foreign Affairs and the Ministry of Internal Affairs taken.

(2) The Central Authority shall expressly notify the requesting state and the person requested to be extradited whether the request is accepted or rejected.

**Article 22- Requests and conditions of Turkey regarding extradition**

(1) Judicial authorities may request extradition of a person in a foreign country, who is ordered to be apprehended or decided to be arrested, to Turkey for conclusion of investigation or prosecution, or execution of imprisonment decisions.

(2) Extradition of a person may be requested for an offence that requires imprisonment with the upper limit of one year or more. In order to request extradition for finalized conviction of imprisonment, the term of the imprisonment must be at least four months. If the person requested for extradition has committed multiple offences, the terms of imprisonment may be added up for extradition even if some the term of imprisonment for some of such offences are below the specified periods.

(3) The request shall be submitted to the foreign state if approved by the Central Authority. However, the Central Authority may decline the extradition request without submitting it to the foreign state if:

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	<p>a) The request does not fulfill the conditions required for extradition.</p> <p>b) Requesting extradition causes an express inconsistency between the individual good and public good when the term in penal institutions is taken into consideration.</p> <p>c) The national security or international relations of Turkey are likely to be damaged.</p> <p>(4) The provisions in the articles 20 and 21 shall be applicable as appropriate for extradition of a person to Turkey through third countries.</p>
<p><b>Article 25 – General principles relating to mutual assistance</b></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</p>	<p>Article 9 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Legal assistance through audiovisual communication technique</p> <p>(1) Audiovisual communication techniques may be asked to be used in fulfilling the judicial cooperation request. Such processes shall be performed under the control of the authorities of the performing state and in accordance with the laws of such state.</p> <p>(2) If Turkish judicial authorities request judicial cooperation to be made by means of audiovisual communication, this shall be performed under the control of Turkish judicial authorities and in accordance with Turkish laws, provided that they are provided for in international treaties.</p> <p>(3) If a foreign state request judicial cooperation to be made by means of audiovisual communication, this shall be performed under the control of the requesting state's judicial authorities and in accordance with the laws of the requesting country, provided that they are provided for in international treaties. Turkish judicial authorities shall attend this process to observe that the fundamental principles of Turkish law are not violated.</p> <p>Article 3 (3), (4), (6) - Duties and powers of the Central Authority</p> <p>(3) The execution of request for judicial cooperation of a foreign State may be subjected to a condition or guarantee by the Central Authority.</p> <p>(4) The Central Authority may, except the issues within the competence of the jurisdiction, accept the conditions stipulated by the States or grant the guarantee requested. The judicial authorities shall be bound by the conditions accepted or guarantees granted by the Central Authority.</p> <p>(6) The Central Authority may reject the request where an explicit disproportion is available between the gravity of the offence subject to the request for judicial cooperation and the effort, work and cost required for the execution of the request or where the request concerns the proceedings avoided habitually by</p>

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<p>of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.</p>	<p>the State.</p> <p>Article 8 (1) b) - Requests received from foreign judicial authorities            (1) The following provisions shall apply to the requests for legal assistance:            b) Turkish judicial authorities may reject the requests partially or completely or may request supplementary information or documents when required.</p>
<p><b>Article 26 – Spontaneous information</b></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>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>Law No: 6706 Article 7(2):            (2) In the event that judicial authorities are informed within an investigation or prosecution, of information which may result in initiation of a criminal investigation by another State, this information shall be provided to the Central Authority in order to be submitted to the related State without any request.</p>
<p><b>Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements</b></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</p>	<p>Article 2 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters – Definitions            (1) In the implementation of this Law;            a) Judicial authority shall mean court, offices of judges and prosecutor's offices and the other authorities which are granted, statutorily and exceptionally, the competence of conducting criminal investigation, as well as the authorities defined under the declarations of the States to the international agreements,            b) Central Authority shall mean the Ministry of Justice,            c) International judicial cooperation shall mean the proceedings in criminal matters carried out by the judicial authorities of one State on behalf of the judicial authorities of another State.</p> <p>Article 3 - Duties and powers of the Central Authority            (1) The duties and powers of the Central Authority shall be as follows:</p>

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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 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

a) To decide on accepting the requests for cooperation of foreign States and on the suitability of the requests for cooperation of Turkish judicial authorities within the framework of international agreements to which Turkey is a party or the principle of reciprocity,

b) To decide on the form of the judicial cooperation and method to be followed,

c) To give consent to the use of the information and documents requested by the States within the scope of judicial cooperation, to limit and to subject the use of the mentioned information and documents to guarantee or condition,

(2) In the event that statutory and actual reciprocity is not available between the foreign State and Turkey, execution of the request for judicial cooperation may be subjected to the guarantee of the Requesting State that the requests for judicial cooperation of Turkey on the same issue shall be executed.

(3) The execution of request for judicial cooperation of a foreign State may be subjected to a condition or guarantee by the Central Authority.

(4) The Central Authority may, except the issues within the competence of the jurisdiction, accept the conditions stipulated by the States or grant the guarantee requested. The judicial authorities shall be bound by the conditions accepted or guarantees granted by the Central Authority.

(5) In the event that compensation is to be paid due to the execution of the requests for judicial cooperation, the Central Authority may request that compensation from the related State.

(6) The Central Authority may reject the request where an explicit disproportion is available between the gravity of the offence subject to the request for judicial cooperation and the effort, work and cost required for the execution of the request or where the request concerns the proceedings avoided habitually by the State.

(7) The Central Authority may, when required, receive the opinions of the related public institutions and organizations concerning the proceedings to be carried out with foreign States.

Article 4 - Rejection of the requests for judicial cooperation

(1) The requests for judicial cooperation received from a foreign State may be rejected if:

a) The sovereignty rights, national security, public order or other fundamental interests of Turkey are violated,

b) The offence subject to the request is a pure military offence, thought crime, political offence or an offence connected with a political offence,

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<p>such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.</p> <p>b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).</p> <p>c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.</p> <p>d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent 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>c) Convincing grounds are available that the person subject to the request would be exposed to an investigation or prosecution or be punished or be exposed to torture or ill-treatment because of his/her race, ethnic origin, religion, nationality, his/her connection to a certain social group or political opinions,</p> <p>ç) Fundamental guarantees in relation to the right to defence are not granted in the requesting State.</p> <p>Article 6 - Using information and documents  (1) The information and documents received within the scope of judicial cooperation shall not be used for the investigation or prosecution or proceedings other than the ones subject to the request, unless the sending State allows.  (2) The requirement of permission shall not be required in the following circumstances:  a) Change in the legal nature of the offence subject to the request,  b) Inclusion of new suspects or accused persons, who have emerged after the proceedings concerning the judicial cooperation, into the investigation or prosecution,  c) Requirement of information and documents subject to the request in a civil lawsuit connected to this offence.</p>
<p><b>Article 28 – Confidentiality and limitation on use</b></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:  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> <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</p>	<p>Law No. 6706 Article 3 (1)(2)(3)(4):  3 (1) The duties and competences of the Central Authority shall be as follows:  a) To decide on accepting the requests for cooperation of foreign States and on the suitability of the requests for cooperation of Turkish judicial authorities within the framework of international agreements to which Turkey is a party or the principle of reciprocity,  b) To decide on the form of the judicial cooperation and method to be followed,  c) To give consent to the use of the information and documents requested by the States within the scope of judicial cooperation, to limit and to subject the use of the mentioned information and documents to guarantee or condition,  (2) In the event that statutory and actual reciprocity is not available between the foreign State and Turkey, the request for judicial cooperation may be executed on the condition that the Requesting State guarantees to execute the requests for judicial cooperation of Turkey on the same issue.</p>

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<p>the requesting Party accepts the condition, it shall be bound by it.</p> <p>4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.</p>	<p>(3) The execution of request for judicial cooperation of a foreign State may be subjected to a condition or guarantee by the Central Authority.</p> <p>(4) The Central Authority may, except the issues within the competence of the jurisdiction, accept the conditions stipulated by the States or grant the guarantee requested. The judicial authorities shall be bound by the conditions accepted or guarantees granted by the Central Authority.</p>
<p><b>Article 29 – Expedited preservation of stored computer data</b></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"> <li>a the authority seeking the preservation;</li> <li>b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;</li> <li>c the stored computer data to be preserved and its relationship to the offence;</li> <li>d any available information identifying the custodian of the stored computer data or the location of the computer system;</li> <li>e the necessity of the preservation; and</li> <li>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.</li> </ul> <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>Article 7/1 and article 8 of the Law No. 6706:</p> <p>7- (1) Judicial authorities may request legal assistance in the necessary issues in order to conclude an investigation or prosecution or to execute a conviction judgment. In this case, the following provisions shall apply:</p> <ul style="list-style-type: none"> <li>a) Provisional measures may be requested to be taken prior to the request for legal assistance in order to protect the evidence in the cases where delay is prejudicial.</li> <li>b) Notifications indicating that restrictive or mandatory measures may be applied shall not be included in the requests for legal assistance concerning the service of documents.</li> <li>c) Appearing in person during the execution of the proceeding subject to the request for legal assistance may be requested.</li> <li>d) The proceedings carried out within the scope of the request for legal assistance in compliance with the domestic law of the related State shall be deemed valid with regard to Turkish law.</li> </ul> <p>8- (1) The following provisions shall apply to the requests for legal assistance:</p> <ul style="list-style-type: none"> <li>a) Requests shall be executed in accordance with Turkish law. In the case of carrying out a special procedure, the request may be executed according to this procedure unless it is contrary to Turkish law.</li> <li>b) Turkish judicial authorities may reject the requests partially or completely or may request supplementary information or documents when required.</li> <li>c) Provisional measures may be taken in the cases when delay is prejudicial in order to protect the evidence before the request for legal assistance is submitted. If the request for legal assistance is not received by the Central Authority within forty days following the date of provisional measure, the measure shall be abolished forthwith by the competent authorities or the competent bodies.</li> <li>d) In the event that search or seizure is requested, the offence subject to the request must be an extraditable offence. Turkish judicial authorities shall request, at least once a year, information from the requesting State on whether</li> </ul>



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<p>5 In addition, a request for preservation may only be refused if:</p> <p>a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or</p> <p>b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, <i>ordre public</i> or other essential interests.</p> <p>6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.</p> <p>4 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.</p>	<p>the measure concerning the seized assets and immovables, rights and receivables is to be continued.</p> <p>e) The request shall be rejected where a notification indicating that restrictive or mandatory measure would be implemented is included in the request for legal assistance.</p> <p>f) Foreign judicial authorities may request to be present during the execution of the proceeding within the scope of the request for legal assistance. The request shall be fulfilled if considered appropriate.</p> <p>g) In the event that the person has been convicted or acquitted by the Turkish courts or the offence has been paroled or lapsed, requests for legal assistance concerning the same act may not be executed.</p>
<p><b>Article 30 – Expedited disclosure of preserved traffic data</b></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 7/1 and article 8 of the Law No. 6706:</p> <p>7- (1) Judicial authorities may request legal assistance in the necessary issues in order to conclude an investigation or prosecution or to execute a conviction judgment. In this case, the following provisions shall apply:</p> <p>a) Provisional measures may be requested to be taken prior to the request for legal assistance in order to protect the evidence in the cases where delay is prejudicial.</p> <p>b) Notifications indicating that restrictive or mandatory measures may be applied shall not be included in the requests for legal assistance concerning the service of documents.</p> <p>c) Appearing in person during the execution of the proceeding subject to the request for legal assistance may be requested.</p> <p>d) The proceedings carried out within the scope of the request for legal assistance in compliance with the domestic law of the related State shall be deemed valid with regard to Turkish law.</p> <p>8- (1) The following provisions shall apply to the requests for legal assistance:</p> <p>a) Requests shall be executed in accordance with Turkish law. In the case of</p>

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	<p>carrying out a special procedure, the request may be executed according to this procedure unless it is contrary to Turkish law.</p> <p>b) Turkish judicial authorities may reject the requests partially or completely or may request supplementary information or documents when required.</p> <p>c) Provisional measures may be taken in the cases when delay is prejudicial in order to protect the evidence before the request for legal assistance is submitted. If the request for legal assistance is not received by the Central Authority within forty days following the date of provisional measure, the measure shall be abolished forthwith by the competent authorities or the competent bodies.</p> <p>d) In the event that search or seizure is requested, the offence subject to the request must be an extraditable offence. Turkish judicial authorities shall request, at least once a year, information from the requesting State on whether the measure concerning the seized assets and immovables, rights and receivables is to be continued.</p> <p>e) The request shall be rejected where a notification indicating that restrictive or mandatory measure would be implemented is included in the request for legal assistance.</p> <p>f) Foreign judicial authorities may request to be present during the execution of the proceeding within the scope of the request for legal assistance. The request shall be fulfilled if considered appropriate.</p> <p>g) In the event that the person has been convicted or acquitted by the Turkish courts or the offence has been paroled or lapsed, requests for legal assistance concerning the same act may not be executed.</p>
<p><b>Article 31 – Mutual assistance regarding accessing of stored computer data</b></p> <p>1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.</p> <p>2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.</p> <p>3 The request shall be responded to on an expedited basis where:</p> <p>a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or</p> <p>b the instruments, arrangements and laws referred to in paragraph 2</p>	<p>Article 5 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Application of procedural provisions</p> <p>(1) While executing the request for judicial cooperation, the provisions of the Criminal Procedure Code dated 04/12/2004 and numbered 5271 shall be applied in the cases which are not provided for by this Law and the other Laws.</p>

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otherwise provide for expedited co-operation.	
<p><b>Article 32 – Trans-border access to stored computer data with consent or where publicly available</b></p> <p>A Party may, without the authorisation of another Party:</p> <p>a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or</p> <p>b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.</p>	<p>Article 5 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Application of procedural provisions</p> <p>(1) While executing the request for judicial cooperation, the provisions of the Criminal Procedure Code dated 04/12/2004 and numbered 5271 shall be applied in the cases which are not provided for by this Law and the other Laws.</p>
<p><b>Article 33 – Mutual assistance in the real-time collection of traffic data</b></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 5 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Application of procedural provisions.</p> <p>(1) While executing the request for judicial cooperation, the provisions of the Criminal Procedure Code dated 04/12/2004 and numbered 5271 shall be applied in the cases which are not provided for by this Law and the other Laws.</p>
<p><b>Article 34 – Mutual assistance regarding the interception of content data</b></p> <p>The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.</p>	<p>Article 5 of the Law no. 6706 on International Judicial Cooperation in Criminal Matters - Application of procedural provisions</p> <p>(1) While executing the request for judicial cooperation, the provisions of the Criminal Procedure Code dated 04/12/2004 and numbered 5271 shall be applied in the cases which are not provided for by this Law and the other Laws.</p>
<p><b>Article 35 – 24/7 Network</b></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</p>	<p>Direct application of the Article.</p>

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<p>carrying out the following measures:</p> <ul style="list-style-type: none"> <li>a the provision of technical advice;</li> <li>b the preservation of data pursuant to Articles 29 and 30;</li> <li>c the collection of evidence, the provision of legal information, and locating of suspects.</li> </ul> <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><b>Article 42 – Reservations</b></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>	