



Cybercrime legislation – country profile

MEXICO

This profile has been prepared within the framework of the Council of Europe's Project on Cybercrime in view of sharing information on cybercrime legislation and assessing the current state of implementation of the Convention on Cybercrime under national legislation. It does not necessarily reflect official positions of the country covered or of the Council of Europe.

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Country:	MEXICO
Signature of Convention:	No
Ratification/accession:	No What measure are being undertaken in your country to become a Party? Mexico was already invited by the committee of ministers of the CoE to become a part. What specific obstacles (legislative or other) prevent ratification/accession? MEXICO HAS A CRIMMINAL CODE AT THE FEDERAL LEVEL AS WELL AS 32 LOCAL CODES (31 PERTAINING TO THE STATES OF THE UNION AND ONE FOR THE FEDERAL DISTRICT). THE FOLLOWING COMMENTS WILL BE RELATED TO THE FEDERAL ONE, HETREINAFTER "THE CODE".
Provisions of the Convention	Corresponding provisions/solutions in national legislation <i>(pls quote or summarise briefly; pls attach relevant extracts as an appendix)</i>
<i>Chapter I – Use of terms</i>	OFFENCES DIRECTLY RELATED TO COMPUTER SYSTEMS ARE PROVIDED WITHIN ARTICLES 211 BIS 1 THROUGH 211 BIS 7 OF THE CODE, NON E OF THEM CONTAINS PROVISIONS RELATED TO "USE OF TERMS"
Article 1 – "Computer system", "computer data", "service provider", "traffic data"	SAME AS ABOVE
<i>Chapter II – Measures to be taken at the national</i>	MEXICO HAS'NT SIGN THE CONVENTION, THEREFORE, THERE IS'NT ANY MANDATORY MEASURE IT MAY TAKE.

<i>level</i> Section 1 – Substantive criminal law	
Article 2 – Illegal access	<p>ILLEGAL ACCESS TO A COMPUTER SYSTEM “PROTECTED BY A SECURITY MECANISM” IS PUNISHED BY ARTICLE 211 BIS 1 OF THE CODE, WITH TRHEE MONTHS TO ONE YEAR OF IMPRISONMENT.</p> <p>ACCORDING TO ARTICLE 211 BIS 2, IF THE SYSTEM IS STATE OWNED, THE PENALTY WILL BE BETWEEN SIX MONTHS AND TWO YEARS OF IMPRSONMENT.</p> <p>IF THE SYSTEM BELONGS TO A FINANCIAL INSTITUTION (BANKS, THE STOCK EXCHANGE OR STOCK EXCHANGE BROKERS, INSURANCE COMPANIES, ETC), ARTICLE 211 BIS 4 PROVIDES A PENALTY BETWN THREE MOTHS AND TWO YEARS OF IMPRISONMENT.</p>
Article 3 – Illegal interception	IT IS NOT CONTEMPALTED WITHIN THE CODE.
Article 4 – Data interference	<p>a).- IF THE PERPETRATOR WAS AUTHOIRZED TO HAVE ACCESS TO THE SYSTEM DAMAGED IN ANY OF THE WAYS DESCRIBED IN THE CONVENTION, THE RELATED PENALIES WILL BE:</p> <p>(i) IF THE SYSTEM BELONGS TO THE STATE, FROM TWO TO EIGHT YEARS IMPRISONMENT. (ARTICLE 211 BIS 3)</p> <p>(ii) IF IT BELONGS TO A “FINANCIAL INSTITUTION”, AS DESCRIBED ABOVE, FROM SIX MONTHS TO FOUR YEARS IMPRISONMENT. (ARTICLE 211 BIS 5)</p> <p>b).- IF THE PERPETRATOR WASN’T AUTHORIZED TO ACCESS THE SYSTEM:</p> <p>(i) IF THE SYSTEM BLEONGS TO THE STATE, THE PENALTY WILL BE BETWEEN ONE AND FOUR YEARS IMPRISONMENT. (ARTICLE 211 BIS 2).</p> <p>(ii) IF THE COMPUTER SYSTEM BELONGS TO A FINANCIAL INSTITUTION, THE PENALTY WILL BE FROM SIX MONTHS TO FOUR YEARS IMPRISONMENT (ARTICLE 211 BIS 4).</p>
Article 5 – System interference	SAME AS ABOVE
Article 6 – Misuse of devices	SAME AS ABOVE
Article 7 – Computer-related forgery	THERE IS NOT A SPECIFIC PROVISION REGARDING COMPUTER RELATED FORGERY. THEREFORE, IT WILL BE PUNISHED AS FORGERY, DESPITE THE MEANS TO COMMIT SUCH A CRIME.
Article 8 – Computer-related fraud	SAM E AS ABOVE.
Article 9 – Offences related to child pornography	SAME AS ABOVE
Title 4 – Offences related to infringements of copyright and related rights	SAME AS ABOVE
Article 10 – Offences	SAME AS ABOVE

related to infringements of copyright and related rights	
Article 11 – Attempt and aiding or abetting	THERE IS NOT A SPECIFIC PROVISION REGARDING THE OFFENCES DESCRIBED IN THE CONVENTION, THEREFORE, THE ATTEMPT AND AIDING OR ABEITING, WILL BE PUNISHED ACCORDING THE RULES OF THE CODE APPLICABLE TO ANY OTHER OFFENCE.
Article 12 – Corporate liability	SAME AS ABOVE.
Article 13 – Sanctions and measures	ACCORDING TO ARTICLES 211 BIS 1 TO 211 BIS 7 OF THE CODE, ALL OFFENCES CONTAINED IN THE CONVENTION ARE PUNISHABLE IN MEXICO BY BOTH DEPRIVATION OF LIBERTY AND MONETARY SANCTIONS.
<i>Section 2 – Procedural law</i>	CONSERVATION, DISCLOSURE AND PRODUCTION OF COMPUTER SYSTEM'S DATA MIGHT BE DONE ACCORDING TO THE GENERAL PROVISIONS APPLICABLE TO ALL KIND OF INFORMATION.
Article 14 – Scope of procedural provisions	MEXICAN LAW DOESN'T CONTAIN ANY PROVISION REGARDING NIETHER THE REAL-TIME COLLECTION OF TRAFFIC DATA, NOR THE INTERCEPTION OF ONTENT DATA
Article 15 – Conditions and safeguards	SAME AS ABOVE
Article 16 – Expedited preservation of stored computer data	MEXCIAN LAW DOES'NT CONTAINS PROVISIONS REGARDING THE PRESERVATION OF STORED COMPUTER DATA
Article 17 – Expedited preservation and partial disclosure of traffic data	MEXICAN LAW DOES'NT CONTAINS PROVISIONS REGARDING THE EXPEDITED PRESERVATION AND/OR DISCLOSURE OF COMPUTER TRAFFIC DATA.
Article 18 – Production order	SAME AS AVOBE.
Article 19 – Search and seizure of stored computer data	IT MIGHT BE DONE BY A JUDICIAL ORDER, AS ANY OTHER KIND OF INFORMATION.
Article 20 – Real-time collection of traffic data	MEXICAN LAW DOESN'T CONTAIN ANY PROVISION REGARDING NIETHER THE REAL-TIME COLLECTION OF TRAFFIC DATA, NOR THE INTERCEPTION OF ONTENT DATA
Article 21 – Interception of content data	SAME AS ABOVE
<i>Section 3 – Jurisdiction</i>	IT IS NOT APPLICABLE, BECAUSE MEXICO HAS'NT SIGNED THE CONVENTION.
Article 22 – Jurisdiction	SAME AS ABOVE.
<i>Chapter III – International co-operation</i>	
Article 24 – Extradition	PRINCIPLES ESTABLISHED BY THE CONVENTION ARE SUITABLE, ACCORDING TO THE MEXICAN EXTRADITION LAW.
Article 25 – General principles relating to mutual assistance	MEXICO COOPERATES AS AGREED WITHIN ALL MUTUAL LEGAL ASSISTANCE TREATYS, EITHER BILATERAL OR MULTILATERAL, AS WELL AS IN ACCORDANCE TO THE PRINCIPLE OF INTERNATIONAL RECIPROCITY.
Article 26 – Spontaneous information	IT IS NOT REGULATED IN MEXICO.
Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable	MEXICO COOPERATES WITH OTHER SATES UPON THE BASIS OF RECIPROCITY.

international agreements	
Article 28 – Confidentiality and limitation on use	MEXICO HAS NOT SIGNED THE CONVENTION.
Article 29 – Expedited preservation of stored computer data	IT MIGHT BE DONE DEPENDING ON THE CIRCUMSTANCES OF EACH CASE. THERE IS NOT A SPECIFIC INTERNAL REGULATION. IT MIGHT APPLY ACCORDING TO THE PROVISIONS OF A SPECIFIC TREATY SIGNED BY MEXICO
Article 30 – Expedited disclosure of preserved traffic data	SAME AS ABOVE.
Article 31 – Mutual assistance regarding accessing of stored computer data	SAME AS ABOVE.
Article 32 – Trans-border access to stored computer data with consent or where publicly available	SAME AS ABOVE
Article 33 – Mutual assistance in the real-time collection of traffic data	SAME AS ABOVE.
Article 34 – Mutual assistance regarding the interception of content data	SAME AS ABOVE.
Article 35 – 24/7 Network	MEXICO HAS NOT SIGNED THE CONVENTION.
Article 42 – Reservations	

Appendix: **Solutions in national legislation**

Legislación Federal (Vigente al 9 de mayo de 2007)

CODIGO PENAL FEDERAL

LIBRO SEGUNDO

TÍTULO NOVENO. REVELACIÓN DE SECRETOS Y ACCESO ILÍCITO A SISTEMAS Y EQUIPOS DE INFORMÁTICA

CAPÍTULO II. ACCESO ILÍCITO A SISTEMAS Y EQUIPOS DE INFORMÁTICA

[Artículo 211 bis 1]

Artículo 211 bis 1. Al que sin autorización modifique, destruya o provoque pérdida de información contenida en sistemas o equipos de informática protegidos por algún mecanismo de seguridad, se le impondrán de seis meses a dos años de prisión y de cien a trescientos días multa. Al que sin autorización conozca o copie información contenida en sistemas o equipos de informática protegidos por algún mecanismo de seguridad, se le impondrán de tres meses a un año de prisión y de cincuenta a ciento cincuenta días multa.

[Artículo 211 bis 2]

Artículo 211 bis 2. Al que sin autorización modifique, destruya o provoque pérdida de información contenida en sistemas o equipos de informática del Estado, protegidos por algún mecanismo de seguridad, se le impondrán de uno a cuatro años de prisión y de doscientos a seiscientos días multa.

Al que sin autorización conozca o copie información contenida en sistemas o equipos de informática del Estado, protegidos por algún mecanismo de seguridad, se le impondrán de seis meses a dos años de prisión y de cien a trescientos días multa.

[Artículo 211 bis 3]

Artículo 211 bis 3. Al que estando autorizado para acceder a sistemas y equipos de informática del Estado, indebidamente modifique, destruya o provoque pérdida de información que contengan, se le impondrán de dos a ocho años de prisión y de trescientos a novecientos días multa.

Al que estando autorizado para acceder a sistemas y equipos de informática del Estado, indebidamente copie información que contengan, se le impondrán de uno a cuatro años de prisión y de ciento cincuenta a cuatrocientos cincuenta días multa.

[Artículo 211 bis 4]

Artículo 211 bis 4. Al que sin autorización modifique, destruya o provoque pérdida de información contenida en sistemas o equipos de informática de las instituciones que integran el sistema financiero, protegidos por algún mecanismo de seguridad, se le impondrán de seis meses a cuatro años de prisión y de cien a seiscientos días multa.

Al que sin autorización conozca o copie información contenida en sistemas o equipos de informática de las instituciones que integran el sistema financiero, protegidos por algún mecanismo de seguridad, se le impondrán de tres meses a dos años de prisión y de cincuenta a trescientos días multa.

[Artículo 211 bis 5]

Artículo 211 bis 5. Al que estando autorizado para acceder a sistemas y equipos de informática de las instituciones que integran el sistema financiero, indebidamente modifique, destruya o provoque pérdida de información que contengan, se le impondrán de seis meses a cuatro años de prisión y de cien a seiscientos días multa.

Al que estando autorizado para acceder a sistemas y equipos de informática de las instituciones que integran el sistema financiero, indebidamente copie información que contengan, se le impondrán de tres meses a dos años de prisión y de cincuenta a trescientos días multa.

Las penas previstas en este artículo se incrementarán en una mitad cuando las conductas sean cometidas por funcionarios o empleados de las instituciones que integran el sistema financiero.

[Artículo 211 bis 6]

Artículo 211 bis 6. Para los efectos de los artículos 211 Bis 4 y 211 Bis 5 anteriores, se entiende por instituciones que integran el sistema financiero, las señaladas en el artículo 400 Bis de este Código.

[Artículo 211 bis 7]

Artículo 211 bis 7. Las penas previstas en este capítulo se aumentarán hasta en una mitad cuando la información obtenida se utilice en provecho propio o ajeno.