

# Project on Cybercrime

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COUNCIL OF EUROPE  
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## Cybercrime legislation – country profile

### Republic of Croatia

*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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<b>Country:</b>	<b>Republic of Croatia</b>
Signature of Convention:	23.11.2001
Ratification/accession:	03.07.2002
<b>Provisions of the Convention</b>	<b>Corresponding provisions/solutions in national legislation</b> <i>(pls quote or summarise briefly; pls attach relevant extracts as an appendix)</i>
<i>Chapter I – Use of terms</i>	
Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”	Criminal law, article 89. paragraphs 31., 32., and 33. (OG 105/04.)
<i>Chapter II – Measures to be taken at the national level</i>	
<i>Section 1 – Substantive criminal law</i>	
Article 2 – Illegal access	Criminal law, article 223 paragraph 1. (OG 105/04.)
Article 3 – Illegal interception	Criminal law, article 223. paragraph 4. (OG 105/04.)
Article 4 – Data interference	Criminal law, article 223. paragraph 3. (OG 105/04.)
Article 5 – System interference	Criminal law, article 223 paragraph 3. (OG 105/04.)
Article 6 – Misuse of devices	Criminal law, article 223. paragraph 6. and 7. (OG 105/04.)
Article 7 – Computer-related forgery	Criminal law, article. 223. A (OG 105/04.)
Article 8 – Computer-	Criminal law, article 224. A (OG 105/04.)

related fraud	
Article 9 – Offences related to child pornography	Criminal law, article 197. A (OG 105/04.)
Title 4 – Offences related to infringements of copyright and related rights	Criminal law, articles 230. and 231. (OG 110/97)
Article 10 – Offences related to infringements of copyright and related rights	Criminal law, articles 230. and 231. (OG 110/97.)
Article 11 – Attempt and aiding or abetting	Criminal law, articles 33., 37., and 38. (OG 105/04.)
Article 12 – Corporate liability	Law on liability of legal entities. (OG 151/03.)
Article 13 – Sanctions and measures	Criminal law, articles: 197. A., 223., 223. A, 224. A, 230., 231. and article 174. paragraph 4. - Protocol (OG 105/04.)
<i>Section 2 – Procedural law</i>	
Article 14 – Scope of procedural provisions	
Article 15 – Conditions and safeguards	
Article 16 – Expedited preservation of stored computer data	
Article 17 – Expedited preservation and partial disclosure of traffic data	
Article 18 – Production order	
Article 19 – Search and seizure of stored computer data	Criminal procedure law, article 211. B. paragraph 2., and article 215. (OG 58/02.).
Article 20 – Real-time collection of traffic data	
Article 21 – Interception of content data	
<i>Section 3 – Jurisdiction</i>	
Article 22 – Jurisdiction	Criminal law, HEAD II., articles 13.,14.,15., and 16. (OG 105/04.)
<i>Chapter III – International co-operation</i>	
Article 24 – Extradition	Law about international legal aid in criminal matters, articles 32. – 61. (OG 178/04.).
Article 25 – General principles relating to mutual assistance	Law about international legal aid in criminal matters, article 1. (OG 178/04.)
Article 26 – Spontaneous information	Law about international legal aid in criminal matters, article 18. (OG 178/04.)
Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable	Law about international legal aid in criminal matters, articles. 6. – 31. (OG 178/04.)

international agreements	
Article 28 – Confidentiality and limitation on use	Law about international legal aid in criminal matters, article 21. (OG 178/04.).
Article 29 – Expedited preservation of stored computer data	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 30 – Expedited disclosure of preserved traffic data	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 31 – Mutual assistance regarding accessing of stored computer data	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 32 – Trans-border access to stored computer data with consent or where publicly available	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 33 – Mutual assistance in the real-time collection of traffic data	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 34 – Mutual assistance regarding the interception of content data	Law about international legal aid in criminal matters, article 4. connected to article 10. (OG 178/04.).
Article 35 – 24/7 Network	Crotaia is listed in 24/7 contact point list.
Article 42 – Reservations	

## Appendix: **Solutions in national legislation**

### **Criminal Code of the Republic of Croatia**

#### **Article 13**

(1) The criminal legislation of the Republic of Croatia shall apply to anyone who commits a criminal offense within its territory.

(2) The criminal legislation of the Republic of Croatia shall also apply to anyone who commits a criminal offense aboard a domestic vessel, regardless of the location of such a vessel at the time the criminal offense is committed.

(3) The criminal legislation of the Republic of Croatia shall also apply to anyone who commits a criminal offense aboard a domestic civil aircraft while in flight, or a domestic military aircraft, regardless of the location of such an aircraft at the time the criminal offense is committed.

Applicability of Criminal Legislation to Criminal Offenses Committed Outside the Territory of the Republic of Croatia

#### **Article 14**

(1) The criminal legislation of the Republic of Croatia shall apply to anyone who, outside its territory, commits:

–any criminal offense against the Republic of Croatia provided for in Chapter (xii) of this Code;

–the criminal offense of counterfeiting money and securities of the Republic of Croatia as defined in Articles 274 and 275 of this Code;

–a criminal offense against a Croatian state official or a civil servant relating to his office.

(2) The criminal legislation of the Republic of Croatia shall be applied to a Croatian citizen who, outside the territory of the Republic of Croatia, commits a criminal offense other than those specified in paragraph 1 of this Article.

(3) The criminal legislation of the Republic of Croatia shall be applied to an alien who, outside the territory of the Republic of Croatia, commits a criminal offense against the Republic of Croatia or its citizen which is not specified in paragraph 1 of this Article.

(4) The criminal legislation of the Republic of Croatia shall be applied to an alien who, outside the territory of the Republic of Croatia, commits against a foreign state or another alien a criminal offense for which, under the law in force in the place of crime, a punishment of five years of imprisonment or a more severe penalty may be applied or who commits a criminal offense from Chapter (xiii) of this Code.

(5) In the cases referred to in paragraphs 2 and 3 of this Article, the criminal legislation of the Republic of Croatia shall be applied only if the perpetrator of the criminal offense is found within the territory of the Republic of Croatia, or has been extradited to it, and in the case referred to in paragraph 4 of this Article, only if the perpetrator is found within the territory of the Republic of Croatia and is not extradited to another state.

Particularities Regarding the Institution of Criminal Proceedings for Criminal Offenses Committed within the Territory of the Republic of Croatia

#### **Article 15**

(1) When, in the case of the applicability of the criminal legislation of the Republic of Croatia pursuant to Article 13 of this Code, criminal proceedings have commenced or are terminated in a foreign state, criminal proceedings in the Republic of Croatia shall be instituted only upon approval of the State Attorney of the Republic of Croatia.

(2) When, in the case of the applicability of the criminal legislation of the Republic of Croatia pursuant to Article 13 of this Code, the perpetrator of a criminal offense is an alien, criminal proceedings may, under conditions of reciprocity, be ceded to the foreign state.

(3) The decision on ceding criminal proceedings in the case referred to in paragraph 2 of this Article shall be passed by the State Attorney of the Republic of Croatia.

Particularities Regarding the Institution of Criminal Proceedings for Criminal Offenses Committed outside the Territory of the Republic of Croatia.

#### **Article 16**

(1) In the cases specified in Article 14, paragraphs 2, 3 and 4 of this Code, criminal proceedings for the purposes of applying the criminal legislation of the Republic of Croatia shall not be instituted:

-if the perpetrator has served in full the sentence imposed on him in a foreign state;

-if the perpetrator has been acquitted by a final judgment in a foreign state, or if he has been pardoned, or if the statutory time limitation has expired under the law in force at the place of crime;

-if, under the law in force at the place of the crime, criminal proceedings may be instituted only upon a motion, a consent or a private charge of the person against whom the criminal offense had been committed, and such a motion was not made or a private charge was not brought, or the consent was not given.

(2) If, in the cases specified in Article 14, paragraphs 2, 3 and 4 of this Code, such an act does not constitute a criminal offense under the law in force in the country of the perpetration, criminal proceedings may be instituted only upon the approval of the State Attorney of the Republic of Croatia.

(3) In the case referred to in Article 14, paragraph 4 of this Code, when the committed act is not punishable under the law in force in the country in which it was committed but is deemed to be a criminal offense according to the general principles of law of the international community, the State Attorney of the Republic of Croatia may authorize the institution of criminal proceedings in the Republic of Croatia and the application of the criminal legislation of the Republic of Croatia.

#### **Article 33**

(1) Whoever intentionally commences to execute a criminal offense but does not consummate it shall be punished for the attempt only of a criminal offense for which a punishment of five years of imprisonment or a more serious penalty is prescribed by law, while the attempt of another criminal offense is punishable only if the law expressly provides for the punishment for an attempt.

(2) The perpetrator who attempts to commit a criminal offense shall be punished as if the offense had been completed, but the punishment can also be mitigated.

(3) If the perpetrator attempts to commit a criminal offense by means that are inappropriate to accomplish the ends sought, or against an object upon which a criminal offense could not have been committed, the court may remit the punishment.

#### **Article 37**

(1) Whoever intentionally instigates another to commit a criminal offense shall be punished as if he himself committed it.

(2) Whoever intentionally instigates another to commit a criminal offense whose attempt is punishable shall be punished as for the attempt of such a criminal offense even if the offense itself has not been attempted.

(3) In the case of an inadvertent attempt of instigation, the court may remit the punishment of the instigator.

#### **Article 38**

(1) Whoever intentionally aids and abets another in the perpetration of a criminal offense shall be punished as if he himself committed it, but the punishment may also be mitigated.

(2) The following shall in particular be deemed acts of aiding and abetting: giving advice or instructions on how to commit a criminal offense, providing the perpetrator with the means for the perpetration of a criminal offense, removing obstacles for the perpetration of a criminal offense, giving an advance promise to conceal the criminal offense, the perpetrator, or the means by which

the criminal offense was committed, as well as concealing the traces of a criminal offense or the objects procured by the criminal offense.

## Article 89

(1) The *territory* of the Republic of Croatia denotes land, rivers, lakes, channels, internal maritime waters, territorial sea, and the air space above these areas.

(2) The *criminal legislation* of the Republic of Croatia refers to the provisions contained in this Code and other statutes of the Republic of Croatia.

(3) An *official person*, when referred to as the perpetrator of a criminal offense, is an official elected or nominated to a representative body, a public official or a person performing official duties in bodies of the state administration, local self-government and administration, a unit of local self-government, the judiciary, the Constitutional Court of the Republic of Croatia, the State Attorney's Office, the Ombudsman's Office, the Ombudsman's Office for Children, Office of the President of the Republic, or a body, an office or an expert agency of the Government of the Republic of Croatia and the Croatian *Sabor*, a judicial official, a judge of the Constitutional Court of the Republic of Croatia, the State Attorney of the Republic of Croatia and his deputies, the Ombudsman of the Republic of Croatia and his deputies and the Ombudsman for Children and his deputies or a notary public. An official person is also a foreign lay judge, a domestic or a foreign arbitrator, a foreign civil servant, a representative or an official of a foreign representative body, an official of an international organization of which the Republic of Croatia is a member, a representative or an official of an international assembly of which the Republic of Croatia is a member, and a judge or an official of an international court whose judicial competence the Republic of Croatia has recognized.

(4) A *military person* is a soldier serving a military term, a cadet at military school, an active military person, a person from the reserve forces while on military service, an army clerk or an army employee, as well as a civilian performing a military duty.

(5) When an official person is designated as the person against whom a criminal offense has been committed, an official person within the meaning of this Code shall, in addition to persons specified in paragraph 3 of this Article, also be a military person referred to in paragraph 4 of this Article.

(6) A *legal entity*, as referred to in this Code, is an enterprise, a public company, a company, a fund, an institution, a political or social organization and an association of citizens, a unit of local self-government and administration, as well as some other legal entity which, within the framework of its regular business, regularly or occasionally generates or provides resources and disposes of them.

(7) A *responsible person*, as referred to in this Code, is a person who is entrusted with particular tasks from the field of activities of a legal entity, a government body, a body of local self-government and administration or a local self-government body.

(8) When an official or a responsible person of a legal entity is described as the perpetrator of certain criminal offenses, the persons specified in paragraphs 3 and 7 of this Article may be the perpetrators of such offenses, unless it is obvious from the characteristics of a particular offense or a specific regulation that the perpetrator may only be a particular person among those specified.

(9) A *child*, as referred to in this Code, is a person who has not reached the age of fourteen years.

(10) A *juvenile*, as referred to in this Code, is a person who has not reached the age of eighteen years.

(11) A *person under international protection* is a Head of State, a Prime Minister or Minister of Foreign Affairs when outside his own state, as well as any official representative of an internationally recognized organization, when he, or his official premises, his private home or his means of transport, can be clearly identified as being specially protected under international law.

(12) A *state secret* is information which is designated as such by statute, by some other legal provision or by the bylaws of a competent body passed in accordance with the law, and whose disclosure would cause effects harmful to national security or the national interest of the Republic of Croatia.

(13) A *military secret* is information which is designated as such by statute or some other legal provision or by the bylaws of a competent body passed in accordance with the law.

(14) *Anofficial secretis* information received and used for the needs of official bodies, designated to be an official secret by statute, some other legal provision or bylaws of a competent body passed in accordance with the law.

(15) *Abusiness secretis* information designated as such by statute, some other legal provision or by the bylaws of a company, an institution or other legal entity, and which presents a manufacturer's secret, the results of research or design work, as well as other information whose disclosure to an unauthorized person could have harmful effects on the economic interests of a company, an institution or any other legal entity.

(16) *Aprofessional secretis* information about the personal or family life of clients, entrusted to attorneys-at-law, defense counsels, notaries public, physicians, dentists, midwives or other health service personnel, psychologists, guardians, religious confessors and other persons when performing their respective professions.

(17) *Apersonal secretis* information about a person which is designated to be a secret by statute, some other legal provision or the bylaw of a competent body passed in accordance with the law.

(18) *Adocumentwith secret contents*, as referred to in this Code, is a confidential fact, information, writing, object, or oral communication of a confidential nature disclosed in the course of the work of a government body, public administrative bodies or other legal entities with public authorization, as well as a fact collected in the course of registering the personal data of citizens.

(19) *Elections* are the elections of representatives to the House of Representatives and House of the Counties of the Croatian *Sabor*, of the President of the Republic, of members of representative bodies in the units of local self-government and administration, the units of self-government, as well as of members of boards of directors and supervisory boards in companies and other legal entities.

(20) *More persons* stands for two or more persons.

(21) *Abody of people* stands for five or more persons.

(22) *Agroup of people*, as referred to in this Code, is a group of at least three persons who are connected for the purpose of the regular or occasional perpetration of criminal offenses, whereby each of them exercises his share in the perpetration of a criminal offense.

(23) *A criminal organization* is a hierarchically structured association of at least three persons who act within a specific period and have gathered to commit criminal offenses in order to realize pecuniary gain or to realize and supervise certain economic or other activities.

(24) *A document*, as referred to in this Code, is any object suitable or designated to serve as evidence of a fact relevant to legal relationships.

(25) *Currency* denotes coins and banknotes, being legal tender in the Republic of Croatia or in a foreign country.

(26) *Official stamps, seals and other objects of value*, as referred to in this Code, also include foreign official stamps, seals and other objects of value.

(27) *Amovable object* also involves any generated or accumulated power for the purpose of providing light, heat or locomotion, including telecommunication services calculated on the basis of units of time.

(28) *A motor vehicle* is any engine-driven transportation device used in land-, water-, and air - traffic.

(29) *Force* also includes the application of hypnosis or intoxicants, used to bring a person, against his own will, into a state of unconsciousness or to incapacitate him from offering resistance.

(30) *Family members*, as referred to in this Code, are: a spouse or a common-law partner, a former spouse or a former common-law partner, a lineal relative, an adoptive parent and an adoptee, a collateral relative up to the third degree inclusive and an in-law relative up to the second degree of affinity inclusive.

#### **Article 174**

(1) Whoever, on the basis of a difference in race, religion, political or other belief, property, birth, education, social position or other characteristics, or on the basis of gender, color, national or - ethnic origin, violates fundamental human rights and freedoms recognized by the international community shall be punished by imprisonment for six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever persecutes organizations or individuals for promoting equality between people.

(3) Whoever publicly states or disseminates ideas on the superiority or subordination of one race, ethnic or religious community, gender, ethnicity or ideas on superiority or subordination on the basis of color for the purpose of spreading racial, religious, sexual, national and ethnic hatred or hatred based on color or for the purpose of disparagement shall be punished by imprisonment for three months to three years.

#### **Article 197**

(1) Whoever sells, donates, shows, publicly exhibits or otherwise makes accessible to a child the writings, pictures, audiovisual material or other objects of pornographic content or shows the child a pornographic performance shall be punished by a fine or by imprisonment not exceeding three years.

(2) The objects meant and used for the perpetration of the criminal offense referred to in paragraphs 1 and 2 of this Article shall be forfeited and the objects that are the result of the perpetration of the criminal offense referred to in paragraphs 1 and 2 of this Article shall be forfeited and destroyed and materials referred to in paragraph 1 of this Article shall be forfeited.

#### **Article 223**

(1) Whoever, without authorization despite the protective measures, accesses the computer data or programs of another shall be punished by a fine or by imprisonment not exceeding three years.

(2) Whoever renders unusable or hinders the work or the use of computer systems, computer programs or electronic data and communication shall be punished by a fine or by imprisonment not exceeding three years.

(3) Whoever damages, alters, deletes, destroys or in some other way renders unusable or inaccessible the electronic data or computer programs of another shall be punished by a fine or by imprisonment not exceeding three years.

(4) Whoever intercepts or records the nonpublic transmission of electronic data to, within or from a computer system, not intended for his use, including the electromagnetic transmissions of data in the computer system, or whoever enables an unauthorized person to access these data shall be punished by a fine or by imprisonment not exceeding three years.

(5) If the criminal offense referred to in paragraphs 1, 2, 3 and 4 of this Article is committed in connection with the computer system, electronic data or computer program of a governmental body, a public institution or a company of special public interest, or if significant damage is caused, the perpetrator shall be punished by imprisonment for three months to five years.

(6) Whoever, without authorization, produces, procures, sells, possesses or makes available to another person special devices, equipment, computer programs and electronic data created or adapted for the perpetration of the criminal offense referred to in paragraphs 1, 2, 3 and 4 of this Article shall be punished by a fine or by imprisonment not exceeding three years.

(7) Special devices, equipment, computer programs or electronic data created, used or adapted for the perpetration of criminal offenses and used for the perpetration of the criminal offense referred to in paragraphs 1, 2, 3 and 4 of this Article shall be forfeited.

(8) Whoever attempts to perpetrate the criminal offenses referred to in paragraphs 1, 2, 3 and 4 of this Article shall be punished.

#### **Article 223a**

(1) Whoever, without authorization, develops, installs, alters, deletes or makes unusable computer data or programs that are of significance for legal relations in order for them to be used



as authentic, or whoever uses such data or programs shall be punished by a fine of by imprisonment not exceeding three years.

(2) If the criminal offense referred to in paragraph 1 of this Article is committed in connection with the computer data or programs of a governmental body, a public institution or a company of particular public interest, or if significant damage is caused, the perpetrator shall be punished by imprisonment for three months to five years.

(3) Whoever, without authorization, produces, procures, sells, possesses or makes available to another person special devices, equipment, computer programs or electronic data created or adopted for the perpetration of the criminal offense referred to in paragraphs 1 and 2 of this Article shall be punished by a fine or by imprisonment not exceeding three years.

(4) Special devices, equipment, computer programs or electronic data created, used or adapted for the perpetration of criminal offenses and which are used to perpetrate the criminal offense referred to in paragraphs 1 and 2 of this Article shall be forfeited.

(5) Whoever attempts to commit the criminal offenses referred to in paragraphs 1 and 2 of this Article shall be punished.

#### **Article 224**

(1) Whoever, with an aim to procure unlawful pecuniary gain for himself or a third party, by false representation or concealment of facts, deceives another or keeps such a person in deception, inducing him thereby to do or to omit to do something to the detriment of his property or the property of another, shall be punished by imprisonment for three months to five years.

(2) If by the perpetration of the criminal offense referred to in paragraph 1 of this Article, considerable pecuniary gain is acquired or if the criminal offense is committed while the perpetrator is a member of a group or a criminal organization, the perpetrator shall be punished by imprisonment for one to ten years.

(3) If, by the perpetration of the criminal offense referred to in paragraph 1 of this Article a small pecuniary gain is acquired and the perpetrator acted with the aim of acquiring such gain, the perpetrator shall be punished by a fine of up to one hundred and fifty daily incomes or by imprisonment not exceeding six months.

(4) Whoever commits the criminal offense referred to in paragraph 1 of this Article only with the aim of causing damage to another shall be punished by a fine or by imprisonment not exceeding three years.

(5) Criminal proceedings for the criminal offense referred to in paragraphs 3 and 4 of this Article shall be instituted by a private charge.

#### **Article 224a**

(1) Whoever, with an aim to procure unlawful pecuniary gain for himself or a third party, alters another person's electronic data or computer programs or in some other way alters their use and in such a way causes damage to another person shall be punished by imprisonment for six months to five years.

(2) Whoever, without authorization, produces, procures, sells, possesses or makes accessible to another special devices, equipment, computer programs or electronic data created and adapted for the perpetration of the criminal offenses referred to in paragraphs 1 or 2 of this Article shall be punished by a fine or by imprisonment not exceeding three years.

(3) Special devices, equipment, computer programs or electronic data created or adapted for the perpetration of criminal offenses that were used to perpetrate the criminal offense referred to in paragraphs 1 and 2 of this Article shall be forfeited.

(4) Whoever attempts to perpetrate the criminal offense referred to in paragraph 1 of this Article shall be punished.

#### **Article 230**

(1) Whoever, without the approval of the author or another carrier of the copyright, or the person who is authorized to grant approval when such approval is required pursuant to the provisions of

the law, or contrary to their prohibition, makes a master copy, reproduces, multiplies, puts into circulation, rents, imports, transfers across the border, shows, performs, broadcasts, transmits, makes accessible to the public, translates, adapts, refashions or in any other way uses a work of authorship, shall be punished by a fine or by imprisonment not exceeding three years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever, without approval of the performing artist or the person who is authorized to grant approval, when such approval is required pursuant to the provisions of the law, or contrary to their prohibition, records, reproduces, multiplies, puts into circulation, rents, imports, transfers across the border, shows, performs, broadcasts, transmits, makes accessible to the public or in any other way uses a performance of a performing artist.

(3) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever, intending to make possible the unauthorized use of an intellectual work or performance of a performing artist, produces, imports, transfers across the border, puts into circulation, rents, or enables another to use or exploit any kind of equipment or devices whose primary or predominant purpose is to enable the unauthorized removal or thwarting of some technical means or computer program intended to protect the copyright or the right of a performing artist against unauthorized use.

(4) The person on whom the objects intended for, or used in, the perpetration of a criminal offense are found, or come into being through the perpetration of the criminal offense referred to in paragraphs 1, 2 and 3 of this Article, while such a person knows it, could know or should have known it, shall be punished by a fine of up to one hundred daily incomes or by imprisonment not exceeding six months.

(5) If, by the perpetration of a criminal offense referred to in paragraphs 1, 2, and 3 of this Article, considerable pecuniary gain is acquired or considerable damage is caused while the perpetrator acts with intent to acquire such pecuniary gain or to cause such damage, the perpetrator shall be punished by imprisonment for six months to five years.

(6) The objects which were intended for or used in the perpetration of a criminal offense or came into being by the perpetration of the criminal offense referred to in paragraphs 1, 2 and 3 of this Article shall be forfeited, and the objects which came into being by the perpetration of the criminal offenses referred to in paragraphs 1, 2 and 3 of this Article shall be forfeited and destroyed.

#### **Article 231**

(1) Whoever, without the approval of the producer of an audio or video recording, when such approval is required pursuant to the provisions of the law, or contrary to his prohibition, broadcasts, multiplies directly or indirectly an audio or video recording, puts it without authorization into circulation, rents, imports, transfers across the border or makes it accessible to the public shall be punished by a fine or by imprisonment not exceeding three years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever, without the approval of the carrier of the right relating to radio broadcasts, when such approval is required pursuant to the law, or contrary to his prohibition, rebroadcasts such a broadcasting or recording, multiplies or puts into circulation the recording of the broadcast.

(3) If, by the perpetration of the criminal offense referred to in paragraphs 1 and 2 of this Article, considerable financial gain is acquired or considerable damage is caused while the perpetrator acts with an aim to acquire such pecuniary gain or to cause such damage, he shall be punished by imprisonment for six months to five years.

(4) The objects which were intended for or used in the perpetration of the criminal offense, or came into being through the perpetration of the criminal offense referred to in paragraphs 1, 2 and 3 of this Article, shall be forfeited and destroyed.

## **Criminal Procedure Code**

#### **Article 211**

(1) A search of a dwelling and other premises of a suspect, defendant or other persons as well as their movables located outside a dwelling may be carried out only if there is sufficient grounds for

suspicion that the perpetrator, the accomplice, traces of the offense or an object relevant for proceedings will be found.

(2) The search of movables in pursuance of paragraph 1 of this Article comprises a search of a computer and other devices for automatic data processing connected with the computer. Upon the request of the court, the persons using the computer shall provide access to the computer, hand over the equipment on which data is stored (diskettes, tapes, etc.) and give necessary information for the use of the computer. A person who refuses to comply with the preceding provision, although the reasons referred to in Article 236 of this Act do not exist, may be punished by the authority carrying out the search according to the provision of Article 218 paragraph 2 of this Act.

#### **Article 215**

(1) If in the course of a search of a dwelling or a person objects are found unrelated to the offense for which the search warrant was issued, but indicating the commission of another offense subject to public prosecution, they shall be noted in the record and temporarily seized, and a receipt on seizure shall be issued immediately. The State Attorney shall be notified thereof. These objects shall be returned immediately if the State Attorney determines that there are no grounds to institute criminal proceedings and if no other legal ground for the seizure of these objects exists.

(2) The objects used to search a computer or other device for automatic data processing shall be returned to their users after the search provided that they are not necessary in further criminal proceedings. Personal data obtained by a search may only be used for purposes of criminal proceedings and shall be erased immediately when this purpose ceases to exist.