

Project on Cybercrime

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COUNCIL OF EUROPE
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Cybercrime legislation – country profile

Lithuania

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.

Comments may be sent to:

Alexander Seger
Department of Technical Cooperation
Directorate General of Human Rights and Legal Affairs
Council of Europe, Strasbourg, France

Tel: +33-3-9021-4506
Fax: +33-3-9021-5650
Email: alexander.seger@coe.int
www.coe.int/cybercrime

Country:	Lithuania
Signature of Convention:	23/06/2003
Ratification/accession:	07/03/2004
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>	
Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”	No additional provisions except the definitions listed in Convention. After ratification of the Convention it is the Law and part of national legislation. Below listed articles are parts of the Criminal Code and Code of Criminal Procedure
<i>Chapter II – Measures to be taken at the national level</i> <i>Section 1 – Substantive criminal law</i>	
Article 2 – Illegal access	Article 198. Misappropriation and Dissemination of Computer Information 1. Any person, who misappropriates the legally protected computer information about a legal or natural person, shall be punished by a fine, or imprisonment for a term of up to 3 years. 2. Any person, who publicly spreads, discloses or disseminates or in other way uses information obtained by committing the acts specified in Paragraph 1 of this Article, shall be punished by a fine, or arrest, or imprisonment for a term of up to 4 years. 3. Any legal person shall also be held liable for the acts provided for in this Article.

		<p>Article 198-1. Illegal access to Computer or to Network</p> <p>1. Any person, who illegally accessed the Computer or the Network of Computers by infringing security measures of the Computer or the Network, shall be punished by community service, or a fine, or imprisonment for a term of up to 1 year.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p>
Article 3 – Illegal interception		<p>Article 198. Misappropriation and Dissemination of Computer Information</p> <p>1. Any person, who misappropriates the legally protected computer information about a legal or natural person, shall be punished by a fine, or imprisonment for a term of up to 3 years.</p> <p>2. Any person, who publicly spreads, discloses or disseminates or in other way uses information obtained by committing the acts specified in Paragraph 1 of this Article, shall be punished by a fine, or arrest, or imprisonment for a term of up to 4 years.</p> <p>3. Any legal person shall also be held liable for the acts provided for in this Article.</p>
Article 4 – Data interference		<p>Article 196. Destruction or Change of Computer Information.</p> <p>1. Any person, who destroys, damages, removes or changes computer information, or who restricts access to this kind of information by means of devices or computer programs, thus causing serious damage, shall be punished by community service, or a fine, or imprisonment for a term of up to 3 years.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p>
Article 5 – System interference		<p>Article 197. Destruction or Replacement of Software, Disruption of the Operation of Computer Network, Data bank or Information System</p> <p>1. Any person, who illegally destroys, damages, removes or replaces the software in a computer, or disrupts or changes the operation of a computer network, database or information thus causing serious damage, shall be punished by a fine, or imprisonment for a term of up to 3 years.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p>
Article 6 – Misuse of devices		<p>Article 198-2. Illegal possession of the devices, computer programme, passwords, access codes and other data with intent to commit a crime</p> <p>1. Any person, who illegally produced, carried, sold or disseminated the devices, computer programme, passwords, access codes and other similar data that are directly designed or adopted to commit the crimes which a foreseen in this Code’s Articles 166, 198 and 198-1 or having the intention to commit those crimes acquired or kept them, Shall be punished by community service, or a fine, or imprisonment for a term of up to 1 year.</p> <p>2. Any person, who illegally produced, carried, sold or disseminated the devices, computer programme, passwords, access codes and other similar data that are directly designed or adopted to commit the crimes which a foreseen in this Code’s Articles 196 and 197 or having</p>

	<p>the intention to commit those crimes acquired or kept them, Shall be punished by community service, or a fine, or imprisonment for a term of up to 3 year.</p> <p>3. Any legal person shall also be held liable for the acts specified in this Article.</p>
Article 7 – Computer-related forgery	<p>Article 214. Production or disposition of the other means of payment</p> <p>Article 215. Use of the illegal mean of payment or its data</p>
Article 8 – Computer-related fraud	<p>Article 182. Fraud.</p> <p>1. Any person who, for his personal or other’s advantage, by fraud obtains property or property right belonging to another person, evades or eliminates pecuniary obligation, shall be punished by community service or a fine, or restriction of liberty, or detention, or imprisonment for a term of up to 3 years.</p> <p>2. Any person who, for his personal or other’s advantage, by fraud obtains property or property right of high value belonging to another person, evades or eliminates pecuniary obligation of the same value, shall be punished by imprisonment for a term of up to 8 years.</p> <p>3. Any person who, for his personal or other’s advantage, by fraud obtains property or property right of low value belonging to another person, evades or eliminates a pecuniary obligation of the same value, commits a misdemeanour, and shall be punished by community service, or a fine, or restriction of liberty, or detention.</p> <p>4. The person shall be held liable for acts specified in Paragraphs 1 and 3 of this Article only in case a claim of the victim or a statement by his legal representative or a request by the prosecutor exists.</p> <p>5. Any legal persons shall also be held liable for acts specified in Paragraphs 1 and 2 of this Article.</p> <p>Article 196. Destruction or Change of Computer Information.</p> <p>1. Any person, who destroys, damages, removes or changes computer information, or who restricts access to this kind of information by means of devices or computer programs, thus causing serious damage, shall be punished by community service, or a fine, or imprisonment for a term of up to 3 years.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p> <p>Article 197. Destruction or Replacement of Software, Disruption of the Operation of Computer Network, Data bank or Information System</p> <p>1. Any person, who illegally destroys, damages, removes or replaces the software in a computer, or disrupts or changes the operation of a computer network, database or information thus causing serious damage, shall be punished by a fine, or imprisonment for a term of up to 3 years.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p>
Article 9 – Offences related to child pornography	<p>Article 162. The Use of a Child for Pornography</p> <p>1. Any person who exploited a child to produce a pornography, shall be punished by a fine, or imprisonment for a term of up to 4</p>

	<p>years.</p> <p>2. Any legal person shall also be held liable for the acts specified in this Article.</p> <p>Article 309. Possession of Pornographic Material (..)</p> <p>2. Any person who produced, acquired, possessed, publicly displays or advertises objects of a pornographic nature which represent a child or simulate a child, shall be punished by a fine or imprisonment for a term of up to 2 years.</p> <p>(..)</p> <p>4. Any legal persons shall also be held liable for acts specified in Paragraphs 1 and 2 of this Article.</p>
Title 4 – Offences related to infringements of copyright and related rights	
Article 10 – Offences related to infringements of copyright and related rights	<p>Article 192. Unlawful Reproduction of Works of Literature, Science, Art or Other Works, Distributing, Transporting or Storing Illegal Copies Thereof.</p> <p>1. Any person, who unlawfully makes reproductions of works of literature, science, art or other works, or parts thereof, or who for the commercial purposes imports, exports, distributes, transports or stores illegal copies thereof, where the total value of copies in retail prices of legal copies exceeds the sum of 100 MSLS (minimum standards of living), shall be punished by community service or a fine, or restriction of liberty, or detention, or imprisonment for a term of up to 2 years.</p> <p>Article 193. Destruction of the Information of Copyright and Related Rights</p> <p>Article 194. Unlawful Elimination of the Technical Protection of Copyright and Related Rights</p>
Article 11 – Attempt and aiding or abetting	<p>Article 25. Conspiracy and Forms of Conspiracy</p> <p>1. Conspiracy is the intentional involvement in the commission of a criminal act by two or more conspiring legally capable persons who have attained the age specified in Article 13 of this Code.</p> <p>2. The conspirators in the criminal act shall include a perpetrator, an organiser, an abettor and an accessory.</p> <p>3. The perpetrator is a person who actually commits the criminal act either by himself or by causing an incapacitated person or a person who has not yet attained the age specified in Article 13 of this Code or any other person who is not of a culpable mental state to commit the act. If the act is carried out by several persons acting together, each person is considered a perpetrator (co-perpetrator).</p> <p>4. The organiser is a person who forms a group of conspirators, an organised group or a criminal association, heads the group or coordinates the activities of its members, or makes preparations for a criminal act and oversees its commission.</p> <p>5. The abettor is a person who incites another person to commit a specific criminal act.</p> <p>6. The accessory is a person who aids, counsels or commands another in the commission of a criminal act, or who provides advices, instructions, means or removes obstacles, or who protects or shields other accomplices, or who promises in advance to harbour the</p>

	offender, or to hide the instruments or means of crime, the traces of the act or the goods acquired by criminal means, or who promises in advance to sell goods produced or acquired in the course of the criminal act.
Article 12 – Corporate liability	<p>Article 22. Criminal Liability of Enterprises</p> <p>1. An enterprise may be found guilty of the commission of a criminal act if such liability is foreseen in the Special Part of this Code.</p> <p>2. An enterprise may be liable for the commission of a criminal act committed by the natural person only if a criminal act in the favour or interests of the enterprise committed by a natural person, who acted individually or on behalf of the enterprise liability, or if a natural person being in a key position had the right:</p> <ol style="list-style-type: none"> 1) to represent an enterprise or; 2) to decree on behalf of the enterprise or; 3) to administer the activity of the enterprise. <p>3. An enterprise may be liable for the commission of a criminal act also if committed by employee or authorized member because of insufficient supervision of a person mentioned in part 2 of this Article</p>
Article 13 – Sanctions and measures	Indicated with the Articles
<i>Section 2 – Procedural law</i>	
Article 14 – Scope of procedural provisions	Code of Criminal Procedure
Article 15 – Conditions and safeguards	In general, Code of Criminal Procedure does not foresee exceptional and/or additional Conditions and Safeguards related to Cybercrime. In such cases the investigation is conducted using the appropriate Articles which correspond to certain Procedure and situation (Search, seizure, etc.)
Article 16 – Expedited preservation of stored computer data	Article 178. Actions of the Prosecutor and Pre-Trial Investigation Institutions
Article 17 – Expedited preservation and partial disclosure of traffic data	Article 155. The Prosecutor’s Right to Examine the Information
Article 18 – Production order	Article 97. Exaction of the Objects and Documents relevant to Investigation
Article 19 – Search and seizure of stored computer data	<p>Article 139. Search</p> <p>1. Upon reasonable belief that there are, in some premises or any other place, instruments of an offence, tangible objects obtained or acquired in a criminal way also objects or documents that might be relevant for the investigation. A pre-trial investigation officer or a prosecutor may carry out search with a view of discovering and seizing them.</p> <p>2. A seizure may be carried out with the purpose of finding the wanted persons or bodies.</p> <p>3. A search shall be carried out subject to an order of a pre-trial investigation judge. In cases of utmost urgency, a seizure may be effected under a decision of the pre-trial investigation officer or the prosecutor; however, in such cases, within three days, an approval of the pre-trial judge must be obtained about the lawfulness of such a seizure. (...)</p> <p>4. A search must be carried out in the presence of the owner, tenant, manager of the flat, house or other premises where the search is being conducted, a member or their family or a close relative, and</p>

	<p>where a search is being carried out an enterprise of an office – in the presence of a representative of that enterprise or office. Where there is no possibility to ensure the presence of the above persons, a search shall be carried out in the presence of any other two persons or a representative of a municipal institution.</p> <p>Article 141. Seizure</p> <p>1. If it is necessary to seize tangible objects or documents of value for the investigation, and if is known where and at whose place precisely they are, the pre-trial investigation officer or the prosecutor may effect a seizure. A seizure shall be effected under a reasoned order of the pre-trial judge. In cases of utmost urgency, a seizure may be effected under a decision of the pre-trial investigation officer or the prosecutor; however, in such cases, within three days, an approval of the pre-trial judge must be obtained about the lawfulness of such a seizure.(...)</p> <p>2. Persons having possession of the tangible objects or documents subject to seizure must not interfere with the officers carrying out a seizure. Persons who fail to comply with this requirement may be fined under Article 163 of this Code.</p> <p>3. A seizure shall be effected in the presence of the persons referred to in paragraph 4 of Article 145 of this Code.</p> <p>4. If persons having possession of the tangible objects or documents subject to seizure do not agree to surrender these objects and documents voluntarily, they can be taken by force.</p>
Article 20 – Real-time collection of traffic data	Article 154. Monitoring and Recording of the Information Transmitted through the Telecommunications Networks
Article 21 – Interception of content data	Article 154. Monitoring and Recording of the Information Transmitted through the Telecommunications Networks
<i>Section 3 – Jurisdiction</i>	
Article 22 – Jurisdiction	<p>Article 4. Temporal and Territorial Validity of the Code of Criminal Procedure</p> <p>1. The procedure shall be established pursuant to the Code of Criminal Procedure effective at the moment of carrying out procedural actions.</p> <p>2. The procedure in the territory of the Republic of Lithuania shall be conducted pursuant to the Code of Criminal Procedure of the Republic of Lithuania, irrespective of the place where a criminal act has been committed.</p> <p>3. Where an international agreement of the Republic of Lithuania prescribes rules other than this Code, the international rules shall apply.</p> <p>Article 5. Application of the Code of Criminal Procedure in Respect of Foreign Nationals and Stateless Persons</p> <p>1. The proceeding involving criminal acts committed by foreign nationals and stateless persons shall be held in the territory of the Republic of Lithuania in accordance with the Code of Criminal Procedure.</p> <p>2. Where a criminal act has been committed in the territory of Lithuania by persons who, under international agreements to which the Republic of Lithuania are subject to immunity from criminal jurisdiction, the issue of their criminal liability shall be solved in accordance with treaties of the Republic of Lithuania and the Criminal</p>

	<p>Code.</p> <p>3. Persons who, under international agreements of the Republic of Lithuania, are subject to immunity from criminal jurisdiction may not be arrested or detained. The procedural actions provided for in this Code may be undertaken in their respect only subject to their consent or request. The consent of said persons shall be obtained through the Ministry of Foreign Affairs of the Republic of Lithuania.</p>
<i>Chapter III – International co-operation</i>	
Article 24 – Extradition	<p>Article 71. Extradition of Persons from the Republic of Lithuania or Their Transfer to the International Criminal Court</p> <p>Article 71-1. Transfer of person under the European Arrest Warrant</p>
Article 25 – General principles relating to mutual assistance	<p>Here and below where the boxes were left blank the International co-operation is regulated by Articles 4, 5, 66, 67, 68, 69, 71, 72, 73, 75, 76, 77, 77-1, 94, 365 as well as by Bilateral and Multilateral Agreements</p> <p>Article 4. Temporal and Territorial Validity of the Code of Criminal Procedure</p> <p>Article 5. Application of the Code of Criminal Procedure in Respect of Foreign Nationals and Stateless Persons</p> <p>Article 66. Procedure of Communication by the Courts and the Prosecutor’s Office with Counterparts in Foreign States</p> <p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p> <p>Article 68. Request to Initiate Prosecution</p> <p>Article 69. Request for Extradition of a Person to a Foreign State</p> <p>Article 71. Extradition of Persons from the Republic of Lithuania or Their Transfer to the International Criminal Court</p> <p>Article 72, Arrest of Persons Whose Extradition or Transfer to the International Criminal Court is Requested</p> <p>Article 73. Procedure of Extradition of Persons from the Republic of Lithuania</p> <p>Article 75. Simplified procedure of extradition (surrender) from the Republic of Lithuania</p> <p>Article 76. The Procedure of Transfer of the Extraditable Person</p> <p>Article 77. Temporary Transfer of an Arrested or Convicted Person to Another State or the International Criminal Court for the Performance of Procedural Acts</p> <p>Article 77-1. Transit of the detained person through the territory of the Republic of Lithuania</p>

	<p>Article 94. Measures Taken with Regard to the tangible Objects Relevant for Investigation of a Criminal Act and the Trial in the Event of Termination of Proceedings and Rendering a Judgement</p> <p>Article 363. Execution of Judgements Rendered by Courts of Foreign States</p>
Article 26 – Spontaneous information	<p>Article 2. Duty to Detect Criminal Acts</p> <p>Every time when elements of a criminal offence are discovered, the prosecutor and the institutions of pre-trial investigation must, within the limits of their competence, take all measures provided by the law to conduct an investigation, and establish that a criminal act has been committed, and the court and the judge shall ensure that the case is heard within a reasonable time by a fair and impartial court and that the guilty are prosecuted.</p>
Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>
Article 28 – Confidentiality and limitation on use	<p>Article 177. Confidentiality of the Information about a Pre-Trial Investigation</p> <p>1. Information about a pre-trial investigation shall not be made public. It may be made public only subject to a prosecutor’s leave and only to such an extent as is determined as permissible. It is forbidden to public the information on underaged suspects and victims.</p> <p>2. When necessary, a prosecutor or a pre-trial judge shall warn the parties to the proceedings or other persons who were witnesses to the procedural actions of the pre-trial proceedings that it is not permissible, without his authorisation, to make the information about the pre-trial investigation public. In such cases a person shall be warned and shall attest it by his signature about his liability under Article 247 of the Criminal Code of the Republic of Lithuania.</p>
Article 29 – Expedited preservation of stored computer data	<p>Article 154. Monitoring and Recording of the Information Transmitted through the Telecommunications Networks</p>
Article 30 – Expedited disclosure of preserved traffic data	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>
Article 31 – Mutual assistance regarding accessing of stored computer data	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>
Article 32 – Trans-border access to stored computer data with consent or where publicly available	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>
Article 33 – Mutual assistance in the real-time collection of traffic data	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>
Article 34 – Mutual assistance regarding the interception of content	<p>Article 67. Execution of the Requests of Institutions of Foreign States for Proceedings</p>

data	
Article 35 – 24/7 Network	International Liaison Office (Interpol) of the Lithuanian Criminal Police Bureau
Article 42 – Reservations	<p>Declaration contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>In accordance with Article 40 and Article 2 of the Convention, the Republic of Lithuania declares that criminal liability for the act described in Article 2 of the Convention occurs upon access to the whole or any part of a computer system without right by infringing security measures of a computer or a computer network.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 2</p> <p>Declaration contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>Pursuant to Article 40 and Article 27, paragraph 9, sub-paragraph e, of the Convention, the Republic of Lithuania declares that, for reasons of efficiency, requests for mutual assistance made under Article 27, paragraph 9, are to be addressed to the above-designated central authorities.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 27</p> <p>Reservation contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>In accordance with Article 42 and Article 4, paragraph 2, of the Convention, the Republic of Lithuania declares that criminal liability occurs if the acts described in Article 4 of the Convention result in serious harm.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 4</p> <p>Reservation contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>In accordance with Article 42 and Article 29, paragraph 4, of the Convention, the Republic of Lithuania declares that it reserves the right to refuse to execute the request for preservation of the data in cases where there is reason to believe that at the time of disclosure the offence, on which the request for preservation of the data is based, is not considered as a crime by the laws of the Republic of Lithuania.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 29</p> <p>Declaration contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>Pursuant to Article 24, paragraph 7, sub-paragraph a, of the Convention, the Republic of Lithuania declares that the Ministry of Justice and the General Prosecutor's Office of the Republic of Lithuania are designated as responsible authorities to perform the functions mentioned in Article 24, paragraph 7, sub-</p>

	<p>paragraph a.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 24</p> <p>Declaration contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>Pursuant to Article 27, paragraph 2, sub-paragraph a, of the Convention, the Republic of Lithuania declares that the Ministry of Justice and the General Prosecutor's Office of the Republic of Lithuania are designated as central authorities to perform the functions mentioned in Article 27.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 27</p> <p>Declaration contained in the instrument of ratification deposited on 18 March 2004 - Or. Engl. - and confirmed by a Note verbale from the Ministry of Foreign Affairs of Lithuania, dated 26 April 2004, registered at the Secretariat General on 10 May 2004 - Or. Engl.</p> <p>Pursuant to Article 35, paragraph 1, of the Convention, the Republic of Lithuania declares that the Police Department under the Ministry of the Interior of the Republic of Lithuania is designated as a competent authority to perform the functions mentioned in Article 35.</p> <p>Period covered: 1/7/2004 - The preceding statement concerns Article(s) : 35</p>
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