

Project on Cybercrime

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Cybercrime legislation – country profile

Republic of the Philippines

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:	Republic of the Philippines
Signature of Convention:	No
Ratification/accession:	No Measures taken: Department of Justice and Commission on Information Communication Technology has initiated the signing process Specific obstacle: Legislative - Passage of national law on cybercrime; Other - Concerted formation of concerted ICT group both public and private entities, increase multiple stakeholders
Provisions of the Convention	Corresponding provisions/solutions in national legislation
<i>Chapter I – Use of terms</i>	
Article 1 – “Computer system”, “computer data”, “service provider”, “traffic data”	“Computer” and “service provider” defined under Section 5 of Philippine Electronic Commerce Act of 2000 (ECA)
<i>Chapter II – Measures to be taken at the national level</i>	
<i>Section 1 – Substantive criminal law</i>	
Article 2 – Illegal access	Sec. 31 in relation to Sec. 33 of ECA on lawful access and unauthorized access
Article 3 – Illegal interception	None
Article 4 – Data	None

interference	
Article 5 – System interference	None
Article 6 – Misuse of devices	Sec. 3 paragraphs (a), (b), (c) and (d) of Access Devices Regulation Act of 1998 (ADRA)
Article 7 – Computer-related forgery	Falsification provisions of the Revised Penal Code (RPC) in relation to ECA. See Art. 170-173 of RPC.
Article 8 – Computer-related fraud	Article 315 (especially 4 th /3/c) and 316 of the RPC in relation to ECA
Article 9 – Offences related to child pornography	Republic Act No. 7610 and 9208 in relation to ECA
Title 4 – Offences related to infringements of copyright and related rights	
Article 10 – Offences related to infringements of copyright and related rights	Sec. 33 (b), ECA
Article 11 – Attempt and aiding or abetting	None
Article 12 – Corporate liability	Only as to civil liability under RPC (see Art. 102-103)
Article 13 – Sanctions and measures	Only for selected articles
<i>Section 2 – Procedural law</i>	
Article 14 – Scope of procedural provisions	Relevant provisions of the Rules of Court
Article 15 – Conditions and safeguards	Constitution (see Article III, especially Sections 1-3, 9) and related domestic laws
Article 16 – Expedited preservation of stored computer data	None
Article 17 – Expedited preservation and partial disclosure of traffic data	None
Article 18 – Production order	Search warrant under the Rules of Court
Article 19 – Search and seizure of stored computer data	Search warrant under the Rules of Court
Article 20 – Real-time collection of traffic data	None
Article 21 – Interception of content data	Adequate necessary measures under the Rules of Court, by court order
<i>Section 3 – Jurisdiction</i>	
Article 22 – Jurisdiction	Article 2 of the Revised Penal Code except for 1(d)
<i>Chapter III – International</i>	

<i>co-operation</i>	
Article 24 – Extradition	None specifically for cybercrime but extradition treaties with certain countries are in place
Article 25 – General principles relating to mutual assistance	Applicable mutual legal assistance treaties (MLATs)
Article 26 – Spontaneous information	None
Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements	None
Article 28 – Confidentiality and limitation on use	None
Article 29 – Expedited preservation of stored computer data	None
Article 30 – Expedited disclosure of preserved traffic data	None
Article 31 – Mutual assistance regarding accessing of stored computer data	None
Article 32 – Trans-border access to stored computer data with consent or where publicly available	None
Article 33 – Mutual assistance in the real-time collection of traffic data	None
Article 34 – Mutual assistance regarding the interception of content data	None
Article 35 – 24/7 Network	Philippine National Police Cybercrime Unit, National Bureau of Investigation Computer Fraud Section
Article 42 – Reservations	From Council of Europe treaty data base

Appendix: Solutions in national legislation.

Electronic Commerce Act of 2000

Sec. 5. Definition of Terms -

b. "Computer" refers to any device or apparatus which, by electronic, electro-mechanical or magnetic impulse, or by other means, is capable of receiving, recording, transmitting, storing, processing, retrieving, or producing information, data, figures, symbols or other modes of written expression according to mathematical and logical rules or of performing any one or more of those functions.

j. "Service Provider" refers to a provider of -

(i) On-line services or network access, or the operator of facilities therefor, including entities offering the transmission, routing, or providing of connections for online communications, digital or otherwise, between or among points specified by a user, of electronic documents of the user's choosing; or

(ii) The necessary technical means by which electronic documents of an originator may be stored and made accessible to a designated or undesignated third party; Such service providers shall have no authority to modify or alter the content of the electronic data message or electronic document received or to make any entry therein on behalf of the originator, addressee or any third party unless specifically authorized to do so, and who shall retain the electronic document in accordance with the specific request or as necessary for the purpose of performing the services it was engaged to perform.

Sec. 33. Penalties. - The following Acts shall be penalized by fine and/or imprisonment, as follows:

(a) Hacking or cracking which refers to unauthorized access into or interference in a computer system/server or information and communication system; or any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document shall be punished by a minimum fine of one hundred thousand pesos (P100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years;

(b) Piracy or the unauthorized copying, reproduction, dissemination, distribution, importation, use, removal, alteration, substitution, modification, storage, uploading, downloading, communication, making available to the public, or broadcasting of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights shall be punished by a minimum fine of one hundred thousand pesos (P100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years.

Access Devices Regulation Act of 1998

Section 3. Definition of terms -

(a) Access device means any card, plate, code, account number, electronic serial number, personal identification number, or other telecommunications service, equipment, or instrumental identifier, or other means of account access that can be used to obtain money, good, services, or

any other thing of value or to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(b) Counterfeit Access Device means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or counterfeit access device;

(c) Unauthorized Access Device means any access device that is stolen, lost, expired, revoked, cancelled, suspended, or obtained with intent to defraud;

(d) Access Device Fraudulently Applied for means any access device that was applied for or issued on account of the use of falsified document, false information, fictitious identities and addresses, or any form of false pretense or misrepresentation.

The 1987 Constitution of the Republic of the Philippines

Article III

Bill of Rights

Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

Section 9. Private property shall not be taken for public use without just compensation.

Section 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, *incommunicado*, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families.

Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused: *Provided*, that he has been duly notified and his failure to appear is unjustifiable.

Section 18. (1) No person shall be detained solely by reason of his political beliefs and aspirations.

(2) No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

The Revised Penal Code of the Philippines

Act n°3815

Art. 2. Application of its provisions.

— Except as provided in the treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offense while on a Philippine ship or airship
2. Should forge or counterfeit any coin or currency note of the Philippine Islands or obligations and securities issued by the Government of the Philippine Islands; or
3. Should be liable for acts connected with the introduction into these islands of the obligations and securities mentioned in the preceding number;
4. While being public officers or employees, should commit an offense in the exercise of their functions; or
5. Should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code.

Art. 102. Subsidiary civil liability of innkeepers, tavernkeepers and proprietors of establishments.

— In default of the persons criminally liable, innkeepers, tavernkeepers, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special police regulation shall have been committed by them or their employees.

Innkeepers are also subsidiarily liable for the restitution of goods taken by robbery or theft within their houses from guests lodging therein, or for the payment of the value thereof, provided that such guests shall have notified in advance the innkeeper himself, or the person representing him, of the deposit of such goods within the inn; and shall furthermore have followed the directions which such innkeeper or his representative may have given them with respect to the care and vigilance over such goods. No liability shall attach in case of robbery with violence against or intimidation of persons unless committed by the innkeeper's employees.

Art. 103. Subsidiary civil liability of other persons.

— The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

Art. 104. *What is included in civil liability.*

— The civil liability established in Articles 100, 101, 102, and 103 of this Code includes:

1. Restitution;
2. Reparation of the damage caused;
3. Indemnification for consequential damages.

Art. 105. Restitution; How made.

— The restitution of the thing itself must be made whenever possible, with allowance for any deterioration, or diminution of value as determined by the court.

The thing itself shall be restored, even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the proper person, who may be liable to him.

This provision is not applicable in cases in which the thing has been acquired by the third person in the manner and under the requirements which, by law, bar an action for its recovery.

Art. 106. *Reparation; How made.*

— The court shall determine the amount of damage, taking into consideration the price of the thing, whenever possible, and its special sentimental value to the injured party, and reparation shall be made accordingly.

Art. 107. *Indemnification; What is included.*

— Indemnification for consequential damages shall include not only those caused the injured party, but also those suffered by his family or by a third person by reason of the crime.

Art. 108. *Obligation to make restoration, reparation for damages, or indemnification for consequential damages and actions to demand the same; Upon whom it devolves.*

— The obligation to make restoration or reparation for damages and indemnification for consequential damages devolves upon the heirs of the person liable.

Art. 112. *Extinction of civil liability.*

— Civil liability established in Articles 100, 101, 102, and 103 of this Code shall be extinguished in the same manner as obligations, in accordance with the provisions of the Civil Law.

Art. 113. *Obligation to satisfy civil liability.*

— Except in case of extinction of his civil liability as provided in the next preceding article the offender shall continue to be obliged to satisfy the civil liability resulting from the crime committed by him, notwithstanding the fact that he has served his sentence consisting of deprivation of liberty or other rights, or has not been required to serve the same by reason of amnesty, pardon, commutation of sentence or any other reason.

Art. 170. *Falsification of legislative documents.*

— The penalty of prision correccional in its maximum period and a fine not exceeding P6,000 pesos shall be imposed upon any person who, without proper authority therefor alters any bill, resolution, or ordinance enacted or approved or pending approval by either House of the Legislature or any provincial board or municipal council.

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.*

— The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

Art. 172. Falsification by private individual and use of falsified documents.

— The penalty of prison correccional in its medium and maximum periods and a fine of not more than P5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and
2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article, or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

Art. 173. Falsification of wireless, cable, telegraph and telephone messages, and use of said falsified messages.

— The penalty of prison correccional in its medium and maximum periods shall be imposed upon officer or employee of the Government or of any private corporation or concern engaged in the service of sending or receiving wireless, cable or telephone message who utters a fictitious wireless, telegraph or telephone message of any system or falsifies the same.

Any person who shall use such falsified dispatch to the prejudice of a third party or with the intent of cause such prejudice, shall suffer the penalty next lower in degree.

Art. 315. Swindling (estafa).

4th.

3. Through any of the following fraudulent means:
 - (a) By inducing another, by means of deceit, to sign any document.
 - (b) By resorting to some fraudulent practice to insure success in a gambling game.
 - (c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.