

Hungarian legislation

Act C of 2012 on the Criminal Code

Territorial and Personal Scope

Section 3

(1) The Hungarian Criminal Code shall apply to:

- a)* criminal offenses committed in Hungary;
- b)* criminal offenses committed on board aquatic vessels sailing, or aircraft flying under Hungarian flag outside the territory of Hungary;
- c)* acts committed abroad by Hungarian citizens, which are deemed criminal offences by Hungarian law.

(2) The Hungarian Criminal Code shall also apply to:

- a)* acts committed by non-Hungarian citizens abroad, if:
 - aa)* the act in question is deemed a criminal offence in accordance with Hungarian law and is also punishable in accordance with the laws of the country where it was committed;
 - ab)* the act in question is a criminal offence against the State, excluding espionage against allied armed forces or espionage against European Union Institutions, regardless of whether or not it is punishable in accordance with the law of the country where it was committed;
 - ac)* the act in question is a criminal offence defined in Chapter XIII or Chapter XIV, or any other criminal offence that is to be prosecuted under an international treaty promulgated by an Act of Law;
- b)* acts punishable according to Hungarian law committed by non-Hungarian citizens abroad against Hungarian citizens, legal entities set up based on Hungarian law or other subjects of law without legal personality.

(3) In the cases defined in Subsection (2), the commencement of criminal proceedings shall be ordered by the Prosecutor General.

Attempts

Section 10

(1) Any person who starts to commit a premeditated crime, but does not finish it, shall be punishable for attempt.

(2) The sentence applicable to the consummated offence shall also be applied to attempts.

(3) The punishment may be reduced without limitation or dismissed altogether if the attempt was carried out on an unsuitable subject, with an unsuitable instrument or in an unsuitable manner.

(4) Prosecution for attempts shall not apply against any person who:

- a)* voluntarily withdraws from the criminal activity before it is completed; or
- b)* voluntarily prevents the results from taking place.

(5) If, in the case defined in (4), the attempt in itself constitutes another crime, the offender shall be punishable for that crime.

Preparation

Section 11

(1) If it is expressly prescribed by this Act, any person who provides the conditions required for or facilitating the perpetration of a criminal offence, or invites, offers for or undertakes its perpetration, or agrees on joint perpetration, shall be punishable for preparation.

(2) Any person:

- a)* who voluntarily withdraws from the commencement of the criminal act,
- b)* who withdraws his invitation, offer, undertaking with a view to avoiding the perpetration, or attempts to pursue other contributors to withdraw from the criminal activity, provided that the commencement of the perpetration of the criminal offense does not take place for any reason, or
- c)* who reports to the authority the preparation before commencement of the perpetration of the criminal offense, shall not be prosecuted for preparation.

(3) If in the case provided for in Subsection (2) the preparation in itself constitutes another criminal offence, the perpetrator shall be liable for prosecution for that criminal offence.

Offenders

Section 12

The category of “offender” includes the perpetrator, the indirect perpetrator and the coactor (hereinafter together: perpetrators), the abettor and the accomplice (hereinafter together: conspirators).

Section 14

- (1) An abettor is a person who intentionally persuades another person to commit a crime.
- (2) An accomplice is a person who intentionally helps another person to commit a crime.
- (3) The sentence applicable to perpetrators shall also be applied to conspirators.

Measures

Section 63

(1) Measures are:

- a)* warning;
- b)* conditional sentence;
- c)* work performed in amends;
- d)* probation with supervision;
- e)* confiscation;
- f)* confiscation of property;
- g)* irreversibly rendering electronic data inaccessible;
- h)* involuntary treatment in a mental institution;
- i)* measures against legal persons imposed pursuant to the Act on Measures Applicable to Legal Entities under Criminal Law.

(2) Warning, conditional sentence and work performed in amends may be ordered independently, in place of a penalty.

(3) Probation with supervision may be imposed in addition to the penalty or measure. Probation with supervision may not be imposed in addition to expulsion.

(4) Confiscation of property and irreversibly rendering electronic data inaccessible may be ordered independently, or in addition to a penalty or measure.

Irreversibly Rendering Electronic Data Inaccessible

Section 77

(1) Data disclosed through an electronic communications network shall be rendered irreversibly inaccessible:

- a)* the publication or disclosure of which constitutes a criminal offense;
- b)* which is actually used as an instrument for the commission of a criminal act; or
- c)* which is created by way of a criminal act.

(2) The order for irreversibly rendering electronic data inaccessible shall be issued even if the perpetrator cannot be prosecuted for reason of minority or insanity, or due to other grounds for exemption from criminal responsibility, or if the perpetrator had been given a warning.

Cumulative Sentences

Section 81

(1) In case of multiple counts of offenses a single cumulative sentence shall be imposed.

(2) The penalty shall be imposed based on the types of punishment and according to the most severe one prescribed for the gravest of the multiple offenses to which it pertains.

(3) If, in respect of a multiple count of charges, at least two is punishable by a fixed-term imprisonment, the upper limit of the applicable punishment shall be increased by one-half of the maximum penalty prescribed, however, it may not reach the total duration of the maximum sentences established for such criminal acts.

(4) If, in respect of multiple counts of charges, at least three counts constitute violent crimes against persons committed at different times, the upper limit of the applicable penalty set out in Subsection (2) shall be doubled. If the upper limit of the applicable penalty increased as per the above would exceed twenty years, or if either of the said criminal offenses in the multiple counts carry a maximum sentence of life imprisonment, the perpetrator in question must be sentenced to life imprisonment. However, where this is permitted under the General Part of this Act, the penalty may be reduced without limitation.

(5) The additional penalty may not exceed the highest measure or duration prescribed in this Act in the case of cumulative sentences.

Genocide

Section 142

(1) Any person who - with the ultimate aim of the destruction, in whole or in part, of a national, ethnic, racial or religious group:

- a) murders the members of the group;
 - b) causes serious bodily or mental injury to the members of the group;
 - c) constrains the group into living conditions threatening the demise of the group on the whole or certain members thereof;
 - d) takes any action aimed to prevent reproduction within the group;
 - e) abducts the children of the group and installs them into another group;
- is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who engages in preparations for genocide shall be punishable by imprisonment between two to eight years.

Sexual Violence

Section 197

(1) Sexual violence is a felony punishable by imprisonment between two to eight years if committed:

- a) by force or threat against the life or bodily integrity of the victim;
- b) by exploiting a person who is incapable of self-defense or unable to express his will, for the purpose of sexual acts.

(2) Sexual violence shall also include, and the penalty shall be imprisonment between five to ten years if the perpetrator commits a sexual act upon a person under the age of twelve years, or forces such person to perform a sexual act.

(3) The penalty shall be imprisonment between five to ten years if the criminal act described in Subsection (1) is committed:

- a) against a person under the age of eighteen years;
- b) by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of trust, authority or influence over the victim; or
- c) by more than one person on the same occasion, in full knowledge of each other's acts.

(4) The penalty shall be imprisonment between five to fifteen years if:

- a) the criminal offense defined in Paragraph a) of Subsection (1) and in Paragraph b) or c) of Subsection (3) is committed against a person under the age of twelve years; or
- b) the provisions of Paragraph b) or c) of Subsection (3) also apply to the criminal offense defined in Paragraph a) of Subsection (3).

(5) Any person who provides the means necessary for or facilitating the commission of sexual violence is guilty of a felony punishable by imprisonment not exceeding three years.

Sexual Abuse

Section 198

(1) Any person who engages in sexual activities with a person under the age of fourteen years, or persuades such person to engage in sexual activities with another person is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person over the age of eighteen years who attempts to persuade a person under the age of fourteen years to engage in sexual activities with him or with another person is punishable by imprisonment not exceeding three years.

(3) If the victim is a family member of the perpetrator, or is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if the sexual abuse is made of a recognized position of trust, authority or influence over the victim, the penalty shall be:

a) imprisonment between two to eight years in the case defined in Subsection (1);

b) imprisonment between one to five years in the case defined in Subsection (2).

(4) Any person over the age of eighteen years who engages in sexual activities with a person over the age of fourteen years and under the age of eighteen years where abuse is made of a recognized position of trust, authority or influence over such person is punishable by imprisonment not exceeding three years.

Child Pornography

Section 204

(1) Any person who:

a) obtains or have in his possession pornographic images of a person or persons under the age of eighteen years is punishable for a felony by imprisonment not exceeding three years,

b) produces, offers, supplies or makes available pornographic images of a person or persons under the age of eighteen years is punishable by imprisonment between one to five years,

c) distributes, deals with or makes pornographic images of a person or persons under the age of eighteen years available to the general public is punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Paragraph *b)* of Subsection (1) is committed against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognized position of trust, authority or influence over the victim.

(3) Any person who provides material assistance for the criminal act defined in Paragraph *c)* of Subsection (1) shall be punishable by imprisonment between one to five years.

(4) Any person who:

a) persuades a person or persons under the age of eighteen years to participate in a pornographic production is punishable by imprisonment not exceeding three years,

b) gives a role to a person or persons under the age of eighteen years in a pornographic production is punishable by imprisonment between one to five years.

(5) Any person who:

a) offers to a person or persons under the age of eighteen years to participate in a pornographic material;

b) participates in a pornographic production in which a person or persons under the age of eighteen years also participate;

c) provides material assistance for the involvement of a person or persons under the age of eighteen years in a pornographic production;

is punishable by imprisonment not exceeding three years.

(6) Any person who provides the means necessary for or facilitating the production or distribution of or trafficking in pornographic material on a person or persons under the age of fourteen years is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(7) For the purposes of this Section:

a) 'pornographic material' shall mean any video, movie or photograph or other form of recording that displays sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanour,

b) 'pornographic production' means an act or show to display sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanour.

Violence Against a Member of the Community

Section 216

(1) Any person who displays an apparently anti-social behaviour against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if violence against a member of the community is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by causing a significant injury of interest;
- d) by tormenting the aggrieved party;
- e) in a gang; or
- f) in criminal association with accomplices.

(4) Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

Misuse of Personal Data

Section 219

(1) Any person who, in violation of the statutory provisions governing the protection and processing of personal data:

- a) is engaged in the unauthorized and inappropriate processing of personal data; or
 - b) fails to take measures to ensure the security of data;
- is guilty of a misdemeanour punishable by imprisonment not exceeding one year.

(2) The penalty in accordance with Subsection (1) above shall also be imposed upon any person who, in violation of the statutory provisions governing the protection and processing of personal data, fails to notify the data subject as required, and thereby imposes significant injury to the interests of another person or persons.

(3) Any misuse of personal data shall be punishable by imprisonment not exceeding two years if committed in connection with special data.

(4) The penalty shall be imprisonment not exceeding three years for a felony if the misuse of personal data is committed by a public official or in the course of discharging a public duty.

Harassment

Section 222

(1) Any person who engages in conduct intended to intimidate another person, to disturb the privacy of or to upset, or cause emotional distress to another person arbitrarily, or who is engaged in the pestering of another person on a regular basis, is guilty of a misdemeanour punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

(2) Any person who, for the purpose of intimidation:

- a) conveys the threat of force or public endangerment intended to inflict harm upon another person, or upon a relative of this person, or
 - b) giving the impression that any threat to the life, physical integrity or health of another person is imminent,
- is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(3) Any person who commits the act of harassment:

a) against his/her spouse or former spouse, or against his/her domestic partner or former domestic partner,

b) against a person under his/her care, custody, supervision or treatment, or

c) if abuse is made of a recognized position of trust, authority or influence over the victim,

shall be punishable by imprisonment not exceeding two years in the case provided for in Subsection (1), or by imprisonment not exceeding three years for a felony in the case provided for in Subsection (2).

Defamation

Section 226

(1) Any person who engages in the written or oral publication of anything that is injurious to the good name or reputation of another person, or uses an expression directly referring to such a fact, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding two years, if the defamation is committed:

a) with malice aforethought or with malicious motive;

b) libelously, before the public at large; or

c) causing a significant injury of interest.

Slander

Section 227

(1) Any person who, apart from what is contained in Section 226, makes a false publication orally or in any other way:

a) tending to harm a person's reputation in connection with his professional activity, public office or public activity; or

b) libelously, before the public at large;

shall be punishable for a misdemeanor by imprisonment not exceeding one year.

(2) Any person who engages in an act to defame someone by physical assault shall be punishable in accordance with Subsection (1).

Acts of Terrorism

Section 314

(1) Any person who commits a violent crime against a person, a crime that endangers the public or involves the use of firearm determined in Subsection (4) in order to:

a) coerce a government agency, another state or an international body to do, not to do or sustain something;

b) intimidate the general public;

c) conspire to change or disrupt the constitutional, economic or social order of another state, or to disrupt the operation of an international organization

is guilty of a felony punishable by imprisonment between ten to twenty years, or life imprisonment.

(2) Any person who overcomes considerable financial assets for the purpose defined in Subsection a) and makes demands to a government agency or an international organization in ex-change for refraining from injuring the said financial assets or for returning them shall be punishable according to Subsection (1).

(3) The punishment can be reduced without any limitation, if the perpetrator

a) abandons the commission of the terrorist act defined under Subsection (1) or (2) before any serious consequences are able to be materialized; and

b) confesses his/her conduct to the authorities;

provided that in such a way he/she cooperates with the authorities to prevent or mitigate the consequences of such crime, detect other perpetrators, and prevent further crimes.

(4) For the purposes of this Section, "violent crime against a person, a crime that endangers the public or involves the use of firearm" shall mean:

a) homicide [Subsections (1)-(2) of Section 160], battery [Subsections (2)-(6) and (8) of Section 164], wilful malpractice [Subsection (3) of Section 165];

- b) kidnapping [Subsections (1)-(4) of Section 190], violation of personal freedom (Section 194);
- c) crimes against transportation safety [Subsections (1)-(2) of Section 232], endangering railway, air or water traffic [Subsections (1)-(2) of Section 233];
- d) misuse of radioactive materials [Subsections (1)-(2) of Section 250];
- e) violence against a public official [Subsections (1)-(5) of Section 310], violence against a person performing public duties (Section 311), violence against a person supporting a public official or a person performing public duties (Section 312), violence against a person under international protection [Subsection (1) of Section 313];
- f) overcome of a vehicle [Subsections (1)-(2) of Section 320], public endangerment [Subsections (1)-(3) of Section 322], disturbing the operation of public works [Subsections (1)-(3) of Section 323], misuse of explosives or explosive devices [Subsections (1)-(2) of Section 324], misuse of firearms or ammunition [Subsections (1)-(3) of Section 325];
- g) misuse of weapons prohibited by international convention [Subsections (1)-(5) of Section 326], misuse of military items or services [Subsections (1)-(3) of Section 329], misuse of dual-use items [Subsections (1)-(2) of Section 330];
- h) robbery [Subsections (1)-(4) of Section 365] and vandalism [Subsections (1)-(6) of Section 371];
- i) breach of information system or data [Subsections (1)-(3) of Section 423].

Section 315

(1) Any person who instigates, suggests, offers to commit a crime defined under Article 314 Subsection (1) or (2) or makes an agreement to joint commission concerning a crime defined under Article 314 Subsection (1) or (2) or any person who – for the purpose of helping the perpetration – ensures the conditions that are necessary or facilitate the perpetration, is guilty of felony punishable by imprisonment between two to eight years.

(2) Any person who commits any of the acts referred to in Subsection (1) in order to commit the crime defined under Article 314 Subsection (1) or (2) in a terrorist group, is guilty of felony punishable by imprisonment between five to ten years.

(3) The perpetrator cannot be punishable if he/she confesses the act defined under Subsection (1) or (2) to the authorities before they become aware of it and reveals the circumstances of the crime.

Section 316

Any person who threatens to commit terrorist acts is guilty of a felony punishable by imprisonment between two to eight years

Failure to Report a Terrorist Act

Section 317

Any person who has credible knowledge concerning plans for committing terrorist acts and fails to report that to the authorities as soon as he/she has possibility is guilty of a felony punishable by imprisonment for up to three years.

Terrorist Financing

Section 318

(1) Any person who provides or collects financial resources for ensuring the conditions of terrorist acts, or supports a person preparing to commit terrorist acts – or another person on behalf of such a person – with financial resources is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who commits the crime defined under Subsection (1) with the aim of committing terrorist acts in a terrorist group or to support a member of a terrorist group, or supports the activities of a terrorist group in any other form shall be punishable by imprisonment between five to ten years.

(3) For the purposes of this Section, “financial resources” shall mean the assets, legal documents and deeds specified in Point 1 of Article 1 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

Interpretative Provision

Section 319

For the purpose of Section 315 and 318, “terrorist group” shall mean a group consisting of three or more persons organised for a longer period of time and operating in an organised way whose aim is to commit terrorist acts.

Incitement to War

Section 331

Any person who before the public at large engages in incitement to war or otherwise displays war propaganda is guilty of a felony punishable by imprisonment between one to five years.

Incitement Against a Community

Section 332

Any person who before the public at large incites hatred against:

- a) the Hungarian nation;
 - b) any national, ethnic, racial or religious group; or
 - c) certain societal groups, in particular on the grounds of disability, gender identity or sexual orientation;
- is guilty of a felony punishable by imprisonment not exceeding three years.

Information System Fraud

Section 375

(1) Any person who, for unlawful financial gain, introduces data into an information system, or alters or deletes data processed therein, or renders data inaccessible, or otherwise interferes with the functioning of the information system, and thereby causes damage, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if:

- a) the information system fraud results in damage of substantial value; or
- b) the information system fraud involves a considerable value and it is committed in criminal association with accomplices or on a commercial scale.

(3) The penalty shall be imprisonment between two to eight years if:

- a) the information system fraud results in damage of particularly considerable value; or
- b) the information system fraud involves a substantial value and it is committed in criminal association with accomplices or on a commercial scale.

(4) The penalty shall be imprisonment between five to ten years, if:

- a) the information system fraud results in damage of particularly substantial value; or
- b) the information system fraud involves a particularly considerable value and it is committed in criminal association with accomplices or on a commercial scale.

(5) Any person who causes damage by using a counterfeit or forged, or unlawfully obtained electronic payment instrument, or by accepting payment with such payment instrument shall be punishable in accordance with Subsections (1)-(4).

(6) In the application of Subsection (5) cash-substitute payment instruments issued in other States shall receive the same protection as cash-substitute payment instruments issued in Hungary.

Infringement of Copyright and Certain Rights Related to Copyright

Section 385

(1) Any person who infringes the copyright or certain rights related to copyright of another person afforded under the Copyright Act, and thereby causing financial loss, is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(2) Any person who fails to pay the blank media fee or reproduction fee that is due to the author or the holder of a right related to copyright afforded under the Copyright Act in respect of copying for private purposes shall be punishable in accordance with Subsection (1).

(3) The penalty for a felony shall be imprisonment not exceeding three years if the infringement of copyright or certain rights related to copyright results in considerable financial loss.

(4) If the infringement of copyright or certain rights related to copyright:

- a) results in substantial financial loss, the penalty shall be imprisonment between one to five years for a felony;
- b) results in particularly considerable financial loss, the penalty shall be imprisonment between two to eight years;
- c) results in particularly substantial financial loss, the penalty shall be imprisonment between five to ten years.

(5) Any person who infringes the copyright or certain rights related to copyright of another person or persons afforded under the Copyright Act by means of private copying or by way of making available on-demand services shall not be considered to constitute the criminal offense referred to in Subsection (1), provided the act does not serve the purpose of generating income in any way or form.

Compromising the Integrity of Technical Protection

Section 386

(1) Any person who is engaged in any conduct to circumvent the effective technical measures defined in the Copyright Act is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(2) Any person who, for the purpose of circumventing the effective technical measures defined in the Copyright Act:

- a) manufactures or produces, supplies, provides access to or places on the market the means, products, computer program or equipment necessary therefor;
 - b) conveys economic, technical and/or organizational expertise required therefor or facilitating thereof;
- shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment not exceeding three years for a felony if the act of circumventing technical protection is committed on a commercial scale.

(4) Any person who, for the purpose of circumventing the effective technical measures defined in the Copyright Act, manufactures or produces, supplies or provides access to or places on the market the means, products, computer program or equipment necessary therefor, shall not be prosecuted if he voluntarily confesses to the authorities his involvement first hand, and if he surrenders such manufactured and produced objects to the authorities, and if he provides information concerning any other individuals participating in such manufacture or production.

Infringement of Industrial Property Rights

Section 388

(1) Any person who infringes the industrial property right of the rightful holder afforded by law, international agreement promulgated by an act of Parliament, or under European Union legislation:

- a) by imitating or copying the subject matter of protection;
 - b) by the marketing of goods produced by imitating or copying the subject matter of protection, or by way of obtaining or keeping such goods for the purpose of distribution;
- thereby causing financial loss, is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment between one to five years for a felony if the infringement of industrial property rights is committed on a commercial scale.

(3) If the infringement of industrial property rights:

- a) results in substantial financial loss, the penalty shall be imprisonment between one to five years;
- b) results in particularly considerable financial loss, the penalty shall be imprisonment between two to eight years;
- c) results in particularly substantial financial loss, the penalty shall be imprisonment between five to ten years.

(4) For the purposes of this Section:

- a) industrial property rights shall cover:
 - aa) patents,
 - ab) plant variety rights,
 - ac) supplementary protection certificates,

- ad*) trademarks,
 - ae*) geographical indications,
 - af*) designs rights,
 - ag*) utility models,
 - ah*) topographies;
- b*) 'goods' shall mean any goods of a fungible nature that are capable of being delivered, including services.

CHAPTER XLIII
ILLICIT ACCESS TO DATA AND CRIMES AGAINST INFORMATION SYSTEMS
Illicit Access to Data
Section 422

- (1) Any person who, for the purpose of unlawfully gaining access to personal data, private secrets, trade secrets or business secrets:
- a*) covertly searches the home or other property, or the confines attached to such, of another person;
 - b*) monitors or records the events taking place in the home or other property, or the confines attached to such, of another person, by technical means;
 - c*) opens or obtains the sealed consignment containing communication which belongs to another, and records such by technical means;
 - d*) captures correspondence forwarded by means of electronic communication networks - including information systems - to another person and records the contents of such by technical means;
- is guilty of a felony punishable by imprisonment not exceeding three years.
- (2) Any person who is engaged in gathering information with intent to determine the identity of any person who covertly cooperates with the covert investigation or law enforcement authorities, or with the secret service shall also be punishable in accordance with Subsection (1).
- (3) Any person who discloses or uses any personal data, private secret, trade secret or business secret obtained by way of the means described in Subsections (1)-(2) shall be punishable in accordance with Subsection (1).
- (4) The penalty shall be imprisonment between one to five years if illicit access to data under Subsections (1)-(3) is committed:
- a*) by the unlawful impersonation of an authority;
 - b*) on a commercial scale;
 - c*) in criminal association with accomplices; or
 - d*) causing a significant injury of interests.

Breach of Information System or Data
Section 423

- (1) Any person who gains unauthorized entry to an information system by compromising or defrauding the integrity of the technical means designed to protect the information system, or overrides or infringes his user privileges is guilty of a misdemeanour punishable by imprisonment not exceeding two years.
- (2) Any person who
- a*) disrupts the use of the information system unlawfully or by way of breaching his user privileges; or
 - b*) alters or deletes, or renders inaccessible without permission, or by way of breaching his user privileges, data in the information system;
- is guilty of a felony punishable by imprisonment not exceeding three years.
- (2) The penalty shall be imprisonment between one to five years for a felony, if the acts defined in Subsection (2) involve a substantial number of information systems.
- (3) The penalty shall be imprisonment between two to eight years, if the criminal offense is committed against works of public concern.

(4) In the application of this Section 'data' shall mean facts, information or datum stored, controlled, processed and transmitted in information systems in all forms which allows them to be processed in information systems, including those programs designed to execute certain functions by the information systems.

Compromising or Defrauding the Integrity of the Computer Protection System or Device

Section 424

(1) Any person who, for the commission of the criminal offense defined in Section 375, Paragraph d) of Subsection (1) of Section 422 or Section 423:

a) creates, transfers, supplies, obtains or places on the market passwords or computer programs required therefor or facilitating thereof; or

b) offers his economic, technical and/or organizational expertise to another person for the creation of passwords or computer programs required therefor or facilitating thereof;

is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(2) In the case of Paragraph *a)* of Subsection (1), any person who confesses to the authorities his involvement in the creation of any password or computer program required for the commission of the criminal offense, or facilitating thereof, before the authorities learned of such activities through their own efforts, and if the person surrenders such produced things to the authorities and assists in the efforts to identify the other persons involved, shall not be prosecuted.

(3) For the purposes of this Section 'password' shall mean any identifier comprised of a string of alphanumeric characters, codes, biometric data or the combination thereof, designed to gain entry into an information system or any segment thereof.

CLOSING PROVISIONS

Definitions

Section 459

15. 'information system' shall mean equipment intended for the automatic processing, handling, storage and transmission of data or a collection of such devices that are interfaced;