

LAW

ON THE ORGANISATION AND COMPETENCES OF GOVERNMENT AUTHORITIES COMBATING CYBER CRIME

(Official Gazette of the Republic of Serbia No 61/2005 and 104/2009)

I INTRODUCTORY PROVISIONS

Article 1

This Law regulates the formation, organization, competencies and powers of special organizational units of government authorities for the purposes of detection, prosecution and trying of criminal offences specified in the present Law.

Article 2

Cybercrime for the purposes of this law shall mean committing criminal offences where computers, computer systems, computer data and products thereof in hard or electronic form appear as the objects or the means of committing a criminal offence.

Products in electronic form shall particularly include computer programmes and authors' works which may be used in electronic form.

The terms: computer, computer data, computer program, computer virus, and computer network shall be used in this law and have the meaning attached to them as in the provisions of the Criminal Code.

Article 3

This law shall apply for the purposes of detection, criminal prosecution and trials for:

- 1) criminal offences against the security of computer data set forth in the Criminal Code;
- 2) criminal offences against intellectual property, property, economy and legal instruments, where computers, computer systems, computer data and products thereof in hard or electronic form appear as the objects or the means of committing a criminal offence, if the number of copies of authors' works exceeds 2000 or the resulting material damage exceeds the amount of RSD 1,000,000;
- 3) criminal offences against freedoms and rights of man and citizen, sexual freedoms, public order and constitutional order, and security of the Republic of Serbia, which, due to the manner in which they are committed or means used, may be considered cybercrime offences, in accordance with Article 2, paragraph 1 of the present Law.

II ORGANISATION AND COMPETENCES OF GOVERNMENT AUTHORITIES

1. Special Prosecutor's Office

Article 4

The Higher Prosecutor's Office in Belgrade shall have the jurisdiction for the territory of the Republic of Serbia to proceed in the cases of criminal offences referred to in Article 3 of the present Law.

The Higher Prosecutor's office shall form a special cybercrime department (hereinafter: Special Prosecutor's Office).

Unless otherwise stipulated in the present Law, the provisions regulating public prosecution shall apply to the Special Prosecutors Office.

Article 5

The work of the Special Prosecutor's Office shall be directed by the Special Prosecutor for Cybercrime (hereinafter: Special Prosecutor).

The Special Prosecutor shall be appointed by the Republic Public Prosecutor from the ranks of deputy public prosecutors who are eligible for the election for deputy higher public prosecutors, with written consent of the person to be appointed. Preference shall be given to deputy public prosecutors who have special knowledge in the field of information technologies.

The Special Prosecutor shall be appointed for a term of four years and may be re-appointed.

Prior to the appointment of the Special Prosecutor, the Republic Public Prosecutor shall issue a decision on the secondment of such person to the Special Prosecutor's Office.

The Special Prosecutor may be removed from office by the Republic Public Prosecutor before the expiry of the term for which he is appointed.

Upon termination of his office, the Special Prosecutor shall return to the position he held prior to the appointment.

Article 6

The Special Prosecutor shall have rights and obligations of a public prosecutor.

Upon becoming aware that a criminal case is a case specified in Article 3 of the present Law, the Special Prosecutor shall contact the Republic Public Prosecutor in writing requesting that he be granted or transferred jurisdiction.

Article 7

(Deleted)

Article 8

The Republic Public Prosecutor may, upon the proposal of the Special Prosecutor, second to the Special Prosecutor's Office a deputy public prosecutor, with the written consent of the person seconded.

The secondment referred to in paragraph 1 of this Article shall last no longer than two years, but may be extended by a decision of the Republic Public Prosecutor, upon the proposal of the Special Prosecutor, with the written consent of the person seconded.

2. Cybercrime Unit

Article 9

For the purposes of carrying out tasks within the purview of internal affairs authorities relating to the criminal offences referred to in Article 3 of the present Law, the ministry responsible for internal affairs shall form a cyber crime unit (hereinafter: the Unit)

The Unit shall proceed at the instance of the Special Prosecutor, in accordance with the Law.

The minister responsible for internal affairs shall appoint and dismiss the head of the unit after obtaining the opinion of the Special Prosecutor, and specifically regulate its operations, in accordance with the law.

3. Jurisdiction and organisation of courts

Article 10

The Higher Court in Belgrade shall have competent jurisdiction to proceed in the cases involving criminal offences referred to in Article 3 of the present Law, as the court of first instance.

The Appeals Court in Belgrade shall have the competent jurisdiction to proceed in the second instance.

Article 11

The Higher Court in Belgrade shall establish a Cybercrime Department (hereinafter: The Department) to proceed in cases involving criminal offences referred to in Article 3 of the present Law.

The judges shall be assigned to the Department by the Chief Justice of the Higher Court in Belgrade, from among the judges of this court, with their written consent. Preference shall be given to the judges who have special knowledge in the field of information technologies.

The Chief Justice of the Higher Court in Belgrade may also assign to the Department other judges seconded to the court, with their consent.

The assignment referred to in paragraph 2 of this Article shall last no longer than 2 years, but may be extended by the decision of the Chief Justice of the Higher Court in Belgrade, with written consent of the person assigned.

III MEANS OF WORK

Article 12

The ministry responsible for the judiciary shall provide the appropriate premises and all other technical conditions required for the efficient operation of the Special Prosecutor's Office and the Department.

Article 13

The funds for the operation of the Special Prosecutor's Office, the Unit, and the Department shall be provided in the Republic of Serbia budget.

IV TRANSITIONAL AND FINAL PROVISION

Article 14

The criminal proceedings for the criminal offences referred to in Article 2 of the present Law where the indictment has become effective prior to the effective date of the present Law shall be concluded before the courts with subject matter or territorial jurisdiction prior to effective date of the present Law.

Article 15

This Law shall come into force on the eighth day of publication in the *Official Gazette of the Republic of Serbia*.

A separate Article of the Amending Law on the Organisation and Competences of the Government Authorities Combating Cybercrime

(Official Gazette of the Republic of Serbia No 104/2009)

Article 10

Criminal proceedings for the criminal offences referred to in Article 2 of the present Law, where a decision to conduct investigation has been issued, or where the indictment has become effective prior to the effective date of the present Law shall be concluded before the courts with subject matter or territorial jurisdiction prior to the effective date of the present Law.

Article 11

This Law shall come into force on the eighth day of publication in the "Official Gazette of the Republic of Serbia ", except the provisions of Articles 3 through 9 of the present Law, which shall come into force on 1 January 2010.