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Amendments to the Code of Criminal Procedure, the Penal Code and a number of other laws to widen the possibilities to investigate and prosecute terrorist crimes

No. 2

LEGISLATIVE PROPOSAL

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc

Greetings to all who shall see or hear these presents! Be it known:
Whereas We have considered that it is desirable to expand the possibilities to investigate and prosecute terrorist crimes;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

ARTICLE I

The Code of Criminal Procedure shall be amended as follows:

A

In Article 21, paragraph five, «as referred to in Articles 65 and 66a» shall be replaced by: **as referred to in Articles 65, 66, paragraph three, last sentence, or 66a.**

B

Two sentences shall be added to Article 66, which sentences read: **in the event that the suspicion concerns a terrorist crime, the term of the warrant of arrest or detention in custody can, after ninety days, be extended by periods not exceeding ninety days, for a period of no more than two years. In that case, the ordering of an extension shall be a public procedure.**

C

A paragraph shall be added to Article 67, which paragraph reads:
4. In deviation of paragraph three, in the event of a suspected terrorist crime, grave presumptions are not required for an order for the remanding in custody of the suspect.

D

Titles Vb and Vc of the First Book shall be lettered **Vd** and **Ve**. In the First Book, two titles are inserted after title Va, which titles read:

TITLE VB SPECIAL POWERS TO INVESTIGATE TERRORIST CRIMES

SECTION ONE. GENERAL PROVISIONS

Article 126za

1. Orders to apply a power as referred to in this title, as well as an amendment, supplement, extension or withdrawal thereof, shall, subject to exceptions as stipulated by law, be given in writing. A verbal order which has forthwith been put down in writing is equal to a written order.

2. A written order shall detail the terrorist crime and the facts and circumstances which demonstrate that the statutory conditions to exercise the power have been met. The order can contain details regarding the manner in which it must be executed.

3. In the event that the law stipulates that an order can be given verbally, the order, as well as an amendment, supplement, extension or withdrawal thereof, which has not been put down in writing, shall be recorded in the report of the investigating officer executing the order.

4. By order in council, further rules may be introduced in respect of the information to be included in the report regarding written or verbal orders.

5. Each order can be amended, supplemented, extended or withdrawn.

Article 126zb

1. Authorisation from the examining magistrate as referred to in this title shall be granted in writing or shall be put down in writing forthwith.

2. The authorisation and the order to that end shall detail the terrorist crime and the facts and circumstances which demonstrate that the statutory conditions to exercise the power have been met.

3. If an order by the public prosecutor requires the authorisation of the examining magistrate, the amendment, supplement or extension of that order shall require authorisation also.

Article 126zc

By order in council, persons in the public service of a foreign state who meet the appropriate requirements to apply the powers of Article 126zd, paragraph one, under a, b and c, and Article 126ze, can be deemed equal to an investigating officer.

SECTION TWO. SYSTEMATIC OBSERVATION, UNDERCOVER PURCHASE OR SERVICE, SYSTEMATIC GATHERING OF INFORMATION, POWERS IN AN ENCLOSED PLACE AND INFILTRATION

Article 126zd

1. In the event of indications of a terrorist crime, the investigating officer, by order of the public prosecutor to that end and in the interest of the investigation, has the power to:

a. follow a person systematically or to systematically observe a person's presence or conduct;

- b. purchase goods from or render services to a person;
 - c. systematically gather information on a person whilst not disclosing the fact that he acts as an investigating officer;
 - d. enter an enclosed place, other than a dwelling, without the consent of the proprietor and/or to apply a technical device to make recordings in that place, to proceed to secure traces, or to place a technical device in that place in order to establish the presence or movements of items.
2. During the execution of powers as referred to in paragraph one, under b, the investigating officer may not entice a person to commit offences other than the offence he was set to commit.
3. When executing the power as referred to in paragraph one, under a, the public prosecutor can, in the interest of the investigation, determine that an enclosed place, other than a dwelling, can be entered without the consent of the proprietor.
4. When executing the power as referred to in paragraph one, under a, the public prosecutor can furthermore determine that a technical device can be used insofar as no confidential communication shall be recorded by means of that device. A technical device shall not be attached to a person, unless he has given his consent to do so.
5. The order to the execute powers as referred in paragraph one, under a or c, shall be given for a period not exceeding three months. The term of validity can be extended for a period of three months each time.

Article 126ze

1. In the event of indications of a terrorist crime the public prosecutor can, if so required by the investigation for urgent reasons, order an investigating officer to participate in or render assistance to a group of persons in respect of which there are indications that a terrorist crime is being plotted or committed within that group.
2. Article 126h, paragraph two, applies by analogy.
3. In addition to the details as referred to in Article 126za, the order shall state:
- a. a description of the group of persons;
 - b. the manner in which the order shall be executed, including punishable acts, insofar as can be anticipated when the order is given, as well as
 - c. the term of validity of the order.

SECTION THREE. RECORDING AND INVESTIGATING

COMMUNICATION

Article 126zf

1. In the event of indications of a terrorist crime the public prosecutor can, if so required by the investigation for urgent reasons, following authorisation from the examining magistrate granted by his order, order that an investigating officer shall record confidential information by means of a technical device.
2. The public prosecutor can, in the interest of the investigation, determine that in the execution of an order an enclosed place, other than a dwelling can be entered without the consent of the proprietor. He can, following authorisation from the examining magistrate granted upon his explicit order, determine that in the execution of the order a dwelling shall be entered without the consent of the proprietor, if so required by the investigation for urgent reasons. Article 2, paragraph one, last sentence of the General Act on Entry into Dwellings shall not apply.
3. In addition to the information as referred to in Article 126za, the order shall state:

- a. at least one of the persons who is participating in the communication and/or, if the order concerns communication in an enclosed place or in a vehicle, one of the persons who is participating in the communication or a description of that place or vehicle;
 - b. when applying paragraph two, the place that can be entered;
 - c. the term of validity of the order.
4. The order shall be given for a period not exceeding four weeks. The term of validity can be extended for a period of no more than four weeks each time.
4. Reports shall be prepared within three days of the recordings.

Article 126zg

1. In the event of indications of a terrorist crime the public prosecutor can, if so required by the investigation for urgent reasons, following authorisation from the examining magistrate granted by his order, order that an investigating officer shall record information by means of a technical device.
2. In addition to the details as referred to in Article 126za, the order shall state:
 - a. the number with which the individual user of telecommunications is identified, as well as, insofar as is known, the name of the user;
 - b. the term of validity of the order.
3. Articles 126m, paragraph two and paragraphs four to six, and 126zf, paragraphs four and five, shall apply by analogy.

Article 126zh

1. In the event of indications of a terrorist crime the public prosecutor can, in the interest of the investigation, give an order to provide information on a user and the telecommunications traffic in respect of that user. The order can only relate to information as stipulated by order in council and can include data which:
 - a. has been processed at the time of the order, and/or
 - b. shall be processed following the order.
2. Article 126n, paragraphs two to seven, shall apply by analogy.

Article 126zi

1. In the event of indications of a terrorist crime the public prosecutor can, in the interest of the investigation, order the investigating officer to provide information in respect of the name, address, postcode, residence, number and type of service of a user of telecommunications. Article 126n, paragraphs two and three, applies.
2. If the information referred to in paragraph one is not known by the provider yet required for the application of Article 126zf or Article 126zg, the public prosecutor can, in the interest of the investigation, order the provider to retrieve and provide the data in accordance with a procedure to be determined by order in council.
3. Article 126na, paragraphs three and four, shall apply by analogy.

Article 126zj

In order to apply Article 126zg or Article 126zh, the public prosecutor, with due observance of Article 3.10, paragraph four, of the Telecommunications Act, can order that, by means of the equipment referred to in that Article, the number with which the user of telecommunications can be identified shall be retrieved. Article 126nb, paragraphs two to four, shall apply by analogy.

SECTION FOUR. INVESTIGATING OBJECTS, MEANS OF TRANSPORT AND CLOTHING

Article 126zk

1. In the event of indications of a terrorist crime the investigating officer, by order of the public prosecutor to that end, shall have, in the interest of the investigation, the power to investigate objects, to subject these to recording and to take samples thereof. He shall have the power to open packaging to that end.

2. In the event that the investigation, recording or sample-taking cannot be conducted onsite, the investigating officer shall to that end be authorised to temporarily take the objects with him, on submission of a written receipt to be issued by him.

3. The order can be given verbally. It shall be given for a period not exceeding twelve hours and shall apply to a predetermined area. The term of validity can be extended for a maximum period of twelve hours each time.

4. In respect of the security risk areas identified by order in council, an order from the public prosecutor for the execution of a power referred to in this Article under the conditions set by that order in council, is not required.

Article 126zl

1. In the event of indications of a terrorist crime, the investigating officer, by order of the public prosecutor to that end and in the interest of the investigation, shall have the power to investigate vehicles:

2. If such an order is given, the investigating officer is furthermore authorised to:

- a. investigate the onboard cargo of vehicles;
- b. order the driver of a vehicle to produce statutory documents with regard to the cargo for inspection purposes;
- c. order the driver of a vehicle or the skipper of a vessel to keep his vehicle stationary and move it to a location indicated by him.

3. Article 126zk, paragraphs three and four, shall apply by analogy.

Article 126zm

1. In the event of indications of a terrorist crime, the investigating officer, by order of the public prosecutor to that end and in the interest of the investigation, shall have the power to investigate persons' clothing.

2. If such an order is given, the investigating officer is furthermore authorised to use detection equipment or similar auxiliary means.

3. Article 126zk, paragraphs three and four, shall apply by analogy.

4. By (virtue of) order in council, further rules can be introduced in respect of how the investigation, referred to in paragraph one, shall be conducted.

TITLE VC CIVILIAN ASSISTANCE IN INVESTIGATING TERRORIST CRIMES

Article 126zn

1. In the event of indications of a terrorist crime, the investigating officer can, by order of the public prosecutor to that end and in the interest of the investigation, make an agreement with a person who is not an investigating officer, stipulating that this person for the duration of the order shall render assistance to the investigation by:

- a. purchasing goods from or rendering services to a person;
- b. systematically gathering information on a person.

2. Articles 126h, paragraph two, 126za, paragraphs three to five, and 126zd, paragraph five, shall apply by analogy.

3. The agreement shall be set down in writing and shall state the rights and obligations of the person rendering assistance to the investigation, how the agreement must be executed, as well as the term of validity of the agreement. The agreement can be amended, supplemented, extended or terminated in writing.

Article 126zo

1. In the event of indications of a terrorist crime the public prosecutor can, if so required in the interest of the investigation for urgent reasons and when no order as referred to in Article 126ze, paragraph one, can be given, make an agreement with a person who is not an investigating officer, stipulating that this person shall render assistance to the investigation by participating in or rendering assistance to a group of persons in respect of which there are indications that a terrorist crime is being plotted or committed within that group.

2. Articles 126h, paragraph two, 126ze, paragraph three, and 126w, paragraph six, shall apply by analogy.

E The title heading Vd of the First Book shall read:

TITLE VD THE GENERAL RULES REGARDING THE POWERS IN TITLES IVA TO VC

F In Article 126AA, paragraphs one and four, «titles IVa to Va» shall be replaced by: **titles IVa to Vc.**

G Article 126bb shall be amended as follows:

1. In paragraph one, «titles IVa to Va» shall be replaced by: **titles IVa to Vc.**

2. Paragraph two shall read:

2. Those involved within the meaning of paragraph one include:

- a. the person who has been subject to the powers of titles IVa, V, Va, Vb or Vc.
- b. the user of telecommunications or technical auxiliaries with which the telecommunications are conducted, as referred to in Article 126m, paragraph three, subparagraph c, Article 126t, paragraph three, subparagraph c, and Article 126zg, paragraph two, subparagraph a;

c. The proprietor of an enclosed place as referred to in Articles 126g, paragraph two, 126k, 126l, paragraph two, 126o, paragraph two, 126r, 126s, paragraph two, and 126zd, paragraph three.

3. In paragraph four «and 126uc» shall be replaced by: , **126uc and 126zk to 126zm.**

H

In Article 126ee, subparagraph a, «and 126s, paragraph one» shall be replaced by: , **126s, paragraph one, 126zd, paragraph one, 126zf, paragraph one and 126zg, paragraph one.**

I

Article 126ff shall be amended as follows:

1. In paragraph one, «titles IVa to V» shall be replaced by: **titles IVa to V and Vb.**

2. In paragraph four «and 126uc» shall be replaced by: **title Va or title Vc.**

J

After Article 126gg an Article shall be inserted which reads:

Article 126hh

1. If the objective of an investigation as referred to in Article 126gg is to prepare the investigation into terrorist crimes, the public prosecutor can, following written authorisation to be granted in advance by the examining magistrate by his order and in the interest of the investigation, order, in writing, those, of whom it can be reasonably assumed that they have access to an automated file system, to provide this file, or parts thereof, in order to process the data included therein. The persons referred to in Article 218 are not obliged to carry out the order insofar as the disclosure would oppose their obligation to maintain secrecy.

2. The processing may include mutual comparison and/or the processing of data from the file provided in combination with each other, data from police registers and data from other files. Restrictions imposed by (virtue of) the Police Files Act do not apply. The public prosecutor shall determine the processing method.

3. Processing shall be carried out in a way which shall guarantee the protection of the personal privacy of persons as much as possible.

4. The public prosecutor shall prepare a report on the processing detailing:

- a. a description of the data which has been subject to processing;
- b. a description of the method in which the processing is executed;
- c. the facts and circumstances which demonstrate that the conditions as referred to in paragraph one have been met.

5. Once the processing is completed, the public prosecutor shall ensure that:

a. only such data which is the result of the processing and which is relevant to the investigation shall be processed further for that investigation.

b. data which is the result of the processing and which is not relevant to the investigation shall be destroyed, as shall data which has been obtained on the basis of paragraph one and which is not a part of the result.

6. Information as referred to in paragraph five, under a, may be processed to investigate terrorist crimes.

7. The public prosecutor can, in deviation from paragraph five, under b, determine that the data referred to in that section shall not be destroyed insofar and as long as the data is required to subsequently verify the processing. If the data is not destroyed, it shall be solely processed to subsequently verify the processing.

K

Article 132a shall read:

Article 132a

Investigation is understood to mean an investigation with regard to punishable offences under the authority of the public prosecutor, with the objective of taking decisions for prosecution purposes.

L

After Article 138c an Article shall be inserted which reads:

Article 138d

A terrorist crime is understood to mean that which is referred to in Article 83 of the Penal Code.

M

In Article 552i, paragraph two, «or the powers regulated in Articles 126g to 126z as well as Article 126gg» shall be replaced by: **or powers as referred to in Articles 126g to 126z, Articles 126zd to 126zo and Article 126gg.**

N

Article 552oa shall be amended as follows:

1. In paragraph one «and 126uf» shall be replaced by: 126uf, 126zf and 126zg.

2. In paragraphs two and three «titles IVa V, Va and Vc» shall be replaced by: titles IVa to Vc and Ve.

ARTICLE II

The Penal Code shall be amended as follows:

A

In Article 46, paragraph one, «apparently» shall be deleted.

B

In Article 135, «bearing knowledge of a conspiracy of the crimes referred to in Articles 92-95a, 102 or 121» shall be replaced by «**bearing knowledge of a punishable conspiracy**» and «one year or a third category fine» shall be replaced by: **two years or a fourth category fine**.

C

In Article 136, paragraph one, «**and/or a terrorist crime**» shall be inserted after «one of the crimes described in Title VII of this Book» and «six months or a third category fine» shall be replaced by: **one year or a fourth category fine**.

D

Article 189 shall be amended as follows:

1. In paragraph one, section 1°, after «prosecuted» the following shall be inserted: **and/or investigated**.

2. A new paragraph shall be inserted, followed by renumbering of paragraphs two and three to three and four, this new paragraph reading:

2. If the crime, as referred to in paragraph one, concerns a terrorist crime, a prison sentence not exceeding four years or a fine of the fifth category can be imposed.

ARTICLE III

The Telecommunications Act shall be amended as follows:

1. In Article 13.2a, paragraph one, «by virtue of Article 126n or Article 126u» shall be replaced by: **by virtue of Article 126n, Article 126u or Article 126zh**.

2. In Article 13.4, paragraphs one and two, «by virtue of Article 126na, paragraph one, or 126ua, paragraph one,» shall be replaced by: **by virtue of Article 126na, paragraph one, 126ua, paragraph one, or 126zi**.

3. In Article 13.4, paragraph two, «by virtue of Article 126na, paragraph two, or 126ua, paragraph two,» shall be replaced by: **by virtue of Article 126na, paragraph two, 126ua, paragraph two, or 126zi**.

ARTICLE IV

If the legislative proposal, submitted by Royal Message of 23 February 2004, to amend the Code of Criminal Procedure and a number of other acts with regard to the regulation of powers to demand information (powers to demand information) (29 441) turns into law and if that act has taken effect the moment this act takes effect, this act shall be amended as follows:

A

Article I, section D, shall be amended as follows:

1. Articles 126zk to 126zo shall become **Articles 126zq to 126zu**.
2. After section three, a section shall be inserted which reads:

SECTION THREE A. DEMANDING INFORMATION

Article 126zk

1. In the event of indications of a terrorist crime the investigating officer can, in the interest of the investigation, order those, who reasonably qualify in this respect and who process information for reasons other than for personal use, to provide certain stored or recorded identifying data of a person.
2. Article 126nc, paragraphs two to seven, shall apply by analogy.

Article 126zl

1. In the event of indications of a terrorist crime the public prosecutor can, in the interest of the investigation, order those, of whom it can be reasonably suspected that they have access to certain stored or recorded information, to provide this information.
2. Article 126nd, paragraphs two to five and paragraph seven, shall apply by analogy.

Article 126zm

1. In the event of indications of a terrorist crime the public prosecutor can, in the interest of the investigation, determine that an order as referred to in Article 126zl, paragraph one, can relate to information which shall be processed only after the order is issued. The period of time that the order applies to shall not exceed four weeks and can be extended with a maximum of four weeks each time. The public prosecutor shall state this period in the order. Article 126nd, paragraphs two to five and paragraph seven, shall apply by analogy.
2. In an event as referred to in paragraph one, the public prosecutor shall determine that the execution of the order shall be terminated once the conditions, as referred to in Article 126zl, paragraph one, are no longer met. The public prosecutor shall prepare a report on the amendment, supplement, extension or termination of the order.
3. If so required in the interest of the investigation for urgent reasons, the public prosecutor can, in an event as referred to in paragraph one, determine that those who are subject to the order shall provide the information immediately following the processing and/or each time within a certain period after the processing. To this end, the public prosecutor shall require prior written authorisation for his order to be granted by the examining magistrate.

Artikel 126zn

1. In the event of indications of a terrorist crime the public prosecutor can, if so required in the interest of the investigation for urgent reasons, order those, of whom it can be reasonably suspected that they have access to information as referred in Article 126nd, paragraph two, third sentence, to provide this information.
2. Articles 126nd, paragraphs three to five and paragraph seven, and 126nf, paragraphs two and three, shall apply by analogy.

Article 126zo

1. An order as referred to in Articles 126zk, paragraph one, 126zl, paragraph one, or 126zm, paragraph one, can be aimed at the provider of a public telecommunications network or the provider of a public telecommunications service, insofar as the order relates to information other than which can be demanded by applying Articles 126zh and 126zi. Information stored in the automated system of the provider and which is not intended for or does not originate from him cannot be subject to the order.

2. If so required in the interest of the investigation for urgent reasons, the public prosecutor can order the provider, of whom it can be reasonably suspected that he has access to information as referred to in paragraph one, to provide this information.

3. Articles 126nd, paragraphs three to five and paragraph seven, and 126nf, paragraphs two and three, shall apply by analogy.

Article 126zp

1. If so required in the interest of the investigation the public prosecutor can, by (or immediately after) applying Articles 126zl, paragraph one, 126zm, paragraphs one or three, or 126zn, paragraph one, order those of whom it can be reasonably suspected that they bear knowledge of the encryption of the information referred to in these Articles, to render assistance to decode the information by removing the encryption and/or to make this knowledge available.

2. Article 126nh, paragraph two, shall apply by analogy.

B

Article I, section G, shall be amended as follows:

1. Subsection 3 shall read:

3. In paragraph four «and 126uc» shall be replaced by: , 126uc and 126zq to 126zs.

2. A subsection shall be added, which reads:

4. In paragraph five, «Articles 126nc to 126nh and 126uc to 126uh» shall be replaced by: Articles 126nc to 126nh, 126uc to 126uh and 126zk to 126zp.

C

Article I, section J, shall be amended as follows:

1. In the heading, «an Article is» shall be replaced by: **two Articles are**

2. After Article 126hh, an Article shall be inserted which reads:

Article 126ii

1. If the objective of an investigation as referred to in Article 126gg is to prepare the investigation into terrorist crimes, the public prosecutor can, in the interest of the investigation, order those, who reasonably qualify in this respect and who process information for reasons other than for personal use, to provide certain stored or recorded identifying data of a person.

Article 126nc, paragraphs two to five and paragraph seven, shall apply by analogy.

2. In the event of an investigation as referred to in paragraph one, the public prosecutor can, in the interest of the investigation, order a provider of a public telecommunications network or a public telecommunications service to provide information in respect of the name, address, postcode, residence, number and type of service of a user of telecommunications. Articles 126n, paragraphs two and three, second sentence, and 126na, paragraph four, shall apply by analogy. Article 126bb shall not apply.

3. The public prosecutor shall prepare a report on the identifying data or the information as referred to in paragraph two, which reports shall detail:

- a. the information provided;
- b. the reason why the information is ordered in the interest of the investigation.

D

Article I, section N, subsection 1, shall read:

1. In paragraph one «126uf and 126ug» shall be replaced by: 126uf, 126ug, 126zf, 126zg, 126zm, paragraph three, 126zn and 126zo.

E

A section shall be added to Article I, which section reads:

O

In Article 592, paragraph two, «Articles 126nc to 126nh and 126uc to 126uh» shall be replaced by: Articles 126nc to 126nh, 126uc to 126uh and 126zk to 126zp.

F

A new section shall be inserted in Article III, followed by renumbering of sections two and three to three and four, this new section reading:

2. In Article 13.2b «by virtue of Articles 126nc to 126nh and 126uc to 126uh» shall be replaced by: by virtue of Articles 126nc to 126nh, 126uc to 126uh and 126zk to 126zp.

ARTICLE V

If the legislative proposal, submitted by Royal Message of 23 February 2004, to amend the Code of Criminal Procedure and a number of other acts with regard to the regulation of powers to demand information (powers demanding information) (29 441) turns into law and if that act has taken effect the moment this act takes effect, Article 126ug, paragraph two, of the Code of Criminal Procedure, shall read as follows:

2. In an event as referred to in Article 126o, paragraph one, the public prosecutor can, if so required in the interest of the investigation for urgent reasons, order the provider of whom it can be reasonably suspected that he has access to information as referred to in the last sentence of paragraph one, to provide this information, insofar as it evidently originates from a person with regard to whom a reasonable suspicion arises, from facts or circumstances, that he is involved in the organised plotting and perpetration of crimes, or insofar as such information is intended for him, relates to him or has served to help plot or commit a crime within that organised context, or evidently, in relation to that information, is presently serving to help plot or commit a crime in that organised context.

ARTICLE VI

If the legislative proposal, submitted by Royal Message of 13 July 1999, to amend the Penal Code, the Code of Criminal Procedure and the Telecommunications Act with regard to new developments in information technology (computer crime II) (26 671) turns into law and if that act has taken effect the moment this act takes effect, this act shall be amended as follows:

A

In Article I, section D, a phrase shall be inserted in Article 126zd, paragraph one, subparagraph b, preceding the comma, which phrase reads: **or information which is stored, processed or transferred by means of an automated system, through the intervention of a public telecommunications network, to be acquired from a person.**

B

In Article I, section D, Article 226zg shall be replaced by two Articles which read:

Article 126zg

1. In the event of indications of a terrorist crime the public prosecutor can, if so required by the investigation for urgent reasons, order an investigating officer to record, by means of a technical device, communication which is not intended for the public and which shall take place by using services of a provider of communication within the meaning of Article 126la.

2. In addition to the information as referred to in Article 126za, the order shall state:

- a. if possible the number or another reference with which the individual user of the communications service shall be identified, as well as, insofar as known, the user's name and address;**
- b. the term of validity of the order; and**
- c. a description of the nature of the technical device(s) with which the communication shall be recorded.**

3. If the order relates to communication which takes place via a public telecommunications network or by using a public telecommunications service within the meaning of the Telecommunications Act, the order - unless not possible or when the interest of prosecution opposes this - shall be executed with the assistance of the provider of the public telecommunications network or the public telecommunications service and shall be accompanied by an order from the public prosecutor to the provider to render assistance.

4. If the order relates to communication other than referred to in paragraph three, the provider - unless not possible or when the interest of prosecution opposes this - shall be given the opportunity to render his assistance in the execution of the order.

5. Article 126m, paragraphs five to nine, shall apply by analogy.

Article 126zga

1. If an order as referred to in Article 126zg, paragraph three, is given whilst it is known that the user of the number as referred to in Article 126zg, paragraph two, under a, is located within the territory of another state, that other state, insofar as stipulated by a treaty and subject to the application thereof, shall be informed of the intention to record telecommunications and the consent of that state shall be secured prior to executing the order.

2. If by virtue of the order it becomes known that the user is located within the territory of another state after the recording of telecommunications has been initiated, that other state, insofar as stipulated by a treaty and subject to the application thereof, shall be informed of the recordings of telecommunications and the consent of that state shall be secured.

3. The public prosecutor can also give an order as referred to in Article 126zg, paragraph three, if the issuance of the order is necessary in order to be able to request another state to record telecommunications by means of a technical device or to tap telecommunications and directly forward it to the Netherlands for the purpose of recording by means of a technical device here.

C

In Article I, section D, Article 126zh shall be amended as follows:

1. in paragraph one, «a user and the telecommunications traffic with regard to that user» shall be replaced by: **a user of a communications service within the meaning of Article 126la and the communications traffic with regard to that user.**

2. In paragraph two «paragraphs two to seven » shall be replaced by: **paragraphs two to six.**

D

In Article I, section D, Article 126zi, paragraph one, «user of telecommunications» shall be replaced by «**user of a communications service within the meaning of Article 126la**» and «Article 126n, paragraphs two and three» shall be replaced by «**Article 126n, paragraph two**».

E

In Article I, section D, an Article shall be inserted after Article 126zj, which Article reads:

Article 126zja

1. In the event of indications of a terrorist crime the public prosecutor can, if so required in the interest of the investigation for urgent reasons, order those, of whom it can be reasonably suspected that they have access to certain information which at the time of the order is stored in an automated system and of which it can be reasonably assumed that it is particularly susceptible to theft or changes, to store and keep available this information for a period not exceeding ninety days. The accused cannot be subject of the order.

2. Article 126ni, paragraphs two to five, shall apply by analogy.

F

A subsection shall be added to Article I, section G, which subsection reads:

4. In paragraph five «and 126uc to 126ui» shall be replaced by: , 126uc to 126ui and 126zja to 126zp.

G

Article I, section H, shall read:

H

In Article 126ee, subparagraph a, «and 126t, paragraph one» shall be replaced by: 126t, paragraph one, 126zd, paragraph one, 126zf, paragraph one and 126zg, paragraph one.

H

Article IV, section E, shall be deleted and a section shall be added to Article I, which section reads:

O

After «126ui» in Article 592, paragraph two, the following shall be inserted: and 126zk to 126zp.

I

In Article IV, section F, «126nh» shall be replaced each time by «**126ni**» and «126uh» shall be replaced each time by «**126ui**».

ARTICLE VII

This act shall enter into force on a date to be determined by Royal Decree.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees, and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done

The Minister of Justice,