



Contribution to the thematic report
of the UN Special Rapporteur on the sale, sexual exploitation and sexual abuse of children
on **“Existing and Emerging Sexually Exploitative Practices against Children
in the Digital Environment”**

by the Secretariat of the Council of Europe

The Council of Europe Secretariat presents its compliments to the UN Special Rapporteur and wishes to provide input in particular as regards the following questions:

“Question 5. What technical and regulatory measures can be put in place by States... (legislative, regulatory, administrative, institutional and others) towards mitigating human rights risks associated with online child sexual exploitation and abuse, and ensuring the minimum harmonization across legal jurisdictions?”

“Question 9. What kind of mechanism could be put in place to best support and coordinate the joint public and private industry participation at the international level on existing and emerging threats that digital technologies pose to children in order to ensure harmonisation and mainstreaming across domestic and regional efforts when combatting this phenomenon?”

As to the measures available to States to mitigate risks and ensure the minimum harmonisation across legal jurisdictions (Question 5), the Council of Europe [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention), in force as of 2010 and ratified by 48 States to date, is a **comprehensive international multilateral legal instrument open to accession by any country in the world**. All State Parties are also Parties or signatories to the UN Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography. The Lanzarote Convention is fully complementary to these standards and facilitates action against all forms of child sexual exploitation and sexual abuse at national and international level by, among others, **ensuring harmonisation across its Parties’ legal jurisdictions** (see, for example, paras. 112-113 of its [Explanatory Report](#)).

The Lanzarote Convention requires State Parties to protect children from **all forms of sexual exploitation and sexual abuse** (Article 4). The Committee of the Parties to the Lanzarote Convention (Lanzarote Committee) entrusted with monitoring its implementation held in 2017 in its [interpretative opinion on the applicability of the Convention to sexual offences against children facilitated through the use of information and communication technologies \(ICTs\)](#) that sexual offences against children are proscribed by the Lanzarote Convention irrespective of the means used by offenders and thus should be criminalised by national law in the same way, even when the text of the Lanzarote Convention does not specifically mention ICTs.

The challenges associated with the use of technologies to detect and remove child sexual abuse materials were explored in detail in the independent expert report adopted in 2021 "[Respecting human rights and the rule of law when using automated technology to detect online child sexual exploitation and abuse](#)". As regards AI-generated content, Article 20 § 2 of the Lanzarote Convention defines child sexual abuse material (CSAM) as "any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes." This is understood to include content consisting of simulated representations or realistic images of a non-existent child generated by AI, and States are encouraged to include these types of materials in their definitions of CSAM.

The issue of protection of children against sexual exploitation and sexual abuse facilitated by ICTs has been addressed by the Lanzarote Committee in the context of its thematic monitoring rounds carried out simultaneously in respect of all Parties. Thus, in 2022, the Committee adopted an [implementation report addressing the challenges raised by child self-generated sexual images and/or videos \(CSGSIV\)](#). The recommendations to State Parties concerned ten thematic areas and included, among others, the following:

- as regards legal frameworks
 - to strengthen legislation to ensure all offences related to child sexual abuse material, solicitation of children for sexual purposes and sexual extortion of children are criminalised;
 - not to prosecute children for sharing their own CSGSIV with another child when the sharing is voluntary, consensual and intended solely for their own private use;
- as regards jurisdiction rules and international cooperation
 - to ensure that prosecutions for sexual offences against children can be initiated even without a report or a complaint from the victim;
 - to remove any requirements for dual criminality of sexual offences against children;
 - to take the necessary legislative or other measures to establish jurisdiction over transnational cases of child sexual exploitation and abuse facilitated by ICTs, when one of the constituent elements of the offence has taken place in their territory.
- as regards prevention
 - to ensure that persons who have regular contact with children across all sectors, have adequate knowledge and training about these risks;
 - to expand co-operation with civil society involved in prevention efforts;
 - to strengthen data collection mechanisms;
 - to address these risks in educational contexts, include information about these risks in awareness raising campaigns.

As to the mechanism to support and coordinate the joint public and private industry participation at the international level on existing and emerging threats of digital technologies (Question 9), the Lanzarote Convention requires State Parties to encourage **co-operation between the competent State authorities, civil society and the private sector** in order to better prevent and combat child sexual exploitation and abuse (Article 10 § 3). It also requires Parties to cooperate with each other to the widest extent possible by, as one example among others, lending itself as the legal basis for mutual legal assistance in criminal matters or extradition (Article 38).

The Lanzarote Committee itself also serves as a platform for collection, analysis and exchange of information, experience and good practice between States and other stakeholders to improve their capacity to prevent and combat sexual exploitation and sexual abuse of children (Article 41 § 2). To this end, in addition to the regular activities at its three yearly plenary meetings, it holds an annual

capacity-building event. In 2024, its thematic focus will be on threats and opportunities of emerging technologies for the protection of children from sexual exploitation and sexual abuse. Among others, Parties will be made aware of the possible legislative gaps putting children in their jurisdictions at risk from emerging technologies.

On the basis of the above, joining the Lanzarote Convention constitutes an important measure that can be taken by States to ensure a minimum harmonisation across legal jurisdictions facilitating the fight against online child sexual exploitation and sexual abuse, as well as a legal basis for the cooperation between public sector and the private industry. At the same time, the Lanzarote Committee's platform can be used for exchange of good practices and capacity-building to the benefit of all stakeholders, including the public and private actors.