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## **LANZAROTE CONVENTION**

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

**Replies to the thematic questionnaire**

**SPAIN**

**2<sup>nd</sup> thematic monitoring round**

**“The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”**

Replies registered by the Secretariat on 8 November 2017

Update registered by the Secretariat on 24 November 2017

## Prevention

### Question 1 Awareness-raising or educational activities/tools/materials/measures

1.1. Are there awareness-raising or educational activities/tools/materials/measures addressed to children, about the risks they face when they produce and/or share:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

1.2. Are there awareness-raising or educational activities/tools/materials/measures specifically targeting children as bystanders/observers of other children producing and/or sharing:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

1.3. Are there awareness-raising activities/tools/materials/measures addressed to parents and persons who have regular contact with children (teachers, psychologists, health care professionals, etc.) about the risks children face when they produce and/or share:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

→ Please specify which entities carry out the above-mentioned awareness raising or educational activities (questions 1.1, 1.2 and 1.3) and how they coordinate their action.

→ Please share links to awareness-raising or educational materials (e.g. booklet, video, smartphone application, manual on non-formal education, tool-kit, internet tools) produced for the above mentioned activities (questions 1.1, 1.2 and 1.3).

#### 1.- Ministry of Interior:

The "[Plan Director para la Convivencia y la Mejora de la Seguridad en los Centros Educativos y sus Entornos](#)" ("Master Plan for Coexistence and Improvement of Safety in Schools and their Environments"), allows police officers to work in the prevention of these dangers in schools, awareness raising and training involving not only minors, but also parents, and educators.

*Instruction No. 7/2013 of the Secretary of State for Security* regulates these training actions, which include bullying and the prevention and safety of minors on the Internet, sensitizing and guiding students and all the educational community, formed by parents, and educators.

Within the framework of such Master Plan led by the Ministry of Interior, training and awareness-raising activities are organised at schools. These activities aim at warning about the risks for sharing data and images in social networks and Internet and about the importance to have parents, educators and Law Enforcement Bodies informed on the bullying or sexual assault likely to be suffered by students.

- <http://www.interior.gob.es/documents/642012/1568685/Instruccion%207%202013.pdf/cef1a61c-8fe4-458d-ae0d-ca1f3d336ace>
- <http://www.interior.gob.es/documents/642012/1568685/TRIPTICO+ALUMNO+2017/1ee6bd66-0f44-41be-b1a5-da88fa900fd2>

This plan includes police surveillance to avoid violent and criminal acts. These awareness and surveillance actions are carried out by **Civil Guard and National Police** officers throughout the national territory.

**The National Police** has developed:

- The project “**CIBEREXPERT@**” with the collaboration of civil society (Telefónica and Fundación Cibervoluntarios). This project aims at protecting children from the risks of internet misuse.
- “**Embajadores de Internet responsable**” (Responsible Internet Ambassadors) Project of National Police in collaboration with Google and Regional government of Madrid, BT Foundation and Junior Achievement Foundation, also intends to raise awareness among children teaching the how to minimize risks when using ICTs.
- With the same purpose mentioned above the National Police has issued a guide on “**Privacy and safety in Internet**” in collaboration with the Spanish Data Protection Agency.
- The [seguridadescolar@policia.es](mailto:seguridadescolar@policia.es) mail address has been set out by the National Police in order to help children to receive information, or report these conducts.
- Everyone (including children) can report these offences through the National Police web page ([www.policia.es](http://www.policia.es)) through the citizen collaboration’s section where it exists a specific annex dedicated to child pornography.

## **2.- Ministry of Digital Agenda:**

The IS4K, **Internet Segura for Kids**, (Safe Internet for Kids), which is an internet security centre, provides a wide range of services and resources to parents, educators and child care professionals to promote safe and responsible use of the Internet among children. More specifically, activities are carried out on how to manage privacy, digital identity and reputation, and the risks of self-generated sexually explicit images and videos.

Some examples of resources are:

- School Workshops Program: awareness-raising workshops are organized at the centres, and a public catalogue of teaching materials is available.  
<https://www.is4k.es/de-utilidad/materiales-didacticos>
- Guide on adolescence and sexting.  
<https://www.is4k.es/de-utilidad/recursos/guia-sobre-adolescencia-y-sexting-que-es-y-como-prevenirlo>
- Blog articles for awareness raising.  
<https://www.is4k.es/necesitas-saber/sexting>  
<https://www.is4k.es/blog/sexting-when-our-children-your-photo-your-photography>

IS4K also has a helpline to advise young people, parents, educators and professionals in the field of children, on how to manage the doubts or conflicts that the minors face on the Internet. Sexting is one of the main issues addressed.

### **3.- Ministry of Education:**

Actions are comprehensively designed and focused on the prevention of any kind of conducts and risks that may interfere with coexistence at educational centres, including those carried out by using ICTs.

In this regard, a Strategic Plan for school coexistence has been developed. This Plan is structured around seven main axes, all of them of a transversal nature and concerning the prevention of all kind of discrimination, bullying and violence in schools, as well as hate speech.

The Plan promotes the need to protect children from all forms of exploitation, abuse or violence. It also takes into account that situations of abuse, intimidation or violence that can occur should not be over-simplified, since sometimes they may result in violent attitudes for not having been identified (i.e. bullying or violence) in due time.

The sixth axe is focused on "Attention to and supervision of the use of information and communication technologies" and is devoted to the prevention and control of violent incidents in education centres and to the support to victims of violence and bullying, so as to eradicate violence, intimidation, discrimination and bullying by means of the unanimous and proactive attitude from the whole of the educational community. It is fostered the need to always take a stand against violence, to provide solidarity and support to victims and to break the code of silence.

Action line number eight provides special relevance to scientific research and dissemination. The idea is to develop reflection and self-reflection capacities of people and society, aiming at transforming the world in which we live through education and at preventing situations that may arise in connection with all forms of sexual abuse, especially by means of ICT.

Teacher training is a key element for the prevention of sexual abuse. The Strategic Plan for School Coexistence sets a target for an effective teacher training promoting the prevention of the risks in connection with any form of abuse or violence schoolchildren are confronted with, in particular regarding those of sexual content.

- **Telephone Helpline in case of ill treatment and bullying – 900 018 018.** It is operating since November 1<sup>st</sup> 2016. The call is free of charge, available 365 days a year and run by experts such as psychologists, lawyers or social workers, who shall be required to have official qualifications to be able to work and answer the calls. There is a Text Messaging Service for users with impaired hearing.
- **Framework Collaboration Agreement between the Minister of Education, Culture and Sport (MECD) and the Spanish Data Protection Agency (AEPD)** with the purpose of promoting awareness rising and training of minors in privacy and data protection matters, particularly in the Internet, by carrying out projects and actions of educational nature.
- **Project "Empathy subject"**, in collaboration with the company Samsung. In order to raise awareness in the educational community and to promote pro-active involvement of all its members in preventing and detecting bullying, whatever its form, this project has been launched with the purpose of elaborating virtual reality videos dealing with cyberbullying as a kind of school violence existing nowadays. The main objective is to show coordinated actions involving teachers, families and schoolchildren to prevent bullying situations among pairs by means of ICTs.

- Participation in the **Network of Coordinators for Education in Democratic Citizenship and Human Rights (EDC/HRE) of the Council of Europe**, whose main task is developing and exchanging information on this matter, deriving thus in establishing values against any kind of situations in connection with sexual exploitation or its dissemination through ICTs.
- **Guidelines** for the educational community on the prevention of school violence and cyberbullying and on the support to be provided to victims in a school context

**4.- The Spanish Data Protection Agency (AEPD)** has lately developed different materials and tools and carries out activities aimed at awareness-raising and educating children on a secure use of internet.

These materials, tools and measures include recommendations and advice for dealing with the situations described in the question.

The above mentioned materials and tools can be found on the web of the AEPD ([www.tudecideseninternet.es](http://www.tudecideseninternet.es)), and they include, among others, guides, videos and cartoons which address the risks this kind of activities may represent **for children**.

As an example, the following guides could be mentioned:

“No te enredas en Internet”: <http://www.tudecideseninternet.es/aqpd1/quias/no-te-enredas-en-internet.html>

“Sé legal en Internet”: <http://www.tudecideseninternet.es/aqpd1/quias/se-legal-en-internet.html>

Since October 2015, a special channel (Canal Joven: email, telephone, Whatsapp) provides specific information and guidance on issues relating to the privacy of minors in response to questions raised by children and their parents, guardians, teachers or schools. The queries sometimes refer to the situations described in the questionnaire.

The AEPD also carries out different actions, especially meetings and workshops, with Educational Authorities, which include awareness raising recommendations in order to avoid the risks of these situations.

Finally, on October 19<sup>th</sup>, the AEPD presented new materials (videos), which refer to the situations described in the questionnaire. The videos (“Tú controlas en Internet”) are available from that day on the site [www.tudecideseninternet.es](http://www.tudecideseninternet.es).

The materials mentioned above also address the situations described in the questionnaire and include recommendations for children observers.

The materials and tools can be used by **parents and teachers**, and in particular the guides referred above have a specific version for them:

- “Guíales en Internet”:  
<http://www.tudecideseninternet.es/aqpd1/quias/no-te-enredas-en-internet.html>
- “Enséñales a ser legales en Internet”:  
<http://www.tudecideseninternet.es/aqpd1/quias/ensenales-a-ser-legales-en-internet.html>

In addition to that also on October 19th, the AEPD presented a workshop for parents “Los menores y su ciber mundo” (“*Children and their cyber world*”), in a set of videos that include these subjects.

The videos of the workshop, as the videos “Tú controlas en Internet” (“*In Internet you have the control*”), both produced by the AEPD, are available from that day on [www.tudecideseninternet.es](http://www.tudecideseninternet.es) and will be distributed to the schools and families with the collaboration of educational authorities and the rest of stakeholders of the educational community.

## QUESTION 2. CIVIL SOCIETY INVOLVEMENT

**2.1. How do State authorities encourage the implementation of prevention projects and programmes carried out by civil society with regard to:**

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

### **1.-Ministry of Interior:**

All the activities aimed at protection and warning for minors using ICT, including sexting, are a priority that should involve the whole society. For that reason, all actors that, in one way or another, have contact with children - parents, educators, law enforcement, civil society, health sector, audio-visual media, etc. - should work together.

Some initiatives are:

- <http://www.pantallasamigas.net/>
- <http://famiadigital.net/>
- <https://www.incibe.es1>
- <https://www.osi.es/es.html>
- <http://www.red.es/redes/>

There are also budgetary provisions from different public administrations aimed at collaborating with civil society organisations that do not have funds for setting up this awareness raising projects or campaigns (i.e. SAVE THE CHILDREN).

Also through collaboration agreements, public administrations encourage civil society to actively involve itself in these campaigns.

- <http://www.ciberexperto.org>
- <https://www.aqpd.es/portalwebAGPD/canaldocumentacion/publicaciones/common/Guias/2016/Privacidad y Seguridad en Internet.pdf>

### **2.- Ministry of Digital Agenda:**

The program «*Cibercooperantes*» promotes the collaboration of individuals interested in the dissemination of cybersecurity through awareness workshops.

These activities are carried out in education centers and are addressed to children, youth, parents, and educators. Sexting is one of the main topics.

**3.- The Ministry of Health, Social Services and Equality** funds entities (private sector) which develop programs on prevention and intervention in cases of child sexual abuse or exploitation. This kind of programmes received grants up to 577.720 € in 2016.

**2.2. Please provide information on prevention activities (including awareness-raising and educational activities, research etc.) implemented by civil society (including those carried out by civil society at their own initiative) with regard to:**

- a. self-generated sexually explicit images and/or videos;**
- b. self-generated sexual content?**

**1.- Ministry of Interior:**

The "Guardia Civil" frequently participates in multiple institutional initiatives (Observatory for Children) and private initiatives against child sexual exploitation. An example of this collaboration, is the signing by the Director General of the Guardia Civil of the Agreement of Intentions with the organization **Protégeles, ("Protect them")** to collaborate in the fight against the sexual exploitation of children through the use of ICTs.

To this end, specific materials have been prepared to support the didactic and awareness work carried out by the Guardia Civil officers at schools.

In addition, Guardia Civil develops **other initiatives** such as:

- A very important work in the channels and profiles of social networks through the official accounts of the Guardia Civil and the GDT (Group of Telematic Crimes of the Central Operative Unit of Guardia Civil) in which tips are given for the adoption of security measures and alerts on social networks. These communications are aimed at raising awareness of society in order to create an area of protection, especially for the most vulnerable groups, including minors.
- The creation of the "Colabora" ("*Collaborate*") telematic platform managed by the Telematic Crime Group of Guardia Civil, (<https://www.qdt.guardiacivil.es/webgdt/pinformar.php>), and the implementation of an application for citizens to make communications through mobile phones.
- Its official website and an email address [protection-menor@guardiacivil.org](mailto:protection-menor@guardiacivil.org) that manages the EMUME CENTRAL (Junior-Center Team) of the Technical Unit for the Judicial Police, agents specialized in the field of minors and ICTs.
- The development of agreements with the main telephone operators in Spain to include in their web pages a button of complaint that establishes a link with the aforementioned platform "Colabora" and that allows to inform directly on those pages, forums, chats or others spaces that contain illegal content or harmful to minors.
- Signing and developing collaboration protocols with organizations specially dedicated to the protection of minors on the Internet (Fundación ANAR, Fundación ALIA2 ...), maintaining contacts in a stable manner and protocolizing the relationship and joint action.
- Increasing Guardia Civil participation in different national and international fora where experiences are exchanged and tools developed to improve the response against this type of threats.

<http://www.ciberexperto.org>

<https://www.is4k.es>

<https://www.anar.org>

<https://www.cece.es>

<https://www.csd.gob.es>

[www.chaval.es](http://www.chaval.es)

<https://www.educacion.navarra.es/documents/57308/57740/cyberbullying.pdf/1c169fb5-b8ab-478f-b7f4-7e3d22adab14>

**2.- Ministry of Digital Agenda:** A sexting awareness-raising campaign organized by ONG Pantallas Amigas (Friendly Screens): <http://www.sexting.es/>



**3.- The Spanish Data Protection Agency (AEPD)** supports civil society projects in relation to these matters. One example could be the competition organized by the Consumers and Users Organization (a civil society association that represents the interests of consumers) and Google, for safe Internet browsing. One section of this contest, which has been sponsored by the AEPD, was focused on children and the Internet, including the dangers involved in situations such as those described in the question (<http://www.ocu.org/viveinternetseguro/>)

### **Question 3. National curriculum**

**Does national curriculum (primary and secondary schools, and vocational education) include awareness-raising about the risks of:**

- a. self-generated sexually explicit images and/or videos?**
- b. self-generated sexual content?**

#### **1.- Ministry of Education:**

The Organic Law 2/2006 of 3 May on Education, modified by Organic Law 8/2013 of 9 December on quality improvement in education, includes as one of the main objectives for Primary Education **to begin a learning-purpose use of Information and Communication Technologies, developing a critical approach to the messages they receive and create** (Article 17.i), as well as to value hygiene and health and to accept both their body and the body of others (Article 17.k).

Among the objectives of Compulsory Secondary Education, Article 23.e outlines the need to develop basic critical thinking skills when using the sources of information to acquire new knowledge. Article 23.k, in turn, focuses on the necessity to understand and accept the functioning of the own body and the body of others, respecting differences and knowing and valuing the human dimension of sexuality in all its diversity.

Last, among the objectives of Baccalaureate, we must highlight the objective included in Article 33.b): “Consolidate personal and social maturity allowing students to act in a responsible and autonomous way and developing their critical thinking” and, more specifically, Article 33.g) stands for “the use of information and communication technologies in a solvent and responsible way”.

Moreover, both Royal Decree 126/2014 of 28 February establishing the core curriculum for Primary Education, and Royal Decree 1105/2014 of 26 December establishing the core curriculum for Compulsory Secondary Education and Baccalaureate, include curricular elements concerning **sexual education and the prevention of risky conducts in the Internet** in various subjects of both core and specific teaching disciplines (ANNEX I and II).

Besides the above specific references, both royal decrees regulate transversal elements that must be tackled from all disciplines, while indicating that curricula for Primary and Secondary Education must incorporate curricular elements related to risky situations of sexual exploitation and sexual abuse and with an inadequate use of Information and Communication Technologies.

Likewise, Royal Decree 1105/2014 of 26 December, in Point Two of Additional Provision number Nine – Informative and raising awareness actions – provides that the Ministry of Education, Culture and Sport and the Ministry of Justice, in cooperation with education administrations and interested bodies or organizations, shall promote dissemination among schoolchildren of information about sexual exploitation and sexual abuse risks, as well as on how to protect themselves from these situations, in compliance with the provisions contained in Article 6 of the Council of European Convention on the protection of children against sexual exploitation and sexual abuse.



Finally, it is worth mentioning that according to current educational regulations, education administrations are entitled to create free configuration subjects.

**ANNEX I**  
**Primary Education curricula**  
**Sexual education and ICT**

**Royal Decree 126/2014 of 28 February establishing the core curriculum for PRIMARY EDUCATION**

<b>NATURAL SCIENCES</b>		
<b>Contents</b>	<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>
<b>Block 1. Initiation to scientific activity</b>		
		4.3. Knows and employs personal protection and security measures available when using information and communication technologies.
<b>Block 2. Human being and health</b>		
The human body, functions. Anatomy and physiology. Organs and systems. Human being's vital functions. Reproduction (reproductive system). Health and disease.	1. Identify and locate the main organs involved in vital functions of the human body, relating them with certain health habits. 2. Knowing the functioning of the human body: cells, tissues, organs, systems: location, form, structure, functions, care, etc. 3. Relate certain life practices with a proper body functioning, adopting healthy lifestyles, being aware of their impact on health.	1.1. Identifies and locates the main organs involved in vital functions of the human body: Nutrition (respiratory, digestive, circulatory and excretory tracts). Reproduction (reproductive system). Relationship (organs of sense, nervous system, locomotive system). 2.1. Identifies and describes the main features of human being's vital functions. 3.1. Recognizes healthy lifestyles and their impact on the care and maintenance of the different organs and systems. 3.2. Identifies and values healthy habits to prevent diseases and keeps a responsible conduct. 3.3. Identifies and adopts good hygienic, care and rest habits. 3.4. Knows and explain the principles of a balanced diet, identifying healthy practices to prevent and detect health hazards.

SOCIAL AND CIVIC VALUES	
Evaluation criteria	Evaluable learning standards
<b>Block 3. Coexistence and social values</b>	
24. Employ new technologies developing social and civic values in safe environments.	9.2. Explains the importance of having all persons benefit from basic rights: health, welfare, food, clothing, housing and medical care. 22.3. Carries out creative work on the requirement of uncontaminated air for good health and life quality 23.1. Values the importance of body and health care and of preventing home accidents. 23.2. Gives reasons on the impact of certain risky conducts on health and life quality 24.1. Makes an ethical use of new technologies 24.2. Knows how to make a safe use of new technologies 24.3. Makes a critical analyses and assessment of the contents of digital environment.

**Order ECD/686/2014 of 23 April establishing the curriculum for Primary Education in areas falling under the scope of the Ministry of Education, Culture and Sport and regulating its implementation, as well as the evaluation and certain organisational aspects of that stage**

Within the area Social and Civil Values

SOCIAL AND CIVIC VALUES		
Contents	Evaluation criteria	Evaluable learning standards
<b>1st. Year</b>		
<b>Block 1. Identity and dignity of the human person</b>		
	3. Self-regulating daily conducts and develop impulse control acquiring healthy self-care habits.	4.3. Shows responsible and healthy behaviour
<b>2nd. Year</b>		
<b>Block 1. Identity and dignity of the human person</b>		
Rights and duties of the human person. Declaration of the Rights of the Child: health, love, education	4. Understand the importance of the rights of girls and boys concerning health, education and love, providing simple reasons for evaluating positive and negative conducts in connection with the protection of such rights.	4.2. Verbally explains the consequences of boys and girls not having the opportunity to grow and develop in good health.
<b>4th Year</b>		
<b>Block 2. Understanding and respect in interpersonal relationships</b>		

<b>Contents</b>	<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>
Rights and duties of human persons. Universality of human rights. Universal Declaration of Human Rights: health, welfare, food, clothing, housing and medical care. Equal rights and co-responsibility of men and women	4. Respect universal values knowing the universal nature of human rights and understanding the need to ensure basic rights to all persons: health, welfare, food, clothing, housing and medical care as well as security.	4.2. Understands and explains through digital images the importance for all persons enjoying the rights to health, welfare, food, clothing, housing, medical care and security.
<b>Block 3. Coexistence and social values.</b>		
		6.3. Explains through creative work the non-contaminated air requirement for health and life quality.
<b>5th. Year</b>		
<b>Block 1. Identity and dignity of the human person.</b>		
		4.1. Evaluates and explains through digital images the impact of certain risky conducts on health and life quality.
<b>Block 2. Understanding and respect in interpersonal relationships.</b>		
		7.1. Evaluates the importance of body and health care to prevent home accidents.

**ANNEX II**  
**Secondary Education curricula**  
**Sexual education and ICT**

Royal Decree 1105/2014 of 26 December establishing the core curriculum for Compulsory Secondary Education (ESO) and Baccalaureate

**CORE SUBJECTS**

<b>Technology. 4th Year ESO</b>		
<b>Block 1. Information and Communication Technologies</b>		
<b>Evaluation criteria</b>		
<b>Contents</b>	<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>
	2. Access to digital information exchange and publication services with safe and responsible criteria	2.2 Carries out responsible activities on concepts such as property and exchange of information

## SPECIFIC SUBJECTS

<b>1. Information and Communication Technologies. 4th. Year ESO</b>		
<b>Block 1. Ethics and aesthetics in network interaction Evaluation criteria</b>		
<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>	
2. Access to digital information exchange and publication services with safe and responsible criteria	2.1. Carries out responsible activities on concepts such as property and exchange of information.	
<b>Block 4. Computer security</b>		
	1. Adopt active and passive security conducts in the protection of data and the exchange of information.	1.2. Knows security risks and employs adequate protection habits.
<b>Block 6. Internet, social networks, hyper-connectivity</b>		
	2. Employ critical thinking and develop appropriate habits when using and exchanging information through social networks and platforms.	2.1. Is actively involved in social networks with safe criteria.
<b>2. Information and Communication Technologies II. 2<sup>nd</sup>. Year Baccalaureate.</b>		
<b>Block 3. Security</b>		
<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>	
1. Adopt active and passive security conducts that allow to protect the individual's data when interacting in the Internet and when managing local resources and applications		
<b>3. Audiovisual culture II. 2nd. Year Baccalaureate</b>		
<b>Block 3. Audiovisual communication media</b>		
Contents		
Responsible use of the Internet		
<b>4. Scientific culture. 1st. Year Baccalaureate</b>		
<b>Block 5. New technologies in communication and information</b>		
<b>Evaluation criteria</b>	<b>Evaluable learning criteria</b>	
5. Carry out critical evaluations, through presentations and debates, on the problems in connection with computer-related offences, access to personal data, socialization difficulties or excessive dependence from their use.	5.2. Shows out the need to protect data through encoding, passwords, etc.	
<b>5. Ethical values. 1st cycle ESO</b>		
<b>Block 5. Ethical values, Law, Universal Declaration of Human Rights and other international agreements on human rights.</b>		
<b>Evaluation criteria</b>	<b>Evaluable learning standards</b>	
	6.3. Justifies the need to act in defence of the rights of children fighting against the violence and abuse that children are suffering in the XXI century such as sexual abuse, child labour, or their use as soldiers, etc.	

**2.- The Spanish Data Protection Agency (AEPD)** is encouraging competent authorities to integrate privacy and data protection matters, including awareness-raising activities about the risks of self-generated sexually explicit images and/or videos and self-generated sexual content, in educational curricula.

#### **Question 4. Higher education curriculum and continuous training**

**Do higher education curriculum and continuous training for those who will or already work with children include the issues raised by:**

- a. self-generated sexually explicit images and/or videos?**
- b. self-generated sexual content?**

**1.- Ministry of Education:** Due to the maturity of higher education students (who are over 16 years-old), higher education plans establish the skills to be acquired, but not the contents in detail.

**2.- National Police** contributes to higher education programs addressed to those who work with children in two ways:

1. Offering courses aimed at future teachers and psychologists for promptly detecting these cases in schools and health centres.
2. Rey Juan Carlos I University, Universidad Nacional de Educación a Distancia, CEU San Pablo University, Saint Louis University and Camilo José Cela University have organized workshops aimed at students, teachers as well as at National Police officers on this issue.

#### **Question 5. Research**

**5.1. Have public authorities or other bodies initiated/supported research on the issues raised by:**

- a. self-generated sexually explicit images and/or videos?**
- b. self-generated sexual content?**

**1.- Ministry of Digital Agenda:** The EU Kids Online project, funded by the European Commission, examines the risks and opportunities of Internet use among minors. Spain participates in the studies through the [Spanish node](#). In the last study in which Spain has participated, the phenomenon of sexting and its associated risks are studied.

<http://netchildrengomobile.eu/ncqm/wp-content/uploads/2013/07/Net-Children-Go-Mobile-Spain.pdf>

**2.-The AEPD** convenes annually the data protection awards, which include a research category. In the year 2016 the second prize was granted to the work "*Minors on the internet and social networks. Applicable law and duties of parents and educational centers - Brief reference to the Pokemon Go 'phenomenon'*", a project whose content is related to the situations described in this questionnaire.

- 5.2. Have public authorities or other bodies conducted or supported research in particular on the psychological effects on those persons whose:
- a. self-generated sexually explicit images and/or videos as children have been shared online?
  - b. self-generated sexual content as children has been shared online?

→ Please specify whether the public authorities or other bodies having initiated/supported the research above (questions 5.1 and 5.2) are aware of their outcomes.

No information is available.

## Protection

### Question 6. Assistance to victims

- 6.1. What specific reporting mechanisms, including helplines, are in place to ensure that child victims of exposure online of:
- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
  - b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

#### 1.- Ministry of Interior:

- Within the framework of the **National Police's Plan** against Trafficking in Human Beings for the Purpose of Sexual Exploitation, an anti-trafficking call number has been launched: 900 10 50 90 to complain of any form of sexual exploitation. These claims are dealt with at the following e-mail address: trata@policia.es. Twitter:@policia. Hastag:#contralatrata.
- The website policia.es includes a section on citizen collaboration through which a complaint form can be found to report to the National Police whatever situation arises regarding child pornography. https://www.policia.es/formulario\_generico.php?ordenes=6
- Units for Women and Family Assistance, with specialized juvenile sections, have an e-mail of Continued Assistance at the disposal of citizenship: atencionfamiliaymujer@policia.es

The **National Police** has the duty to investigate and take perpetrators before the judicial authority. When dealing with victims, Police sends them to the relevant Social Assistant Services.

As it has been explained before, **Guardia Civil** has created "COLABORA" a telematic platform managed by the Telematic Crime Group of the Central Operative Unit for the Judicial Police (https://www.gdt.guardiacivil.es/webgdt/pinformar.php). In addition to this platform, other actions for encouraging children and citizens to report this crimes are: the implementation of an application for citizens to make communications through mobile phones, the creation of an official website of the Corps on the Internet and the existence of an email address: "protection-menor@guardiacivil.org", that manages the EMUME CENTRAL (Junior-Center Team) of the Technical Unit for the Judicial Police, agents specialized in the field of minors and new technologies.

Once the crime is known, from the police point of view, all channels are useful for reporting this kind of crimes against children. In order to carry out the investigation and subsequent detention of the perpetrators of these crimes, it is necessary the interview with the minor. In order to avoid the re-

victimization of underage victims, the interviews for the declaration of the minors are carried out by specialists Psychologists of Guardia Civil, and have the following characteristics:

- They are carried out without undue delay once the facts have been reported to competent authorities.
- They take place, if necessary, in premises designed or adapted for that purpose.
- They are carried out by professionals trained for this purpose.
- If possible, all interviews with the child are carried out by the same specialist.
- The number of interviews is as small as possible and to the extent that it is strictly necessary for the purposes of the procedure.
- The minor can be accompanied by his legal representative or, if applicable, an adult of his choice, unless a motivated decision is taken against that person.

In addition, with the authorization of those who exercise parental authority, or in their absence of the Prosecutor or Judicial Authority, the recording of the examinations done to minors is carried out with the conditions requested so that it is admitted as an advance test.

For actions subsequent to the taking of police declaration, the Guardia Civil refers victims to social services, which are responsible for assuring the assistance and recovery of minors and their reincorporation to a life according to their age.

In case it is presumed that a minor victim may be in a situation of vulnerability or helplessness, this circumstance is communicated to the Public Prosecutor's Office to arrange the measures that guarantee the safety of the minor.

Tutors are also informed of the possibility of requesting protection measures and, if they so state, the request is transferred to the judicial authority for their grant.

## **2.- Ministry of Digital Agenda:**

IS4K has recently launched a helpline to advise young people, parents, educators and professionals working with children, on how to manage the doubts or conflicts that the minors face on the Internet. Sexting is one of the main issues addressed.

Minors themselves can also call as there are professionals prepared to advise them in a friendly language, adapted to their understanding and maturity. A multidisciplinary team, with psycho pedagogues, technologists and lawyers, manages the service to give an integral response.

The Helpline phone channel was launched in September 2017, so the first strong statistics will be available by the end of 2017.

**3.- AEPD:** The web [www.tudecideseninternet.es](http://www.tudecideseninternet.es) includes the addresses of different sites where victimized children can find help in the referred cases (Police, NGO, Ministry of Education): <http://www.tudecideseninternet.es/aqpd1/si-tienes-problemas.html>

**6.2. What legislative or other measures have been taken to ensure that child victims of online exposure of:**

- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?**
- b. self-generated sexual content are provided with the necessary support, assistance and psychological help?**

→ Please provide, if any, information on the number of victims who received support, assistance and psychological help in the above mentioned specific contexts (questions 6.1 and 6.2).



In 2015, Act 4/2015 was issued. This Act, named "Statute of the victim of crime", constitutes a real catalogue of rights, both procedural and extra-procedural, for all victims of criminal offences. It states that the superior interest of the child must always prevail. This statement is a rule that must guide every decision taken towards a child victim throughout the criminal procedure. In addition, Act 4/2015 specifically foresees tailor-made protection measures addressed to minors victims of sexual crimes that shall consider their particular circumstances and necessities.

In order to provide a more effective attention of victims, the Ministry of Justice has created 26 Offices for Criminal Offences' Victims intended to cover all aspects regarding children victims. The functions of these Offices are regulated under Royal Decree 1109/2015, which define them as specialized units whose purpose is to provide assistance and / or coordinated care to respond to victims of crimes in the legal, psychological and social fields, as well as to promote restorative justice measures. This assistance is provided through a network coordinated with Social Services in each Autonomous Community and it is provided at the judicial stage as well as at the psychological, health, economical stages.

### **Question 7. Cooperation with civil society**

**Please describe cooperation with non-governmental organisations, other relevant organisations and other representatives of civil society engaged in assistance to victims of the offences covered by the present questionnaire (see questions 9-11) through e.g. child helplines, victim support organisations.**

#### **1- Ministry of Interior:**

Work is fundamentally carried out on the PLAN CONTIGO ("WITH YOU PLAN") that takes part of the MASTER PLAN FOR COEXISTENCE AND IMPROVEMENT OF SAFETY IN SCHOOLS, outlining the activities developed in schools and the attendance to meetings and forums on issues of interest related to the experience of minors on the Internet, addressed to parents, educators and students which has been basically developed by the National Police through its Citizen Participation Unit.

These activities face risks linked to the use of Internet, with special attention to the school bullying issue, the grooming and the need to maintain privacy as a comprehensive protection against frauds and other menaces, specifically with respect to self-production of pornographic material by minors and their distribution.

- <http://www.interior.gob.es/web/servicios-al-ciudadano/planes-de-prevencion/plan-director-para-la-convivencia-v-meiora-escolar>
- [https://www.policia.es/org\\_central/seguridad\\_ciudadana/unidad\\_central\\_part\\_ciudadana/art\\_ciudadana\\_poli\\_escuel.html](https://www.policia.es/org_central/seguridad_ciudadana/unidad_central_part_ciudadana/art_ciudadana_poli_escuel.html)
- <http://www.ciberexperto.oral>

Work is also carried out on specific media campaigns and institutional activities as the campaign "Crece Seguros" (to grow up safe), sponsored by Her Majesty the Queen of Spain. <http://www.abc.es/videos-tecnologia/20140303/camana-crecer-seguros-policia-3286088771001.html>

On the other hand, the National Police has a strong presence in social networks taking advantage of its communication potential; creating profiles in the main networks used by Spanish users to inform citizens about warnings, safety tips; receiving complaints from citizens, even anonymous reports, suggestions and claims through a service designed to personally respond to the citizens' demands in an environment of excellence; informing citizens about the main operations developed by research

units on cybercrime, in particular those ones in which the cooperation of citizens has been a decisive factor to carry out investigations successfully.

- <https://www.facebook.com/BrigadainvestigacionTecnologica/denuncias.pornografia.infantilapolicia.es>

These profiles include logos of attractive look for young people, topical issues “trending topic” related to technological crimes, “hashtag” or indicators or labels on relevant issues, besides games focussed on awareness raising for youth about the need to keep an appropriate safety level in their teams and network activities.

The National Police, also through social networks and microblogs as Twitter, holds contests for young people to be involved in security and to cooperate with the Police.

<https://twitter.com/policia?lang=es>

Guardia Civil collaborates with all organizations that are in charge of minors in risks throughout the national territory. The agreement between the Ministry of Interior and the ANAR Foundation (Aid to Children and Adolescents at Risk) can be highlighted because ANAR operates nationwide and covers 24 hours 7 days per week. Communication is fluent.

The ANAR Foundation is a non-profit organization dedicated to promoting and defending the rights of children at risk and neglect in Spain and Latin America. This foundation, since 1994, has the ANAR Telephone to help children and adolescents at risk and operates throughout the national territory 24 hours a day, every day of the year, offering psychological, social and legal assistance immediately and free to minors when they have problems or are at risk.

The Collaboration Agreement between the Ministry of the Interior and the ANAR Foundation, signed on 22 April 2008, has been renewed and updated on a regular basis. Its objective is to promote prevention and intervention in situations of risk to the safety of the child, by communicating all types of alleged criminal actions of which they have knowledge through their child care telephone, as well as through your online hotline. Guardia Civil carries out a close collaboration, mainly in situations of special risk of the minors.

The above mentioned Agreement, as well as its supplementary Communication Protocol, allow any call received on the ANAR Telephone, and requiring urgent intervention by law enforcement agents to guarantee the safety or integrity of a minor, to be immediately referred to the competent police force and in a manner the urgency is immediately addressed.

**2.- Ministry of Digital Agenda:** IS4K Helpline is currently working on establishing specific relations with civil society stakeholders at national level, looking for specific cooperation mechanisms to drive users with claims about such issues to use the Helpline and the report channel for CSAC.

**3.-The AEPD** regularly holds meetings with NGO, other organizations of civil society and companies in order to cooperate in developing awareness-raising activities for children on the risks of these situations (awareness and education) and also in support of victims of these situations with tools or instruments that may assist them in finding the appropriate help.

**Question 8. Legislation**

**8.1. Does national law contain any reference to:**

- a. self-generated sexually explicit images and/or videos in the context of offences covered by the Lanzarote Convention (Art. 18-23)?**

The Spanish legislation does not contain any specific reference to this kind of material. When tackling child pornography, the Spanish law makes no reference based on the way the images have been obtained (self-generated or not).

- b. self-generated sexual content in the context of offences covered by the Lanzarote Convention (Art. 18-23)?**

The Spanish legislation does not contain any specific reference to this kind of material. When tackling child pornography, the Spanish law makes no reference based on the way the content has been obtained (self-generated or not).

- c. non-pictorial self-generated sexual content produced by children (e.g. sound, text) in the context of offences covered by the Lanzarote Convention (Art. 18-23)?**

Non pictorial sexual material is not covered under the Spanish legislation.

**8.2. Does national law tackle the involvement of more than one child (i.e. consensual posing) in generating the:**

- a. self-generated sexually explicit images and/or videos?**

No, it does not.

- b. self-generated sexual content?**

No, it does not.

**8.3. Are there specificities related to the fact that more children appear on the:**

- a. self-generated sexually explicit images and/or videos when these children accept that their image and/or video are produced and shared through ICTs?**
- b. self-generated sexual content when these children accept that their image and/or video are produced and shared through ICTs?**

No, there are not. If the material is intended for sole personal use (not distribution) and it involves children who have reached the age of 16 (legal age for sexual activities) if these images are possessed by anyone with the consent of the children appearing in the material and solely for his/her own private use, this conduct would not be punishable according to General Prosecution Office Instruction 2/2015 on Child Pornography Crimes after Act 1/2015 amending Spanish Penal Code (page 26).

Though this conduct would be formally a crime, it would not be unlawful as the legal interest protected by the law (sexual integrity/indemnity of the child) would not be damaged.

## Question 9. Criminalisation

### 9.1. Does national law criminalise cases when adults:<sup>1</sup>

#### a. possess child self-generated sexually explicit images and/or videos?

Yes. When dealing with possession of child pornography, the Spanish legislation does not make any distinction based on the origin of the material or the way it has been generated.

Article 189.1.b) of the Penal Code (PC) regarding possession aimed at distribution states “A prison sentence of one to five years shall be handed down to: Whoever produces, sells, distributes, displays, offers or facilitates the production, sale, diffusion or display by any medium of child pornography, or material for the preparation for which minors or persons with disabilities requiring special protection have been used, or possesses such material for such purposes, even though the material is of foreign or unknown origin.”

Regarding possession for personal use only Article 189.5. 1º PC states “Whoever possesses or acquires child pornography for his own use, or material for the preparation whereof minors or persons with disabilities requiring special protection have been used, shall be punished with a prison sentence of three months to a year or with a fine of six months to two years.”

However, if the possessed material for sole personal use involves children who have reached the age of 16 (legal age for sexual activities) where these images are possessed by them with their consent and solely for their own private use, this conduct would not be punishable according to General Prosecution Office Instruction 2/2015 on Child Pornography Crimes after Act 1/2015 amending Spanish Penal Code (page 26).

Though this conduct would be formally a crime, it would not be unlawful as the legal interest protected by the law (sexual integrity/indemnity of the child) would not be damaged.

#### b. distribute or transmit child self-generated sexually explicit images and/or videos to other adults?

Yes. When dealing with distribution or transmission of child pornography, the Spanish legislation does not make any distinction based on the origin of the material or the way it has been generated.

Distribution and transmission of child pornography is criminalised in Article 189.1. b) PC (see above).

#### c. distribute or transmit child self-generated sexually explicit images and/or videos to other children than those depicted on such images and/or videos?

The previous provision would be also applied for distributing or transmitting child pornography to children.

### 9.2. Are there special circumstances (including alternative interventions) under which the above cases (9.1.a-c), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

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<sup>1</sup> If the replies of Parties to the General Overview Questionnaire as regards the implementation of Article 20 of the Lanzarote Convention (see replies to question 16) are still valid, please refer to them. Otherwise, please up-date such replies in the context of this question.

The Spanish Criminal Law is ruled by principle of legality. Under no circumstance these cases would not be prosecuted.

**9.3. What are the legal consequences of the above behaviours (9.1.a-c)?**

See answer to Q 9.1.

Except from the case of possession exclusively for personal use (Article 189.5.1º), there are **aggravating circumstances** applicable to conducts described in 189.1 b).

These circumstances are established in **article 189.2 PC**: “Whoever perpetrates the deeds foreseen in Section 1 of this Article shall be punished with a prison sentence of five to nine years if any of the following circumstances concurs:

- a) If using children under the age of sixteen years;
- b) If the deeds are particularly degrading or humiliating in nature;
- c) If the pornographic material displays minors or persons with disabilities requiring special protection who are victims of physical or sexual violence;
- d) If the offender has endangered the life or health of the victim, intentionally or due to gross negligence;
- e) If the deeds are especially serious in view of the financial value of the pornographic material;
- f) If the culprit is a member of an organisation or association, even on a temporary basis, dedicated to carrying out such activities;
- g) If the offender is an ascendant, tutor, carer, minder, teacher or any other person in charge, de facto, even on a provisional basis, or de jure, of the minor or person with disabilities requiring special protection, or any other member of the family who lives with him and who has abused his recognised position of trust or authority;
- h) If the aggravating circumstance of recidivism concurs.

**9.4. Does national law criminalise cases when adults:<sup>2</sup>**

- a. possess child self-generated sexual content?**
- b. distribute or transmit child self-generated sexual content to other adults?**
- c. distribute or transmit child self-generated sexual content to other children than those depicted such sexual content?**

Answers to question 9.1 are also applicable for these cases.

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<sup>2</sup> If the replies of Parties to the General Overview Questionnaire as regards the implementation of Article 20 of the Lanzarote Convention (see replies to question 16) are still valid, please refer to them. Otherwise, please up-date such replies in the context of this question.

**9.5. Are there special circumstances (including alternative interventions) under which the above cases (9.4.a-c), although established in fact and in law, are not prosecuted and/or do not lead to conviction?**

Answer to question 9.2 is applicable.

**9.6. What are the legal consequences of the above behaviours (9.4.a-c)?**

Answer to question 9.3 is applicable.

**9.7. Does national law criminalise cases when children:<sup>3</sup>**

Criminal responsibility in the Spanish Law applies only to children above 14 years.

**a. produce self-generated sexually explicit images and/or videos?**

Not in case they produce self-generated sexually explicit images and/or videos of themselves.

In any other case, the conduct would be punishable unless the images depict a person who has reached the age of 16 and are produced with his/her consent and the images are not intended to be distributed, but only to be possessed for the producer's personal use.

**b. possess self-generated sexually explicit images and/or videos?**

Yes. However, if the possessed material for sole personal use involves children who have reached the age of 16 (legal age for sexual activities) where these images are possessed by them with their consent and solely for their own private use, this conduct would not be punishable according to General Prosecution Office Instruction 2/2015 on Child Pornography Crimes after Act 1/2015 amending Spanish Penal Code (page 26).

**c. distribute or transmit self-generated sexually explicit images and/or videos of themselves to peers?**

Though not specifically foreseen by the Law, these cases are not excluded from the application of the abovementioned provisions.

**d. distribute or transmit self-generated sexually explicit images and/or videos of themselves to adults?**

Though not specifically foreseen by the Law, these cases are not excluded from the application of abovementioned provisions.

**e. distribute or transmit self-generated sexually explicit images and/or videos of other children to peers?**

Yes, provided that the offender is above 14 years old.

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<sup>3</sup> This question does not in any way suggest that these behaviours should be criminalised.

- f. distribute or transmit self-generated sexually explicit images and/or videos of other children to adults?**

Yes, provided that the offender is above 14 years old.

- 9.8. Are there special circumstances (including alternative interventions) under which the above cases (9.7.a-f), although established in fact and in law, are not prosecuted and/or do not lead to conviction?**

It depends on the circumstances. In juvenile jurisdiction it is possible not to prosecute the offender (from 14 to 18 years old) provided that it has been the first offence committed by him/her, the offence is not serious, and has been committed without violence or intimidation.

In this jurisdiction it is also possible not to go ahead with the prosecution once the proceeding has begun regarding not serious offences and taking into account other circumstances such as: hearing the victim, first offence, having paid civil responsibility...

Extra judicial measures are specifically applicable to offences committed through ICTs. These measures aim at repairing the victim that can “forgive” the offender but only in cases of isolated conducts.

- 9.9. What are the legal consequences of the above behaviours (9.7.a-f)?**

Juvenile Jurisdiction is flexible regarding these crimes bearing in mind the lack of maturity of the offender.

The General Prosecution Office Instruction 9/2011 advocates for case by case measures depending on the seriousness of the conduct and the effects including the possibility above mentioned of putting an end to the prosecution once the proceeding has started or not even prosecuting at all in minor offences.

The Technical Team’s (integrated by a psychologist, an educator and a social worker) report will be extremely valuable in order to determine if there are educational or psychological circumstances that could require specific professional treatment.

- 9.10. Does national law criminalise cases when children:<sup>4</sup>**
- a. produce self-generated sexual content?**
  - b. possess self-generated sexual content?**
  - c. distribute or transmit self-generated sexual content to peers?**
  - d. distribute or transmit self-generated sexual content to adults?**
  - e. distribute or transmit self-generated sexual content of other children to peers?**
  - f. distribute or transmit self-generated sexual content of other children to adults?**

Answer to question 9.7 is applicable.

- 9.11. Are there special circumstances or alternative interventions under which the above cases (9.10.a-f), although established in fact and in law, are not prosecuted and/or do not lead to conviction?**

Answer to question 9.8 is applicable.

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<sup>4</sup> This question does not in any way suggest that these behaviours should be criminalised.



**9.12. What are the legal consequences of the above behaviours (9.10.a-f)?**

Answer to question 9.9 is applicable.

**Question 10. Production and possession of self-generated sexually explicit images and/or videos by children for their own private use**

**10.1. For Parties having made a reservation in accordance with Article 20(3) indent 2<sup>5</sup>**

What measures have been taken to ensure that the production and/or possession of self-generated sexually explicit images and/or videos is not criminalised when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?

**10.2. For Parties that have not made a reservation in accordance with Article 20(3) indent 2<sup>6</sup>**

Does national law criminalise the production and/or possession of self-generated sexually explicit images and/or videos when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?

No, it does not.

**Question 11. Reference in law to ICT facilitated sexual coercion and/or extortion**

**How does national law address ICT facilitated sexual coercion and/or extortion of children and/or other persons related to the child depicted on the:**

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

This behaviour could be addressed in several different ways. For instance:

- In case the coercion and/or extortion's victim is the child depicted in the images, videos or content, it could be coercion in concurrence with sexual abuse, coercion in concurrence with production of child pornography, even sexual aggression or black mail.

- In case the coercion and/or extortion's victim is a person related to the child it could be considered conditional threat.

**Question 12. Jurisdiction rules<sup>7</sup>**

**Please indicate which jurisdiction rules apply under which conditions to the offences described above (questions 9-11) when the victim is not present in the Party when the offence is committed or when the offender is not present in the Party when the offence is committed.**

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<sup>5</sup> Denmark, Germany, Liechtenstein, the Russian Federation, Sweden, Switzerland.

<sup>6</sup> Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, "The former Yugoslav Republic of Macedonia", Turkey and Ukraine.

<sup>7</sup> Please answer this question taking into account the requirements of Article 25 of the Lanzarote Convention.

According to Article 23 of Organic Act on the Judiciary:

1) The Spanish jurisdiction shall be competent in criminal proceedings arising from criminal and minor offences perpetrated in the Spanish territory or in Spanish aircrafts or ships without prejudice to the provisions of international treaties to which Spain is a party.

2) The Spanish jurisdiction shall also deal with criminal offences committed outside the Spanish territory provided those criminally responsible are Spanish or foreigners having acquired the Spanish nationality after the perpetration of the act and the following requirements are met:

a) The act is an offence in the place where it was committed, except in cases where, by virtue of an international treaty or a normative act of an International Organization to which Spain belongs, that requirement is waived, without prejudice to the provisions of the following paragraphs.

b) The victim or Public Prosecutor' Office files a complaint before the Spanish Courts.

c) The offender has not been acquitted, pardoned or convicted abroad, or, in this last instance, that the sentence has not been served out. If the sentence has been served only in part, that shall be taken into account to reduce proportionally any penalty imposed.

4) Likewise, the Spanish jurisdiction shall be competent to take cognizance of acts committed by Spanish or foreign nationals outside the Spanish territory that may be considered, according to the Spanish Law, as falling under any of the following criminal definitions, where they meet the conditions mentioned;

k) Crimes against sexual freedom and sexual integrity committed over minors provided that:

1. Proceedings are directed against a Spanish citizen;
2. Proceedings are directed against a foreigner with habitual residence in Spain;
3. Proceedings are directed against a legal person, company, organization, group or any other kind of grouping or entity with head office or address in Spain; or
4. The offence was committed against a victim having Spanish nationality or
5. Habitually resident in Spain at the time of the facts.

### **Question 13. Specialised units/departments/sections**

**13.1. Are there specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children, such as those referred to in this questionnaire (see questions 9-11):**

- a. in law enforcement?
- b. in prosecution?
- c. in courts?

Ministry of Interior: There are units specifically dedicated to the investigation and criminal prosecution of offences related to questions 9 to 11.

Guardia Civil has specific Units in charge of minors in risk. Within this police body, the Department in charge of the investigation of all illicit activities in which minors are victims is **the Central EMUME** (Children-Female Teams) –operating at national level- that also coordinates the activity of territorial EMUMEs –one for each of the Spanish provinces. Among the competences of these teams we can find the investigation for all forms of criminal activities related to the production, funding, distribution, possession and access to child pornographic material.

Without prejudice to the aforementioned, when such activities are performed through ICT, the indicated teams are assisted by experts in technological research integrated in the EDITE (Technological Research Teams) that also exist in every territorial demarcation and even, if

necessary, by the Computer Crime Group with nationwide jurisdiction, according to the specific characteristics of the research.

The action of Law enforcements with minors is regulated by **Instruction 11/2007 of 12 September**, which approves the "**Protocol of police action with minors**". This rule, is in accordance with Spanish and international legislation, and in particular, in line with the Organic Law 1/1996 of January 15 on the Legal Protection of Minors and Organic Law 5/2000, of January 12, regulating the Criminal Responsibility of Minors, aims to establish the criteria of action of all the Forces and Security Corps. It collects in a systematized form the different precepts and procedural formalities related to all kinds of police intervention with minors, both in the field of protection, as well as in the area of intervention due to administrative and criminal infractions.

This instruction is based on the best interest of the child, which is materialized through the principle of minimum intervention, especially when dealing with non-serious or violent crimes, and the principle of timeliness, to avoid that the police action causes more damage what benefits.

**Guardia Civil** addresses minor victims according to the following guidelines:

- Involving all Units related to citizen care and security, as well as forming specialized units.
- Ensuring victims adequate, personalized and specific treatment
- Considering all aggressions they may suffer in all areas (family, work, social, school).
- Acting regardless of the age of the victim and their situation of vulnerability.
- Deriving victim assistance to specific public and/or private protection institutions.
- Implementing protective measures when necessary.
- Investigating criminal acts arising from the exercise of violence.

The territorial units carry out the immediate and direct attention to the victims. It is therefore up to them to receive complaints, provide the help they need and ensure their safety, and, in turn, enforce the judicial orders issued in the corresponding protection orders. Therefore, all the staff of these units, which are dedicated to citizen security, is directly involved in this important work.

As a complement to the action of the territorial units, **the Specialized Points of Attention (PAEs)** have been established at provincial and local levels since 1995. These PAEs are formed by specialized agents in the care and protection of victims of special vulnerability (especially in minors) and ensure the support and advice to the territorial units. To that end, all actions of the Territorial Units in this area are notified to the SAPs, in order to assess their possible intervention, in turn, monitoring the problem at their level of performance.

There is also a central PAE (in the Technical Unit of Judicial Police) that performs the national analysis of casuistry, coordinates the actions, establishes the technical guidelines for action, advises the provincial PAEs and updates the training of specialists.

Currently there are 276 PAEs throughout all national territory, deployed in a provincial and a local level, composed by 654 specialist in the treatment of minors victims and minors in danger.

Guardia Civil uses the **INTERPOL child sexual abuse image database (ICSE)**, and the tools provided by this application, both to identify the images obtained in the operations against this type of crime and to communicate to other countries the identification of a victim by their Units.

**At the National Police**, within the Unit of Technological Research of the Intelligence General Department, there are several specialised groups for the investigation of child pornography crimes committed through ICTs. Their scope of competence is at national level and they assume the more complex investigations or those affecting a plurality of lands.

In turn, there are units specialised in technological research operating within the different provincial squads that are also in charge of this type of criminal activities when they are committed through the ICT.

### **Public Prosecution Service:**

Research in criminal proceedings and, where appropriate, the criminal prosecution of all types of criminal activities related to child pornography crimes and/or of people with disabilities, committed by legal age persons through computer systems or, generally through the ICT, fall within the field of competence of the Area of Expertise in Cybercrime established in the Public Prosecution Service in 2011. This is a service at national level, coordinated from the Central Unit based in Madrid and that has delegations (services) in each one of the territorial bodies of the Prosecution Service (provincial prosecutor offices and local prosecutor offices). This Area of Expertise in cybercrime is in charge –in general terms- of promoting, stimulating and/or taking direct action in judicial files/proceedings initiated for any type of illicit activities committed through the ICTs and in particular the activities involved.

In most territories, files related to adults' actions through the technological tools involving telematic harassment for the purpose of production, and also the preparation, distribution, possession or access to illicit material of these characteristics, are directly handled by the Prosecutors within this specialization area. In those territories where direct action is not possible, prosecutors from the area of specialization are responsible for the coordination of the action taken by prosecutors that assume this task as well as for supporting and collaborating with them in those technical and legal issues arising from proceedings or from the prosecution of facts.

Based on this structure, the unified criteria for the interpretation and application of baseline criminal provisions by the members of the Prosecution Service are being reinforced. Thus, in recent years, the Prosecution Service has developed different documents to establish criteria for the interpretation and application of criminal offences whereby these behaviours are punished. To this respect, the **Circular Letter No. 2/2015 on child pornography crimes** must be specially mentioned.

**Seminars for Specialists in Cybercrime Prosecutors** that are annually held are setting the common guidelines for the resolution of technical and legal issues arising from the investigation/prosecution of these crimes.

When people responsible for these behaviours are under the age of 18, competence lies with the Area of Expertise in Protection and Reform of Minors.

### **Courts:**

There are no special jurisdictional rules for the investigation and prosecution of these behaviours that are assigned to judicial bodies according to the ordinary criteria on practical and territorial competence depending, in the first case, of the seriousness of the penalty for the illicit activity and, in the second, of the place of performance of the criminal activity.

The National High Court has jurisdiction in accordance with **Article 23.4 of the Organic Law of the Judiciary** when dealing with illicit activities against freedom or sexual indemnity committed against underage victims by Spanish citizens or foreigners outside the national territory, whenever they are one of the following cases:

- a. Proceedings are opened against a Spanish national.
- b. Proceedings are opened against a foreign national ordinarily resident in Spain.

- c. Proceedings are opened against a legal person, company, organisation, groups or any other type of entities or groups of persons with corporate headquarters or registered office in Spain.
- d. The offence is committed against a victim that had the Spanish nationality or habitually resided in Spain when facts were committed.

In these cases, for facts to be prosecuted in Spain, it is essential that a complaint be lodged by the Public Prosecution and that none of the circumstances provided for in paragraph 5 of the same Article 23 of the Organic Law of the Judiciary are met.

The **AEPD** has a unit to deal with issues relating to the privacy of minors, which include providing information on the risks of such situations and, if appropriate, transmitting to competent authorities facts that could constitute a crime.

Depending on the type of actions carried out by this Unit at any given point in time, the staff of the Unit may include up to four people.

**13.2. Please specify if there are specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children committed by juvenile offenders.**

→ Please specify how the specialised units/departments/sections referred to above (questions 13.1 and 13.2) are organised (number of staff, structure, specialised in which areas within ICTs, etc.)?

→ As regards law enforcement, please indicate if:

- a. there is a victim identification function?
- b. there is an active contribution to the INTERPOL's International Child Sexual Exploitation (ICSE) image database? If not, why?

There is a Juvenile Jurisdiction for offenders from 14 to 18 years old. Special rules are applied to them. There are also specific judicial organs and a prosecution specialised department.

For the rest, see answer above.

**Question 14. Challenges in the prosecution phase**

**What challenges do law enforcement, prosecution and courts face during the prosecution of ICT facilitated sexual offences against children involving the sharing of:**

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Main challenges come from the difficulties for identifying the IP directions with the real users in case of finding sexual abuse materials by internet. Once the user is identified, his material shows underage victims that most times can not be identified at all, because only images but not personal data are found.

## Question 15. Training of professionals

Are the offences referred to in this questionnaire (questions 9-11) addressed in training for professionals such as:

- a. law enforcement agents (in particular for front desk officers)?
- b. prosecutors?
- c. judges?

→ If so, please share the details of the training offered, specifying whether the training is mandatory.

### Public Prosecution Service

The general training plans for the **Prosecutors' Career**, both during the access course to the Institution –initial training- and within the continuing training programmes, systematically include as training content training actions whose aim is the examination of crimes against freedom and sexual indemnity of minors and specially those related to child pornography in its various forms.

Regarding the initial training, teaching activities are mandatory since it is necessary to pass the selective course for the access to the Prosecution Service.

Meanwhile, teaching activities of continuing training are organised around annual plans which usually incorporate teaching actions related to this matter.

Unlike the course for access to the Prosecutors' Career, activities included in the annual continuing training plans are voluntary, except for the Specialist Seminars that are mentioned below, in which the assistance to Prosecutors responsible for the respective territorial services of the area of expertise is mandatory.

As regards these Specialists Seminars in the Area of Expertise in Cybercrime, concerns raised by the investigation and prosecution of activities related to child pornography crimes committed through the ICT are very often examined, to the extent that one or more working sessions for seminar is generally devoted to this matter, as indicated in the following information:

#### a) Second Specialist Seminar (March 2013).

Subject: Specific study of certain issues related to child pornography (continuity of criminal activity; assessment of aggravating circumstances; rules of behaviour imposed by judgments on wrongful acts committed through the network).

#### b) Fourth Specialist Seminar (May 2015).

Subject: Legislative reforms in the field of child pornography crimes: concept of pornography; access on-line to pornographic material; pornographic material blockade or removal; new investigative procedural mechanisms for these behaviours.

Subject: Presentation of the IT tool ASASEC for child pornography research.

#### c) Fifth Specialist Seminar (March 2016)

Subject: Analysis of some specific aspects related to the investigation and criminal prosecution of child pornography crimes: confiscation of computer items used to commit these offences; imposition of the penalty of special disqualification from public function, duty, profession or trade related to minors.

#### d) Sixth Specialist Seminar (February 2017)

Subject: Regulation of Child Grooming crimes. Bankruptcy matters.

For the **Judiciary**, training activities regarding cybercrime and recent reforms on Spanish Law on the issues referred in the questionnaire have been organized but participation is not mandatory.

The **AEPD** has developed training activities for trainers aimed at law enforcement agents, who carry out awareness-raising activities for minors in schools, which include the risks that may arise from these situations insofar as they are related to privacy. In particular, the AEPD has cooperated in the training on privacy and data protection of the law enforcement agents (*Cuerpo de Policía Nacional*).

In relation to **the training of members of the Law Enforcement Bodies**, regardless of the activities specifically programmed by the respective centres responsible for the training of such professionals, it should be recalled that on the occasion of the **Specialised Courses on Judicial Police** annually offered by the Centre of Legal Studies in order to obtain the said title, a survey of crimes against freedom and sexual indemnity of minors is included as teaching content. Among those, crimes related to child pornography in its various forms are also examined.

**The National Police** provides specific training either for the access to all categories or scales or for the promotion, the advancement to a higher step and for the specialized courses.

The members of the police specialized unit on this matter attend all the courses, national or international, organised on child sexual exploitation on the Internet, though no specific course on self-production by minors is known.

**Training in Guardia Civil** is carried out in stages and at different levels, receiving at each stage appropriate training material and establishing a system of training and updating that allows the staff involved in minors crimes, to be able to perform their work, according to their specific tasks.

Guardia Civil officers deployed throughout the national territory have specific training in this area that is addressed through various levels of specialization.

These **different levels of specialization** are:

- **1st level:** Provided by the Guardia Civil Training Centers, where there are specific modules in teaching programs that address this problem from a criminal, procedural and action point of view.

In addition there are e-learning courses that help increase knowledge on the subject and, at a reduced cost, reach higher levels of training. This first level is compulsory.

- **2nd level:** Basic specialization as Judicial Police, course that is carried out in the School of Specialization of Guardia Civil. Deeper training both in the criminal and procedural aspect, as well as scientific and operational. This course is completed with a phase in the Center of Judicial Studies of the Ministry of Justice, which qualifies to obtain the specialty of Judicial Police.

This second level is mandatory for officers who are going to carry out their duties in judicial police units.

- **3rd level:** Is the last of the regular training, consisting of preparation and specialization as a specialist in vulnerable groups' investigations, EMUME (women and minors teams). This last stage of training is for being specialist and its objective is to know the legal framework and the procedures of police action under the point of view of its specific application to the problematic of the vulnerable groups (including minors) as a victim of criminal acts.



In this course, specialists from other organizations, both public (Women's Institute, Government Delegation for gender violence, Children's Prosecutor's Office ...) and private entities (Fundación Anar, Themis ...) participate as teachers.

- **4th level. Update:** There is an annual update course, where specialists exchange experiences and knowledge about their professional activity, while promoting the updating of procedures and legislation that is necessary at any time, also inviting other bodies involved in the subject (as prosecutors, social agents etc..).

## Partnerships

### Question 16. International co-operation

**16.1. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:**

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**

**16.2. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:**

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**

**1.- Ministry of Interior:** At international level, the Technological Investigation Brigade goes from being receiver of information to take the lead in investigation against child pornography, identifying perpetrators and victims of important series of child pornography circulating across the world.

As regards international relations, the Division against the Sexual Exploitation of Children on the Internet has access to the Victims and Aggressors Identification Database of the Secretariat General from INTERPOL — LYON and is responsible for the EMPACT CSE — EUROPOL, keeping the TWINS work file. It is also responsible at national level for the VIRTUAL TASK FORCE and the contact with FBI and with HSI (Homeland Security Investigations) relating to minors.

Guardia Civil collaborates at different levels, including the operational level, with different associations and organizations linked to the protection of children and that fight against this criminal phenomenon. In this sense, the following collaborations can be highlighted:

- With EUROPOL. Guardia Civil is making an effort to increase its presence, both quantitative and qualitative in the EC3 of EUROPOL and Joint Cybercrime Action Taskforce (J-CAT), with the aim of collaborating in an agile way in the exchange of operational information between the States in technological research. Collaboration is not limited to this working group in the

field of EUROPOL, since the participation in the technological files Focal Points Cyborg (general technology offenses) or Twins (online sexual exploitation of children) is continuous.

- Within the framework of the EU Policy Cycle for the fight against crime and serious forms of international crime, the Civil Guard is involved in the preparation of **Operational Action Plans (OAPs)**, through participation in EMPACT (European Multidisciplinary Platform against Criminal Threats), specifically in the project to combat child sexual exploitation. In order to develop the objectives of these Plans, several meetings have been held in the headquarters of the European institutions within the group of experts against Child Sexual Exploitation.
- With **INTERPOL**, Guardia Civil participates in the exploitation and feeding of the "Database of images of child sexual exploitation on the Internet (ICSE-DB)" and the training of personnel, as well as in the exchange of operational information with other countries. Also the Civil Guard is positioning itself as a reference in the Interpol Global Complex for Innovation (IGCI), whose headquarters in Singapore is beginning to take its first steps. GC members are participating in meetings and seminars held at their facilities, consolidating their presence in the Agency.
- **Guardia Civil works with the Child Exploitation and on-line Protection Center (CEOP)** located in London, which brings together staff from different specialties, constituting a reference agency in the fight against child sexual exploitation worldwide.
- Guardia Civil works with the **European Financial Coalition (EFC)**, an initiative of the European Commission that fights against the financing of criminal organizations that trade and traffic with images of child pornography.

## **2.- Ministry of Energy, Tourism and Digital Agenda**

IS4K has joined the **pan-European INSAFE network of Centers for Internet Security founded by the European Commission**. This private community for Insafe-INHOPE Safer Internet Centres includes a range of collaborative capacity-building tools which facilitate the exchange of knowledge, ideas, expertise and best practices, about the safe and responsible use of Internet. One of the main topics managed in the network is the sharing of self-generated sexually explicit images and/or videos.

Moreover, one of the main objectives of INSAFE is to support the setting up of hotlines in each national Safe Internet Center for receiving and managing reports and data on online illegal child sexual abuse content. The aim is to support national protocols for Notice and Take Down (NTD) by identifying or confirming the presence of such content, as a key first line of attack in combating illegal content online. IS4K is actually trying to collaborate with law enforcement agencies for setting up the Spanish hotline.