



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

FACTSHEET – INVESTIGATIONS AND PROSECUTION

Lanzarote Committee monitoring findings on:

“The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs): addressing the challenges raised by child self-generated sexual images and/or videos (CSGSIV)”

Table of Contents

Introduction	2
Relevant provisions	3
General remarks	4
Specialised units, services or persons	4
Specialisation of law enforcement agents	4
Specialisation in prosecution and courts	6
Training of professionals	8
Effective investigation and prosecution.....	10
Victim identification.....	10
Challenges in the prosecution of perpetrators.....	12

Introduction

Protecting children from sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs) is a common challenge faced by all States. The often transnational nature of these offences makes international cooperation of the utmost importance especially to identify and protect victims as well as to identify and prosecute perpetrators.

The Council of Europe [Convention on the Protection of Children against sexual exploitation and sexual abuse](#) (“Lanzarote Convention”) is a comprehensive instrument that sets out the applicable standards necessary to:

- Prevent child sexual exploitation and abuse, including where this is facilitated by ICTs;
- Protect victims;
- Prosecute perpetrators; and
- Promote national and international co-operation to strengthen these actions.

The [Committee of the Parties to the Lanzarote Convention](#) (“the Lanzarote Committee”) monitors the implementation of the Convention in thematic monitoring rounds. This allows for all Parties to be monitored simultaneously on the same theme.

Particularly concerned by the exponential increase in offences committed using child self-generated sexual images and/or videos (CSGSIV), the Lanzarote Committee decided to dedicate its second monitoring round to this topic. The 43 States that were Party to the Convention at the time the monitoring round was launched took part.

The [implementation report](#) adopted by the Lanzarote Committee in the context of this monitoring round is based on information provided by [State Parties](#) and [other stakeholders](#) in response to a questionnaire. The implementation report also contains information received from 306 [children](#) in 10 Parties who chose to participate.

The Lanzarote Committee indicates the different levels of urgency applicable to the recommendations made by using the following terms:

- **“Require”**: when the steps recommended correspond to obligations arising from the Lanzarote Convention, as clarified by its Explanatory report;
- **“Request”**: when the steps recommended correspond to obligations arising from the Lanzarote Convention, as clarified by documents adopted by the Committee (e.g. previous monitoring round findings, opinions, other)¹;
- **“Invite”**: when the steps recommended correspond to promising practices or other measures to enhance protection of children against sexual violence even beyond specific requirements of the Lanzarote Convention.

This thematic factsheet is based on chapter III of the implementation report on investigations and prosecution. It has been prepared by the Lanzarote Committee Secretariat as a practical tool to clearly identify the Committee’s analysis, its recommendations to States Parties and promising practices, as well as difficulties in implementing the Convention. It does not include updated information on measures implemented by the Parties since the adoption of the report in March 2022. Parties and other relevant stakeholders are encouraged to inform the secretariat of any relevant measures implemented after that date, which may have an impact on the Committee's analysis and recommendations by completing this [online form](#) or by email to lanzarote.committee@coe.int.

Relevant provisions

Lanzarote Convention, Chapter VII –Investigation, prosecution and procedural law

Article 30 – Principles

(...) 3. Each Party shall ensure that the investigations and criminal proceedings are treated as priority and carried out without any unjustified delay.

4. Each Party shall ensure that the measures applicable under the current chapter are not prejudicial to the rights of the defence and the requirements of a fair and impartial trial, in conformity with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

5. Each Party shall take the necessary legislative or other measures, in conformity with the fundamental principles of its internal law:

(...) - to enable units or investigative services to identify the victims of the offences established in accordance with Article 20, in particular by analysing child pornography material, such as photographs and audiovisual recordings transmitted or made available through the use of information and communication technologies.

Article 34 – Investigations

1. Each Party shall adopt such measures as may be necessary to ensure that persons, units or services in charge of investigations are specialised in the field of combating sexual exploitation and sexual abuse of children or that persons are trained for this purpose. Such units or services shall have adequate financial resources. (...)

Article 36 – Criminal court proceedings

1. Each Party shall take the necessary legislative or other measures, with due respect for the rules governing the autonomy of legal professions, to ensure that training on children’s rights and sexual exploitation and sexual abuse of children is available for the benefit of all persons involved in the proceedings, in particular judges, prosecutors and lawyers.

2. Each Party shall take the necessary legislative or other measures to ensure, according to the rules provided by its internal law, that:

a. the judge may order the hearing to take place without the presence of the public;

b. the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies.

¹ See Rule 30 (General comments, proposals and opinions) of the Lanzarote Committee’s Rules of Procedure.

Interpretative Opinion on the applicability of the Lanzarote Convention to sexual offences against children facilitated through the use of information and communication technologies (ICTs) (adopted on 12 May 2017)

(...) 3. Acknowledging the specific developmental needs of children who sexually offend through ICTs, with the aim of addressing their sexual behavioural problems (...)

7. Recognising the transnational character often present in sexual offence against children which are facilitated by ICTs, and the fact that this may complicate the identification of the victims and prosecution of offenders; (...)

13. In implementing the Lanzarote Convention, Parties should ensure appropriate responses to technological developments and use all relevant tools, measures and strategies to effectively prevent and combat sexual offences against children which are facilitated through the use of ICTs;

14. In order to ensure effective investigation and prosecution of sexual offences against children facilitated through the use of ICTs, resources should be allocated and training should be provided to authorities responsible for investigation and prosecution;

Opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children (adopted 6 June 2019)

(...) 7. Children should only be criminally prosecuted for conduct related to “child pornography” as a last resort and priority should be given, depending on the circumstances, to more appropriate methods of dealing with their harmful behaviour (e.g. educational measures, therapeutic assistance) when: a. children who initially generated the sexually suggestive or explicit images and/or videos of themselves only for their own private use subsequently decide to knowingly or intentionally offer or make available, distribute or transmit such images and/or videos to others; b. children who receive other children’s self-generated sexually suggestive or explicit images and/or videos without asking for them subsequently decide to keep (i.e. store, not delete) such images and/or videos; c. children intentionally obtain sexually suggestive or explicit images and/or videos generated by other children.

General remarks

Specialised units, services or persons

Article 34(1) of the Lanzarote Convention calls on Parties to ensure that specialised personnel or services are dedicated to investigating the sexual exploitation and sexual abuse of children. Specialisation of professionals in charge of investigation and prosecution of ICT-facilitated sexual offences against children may also be considered to fall under paragraph 14 of the Committee’s Interpretative Opinion, both in terms of “resource” allocation, and as regards “training”.

It should be emphasised, that while dedicated units or services are one way of achieving the specialisation requirement, training programmes of individuals may also be sufficient. Indeed, the Explanatory Report of the Convention states that Article 34(1) is flexible, the aim being that it should be possible to mobilise specialised personnel or services for investigations into the sexual exploitation and abuse of children, depending on factors such as the size of the State.

Specialisation of law enforcement agents

Although 40 Parties out of 43 have specialised units dealing with ICT-facilitated sexual offences against children within law enforcement, in general, Parties did not specify whether specialised investigative units cover and/or were specialised in offences related to child self-generated sexual images and/or videos (CSGSIV).

The Committee observed that the human resources available to specialised units vary significantly, even taking into account differences in the size and population of countries. In addition, for most Parties, information is lacking on the precise number of law enforcement officers specialised in ICT-facilitated sexual offences against children. Given the lack of comparability of human resource

availability and needs, Parties should ensure that any specialised units have sufficient human and financial resources to carry out their functions effectively, including through consultation with their respective units and other stakeholders and that these capabilities are integrated within wider organisational and career structures. To ensure the sustainability of such specialised units, particularly for smaller countries, consideration should be given to integration of these capabilities in units focused on related crime types (e.g. cybercrime or child protection).

Examples of promising practices identified by the Lanzarote Committee:

In **Portugal**, inspectors within specialised teams received training on interviewing victims and collecting forensic evidence, including self-generated intimate images and videos that are uploaded or shared on the internet.

In some countries, specialized law enforcement units carry out additional activities to build their capacity. In **Bosnia and Herzegovina** and **Croatia**, cybercrime units conduct proactive collection and analysis of intelligence. In **Denmark**, the unit includes both investigators and forensic analysts, undercover infiltration, and provides training for police officers working in the field of ICT-facilitated sexual offences against children. In **Estonia**, the unit has examination capacity. In **France**, the unit works with P2P² and Dark web cases.

Recommendations of the Lanzarote Committee

The Lanzarote Committee **requests**:

- Liechtenstein and San Marino to establish specialised law enforcement units, services or persons in charge of dealing with ICT facilitated sexual offences against children.³
- Mindful of the different contexts in the Parties as recalled in para. 235 of the Explanatory Report, the Lanzarote Committee requests those Parties that are not already doing so to ensure that law enforcement units, services or persons specialised in ICT facilitated sexual offences against children are adequately financed to ensure sufficient resources, including staff, equipment and training.⁴

The Lanzarote Committee **invites**:

- Bosnia and Herzegovina to ensure that there is a law enforcement unit, service or person(s) specialised in ICT-facilitated

offences against children, covering the territory of the entire country.⁵

- all Parties to ensure that the capacities of any investigative units, services or persons specialised in ICT facilitated sexual offences against children take into account evolving technologies and online behaviours, and more specifically, that they reflect current practices used by perpetrators. Additionally, the Lanzarote Committee invites all Parties to exchange best practices between the relevant investigative units.⁶
- all Parties to ensure that law enforcement units, services or persons specialised in ICT facilitated sexual offences against children adequately cover and/or are specialised in offences against children involving CSGSIV.⁷

² Peer-to-peer. In a P2P network, the “peers” are computer systems which are connected to each other via the internet. Files can be shared directly between systems on the network without the need for a central server. See further definition:

<https://techterms.com/definition/p2p>.

³ Recommendation III-1.

⁴ Recommendation III-3.

⁵ Recommendation III-2.

⁶ Recommendation III-4.

⁷ Recommendation III-5.

Specialisation in prosecution and courts

The Lanzarote Committee noted a disparity both in the specialisation of the prosecutors in charge of managing cases of sexual abuse or exploitation of children facilitated by ICTs (which can range from juvenile justice to cybercrime, sexual crimes, child protection, violence against children or organised crime), and in the territorial scope of action of these prosecutors (which cover ICT facilitated sexual offences against children across the entire country, or within regional subdivisions and local prosecution offices, among others). The Committee was not in a position to indicate how many Parties have specialised prosecution units in place but could outline more generally that in most of them there are prosecution units which handle, among other matters, ICT-facilitated sexual offences against children.

Within the court system, the Committee noted that, apart from a few exceptions, most Parties do not have specialised units, services or persons in charge of dealing with ICT facilitated sexual offences against children. However, in several Parties, these cases are heard by specialised sections of the court system dealing with child-related cases.

Recommendations of the Lanzarote Committee

Mindful of the different contexts in the Parties as recalled in para 235 of the Explanatory Report, the Lanzarote Committee **requests** those Parties that are not already doing so to ensure that prosecution units, services or persons specialised in ICT facilitated sexual offences against children are adequately financed to ensure sufficient resources, including staff, equipment and training.⁸

The Lanzarote Committee **invites**:

- Lithuania, Monaco and Ukraine to set up specialised units, services or persons in charge of the prosecution of sexual offences against children facilitated by ICTs.⁹
- Bulgaria, Czech Republic, Denmark, Estonia, Monaco, Montenegro,

Netherlands, Romania, Switzerland and Ukraine to establish, where appropriate, specialised units, services or persons within the courts in charge of dealing with ICT facilitated sexual offences against children.¹⁰

- all Parties to ensure that units, services or persons within courts responsible for ICT-facilitated sexual offences against children have the necessary specialisation in the intersecting areas of children's rights, sexual abuse and sexual exploitation of children, and ICT technical knowledge.¹¹
- all Parties to ensure that units, services or persons within courts responsible for ICT-facilitated sexual offences against children have sufficient specialisation in offences involving CSGSIV.¹²

⁸ Recommendation III-7.

⁹ Recommendation III-6.

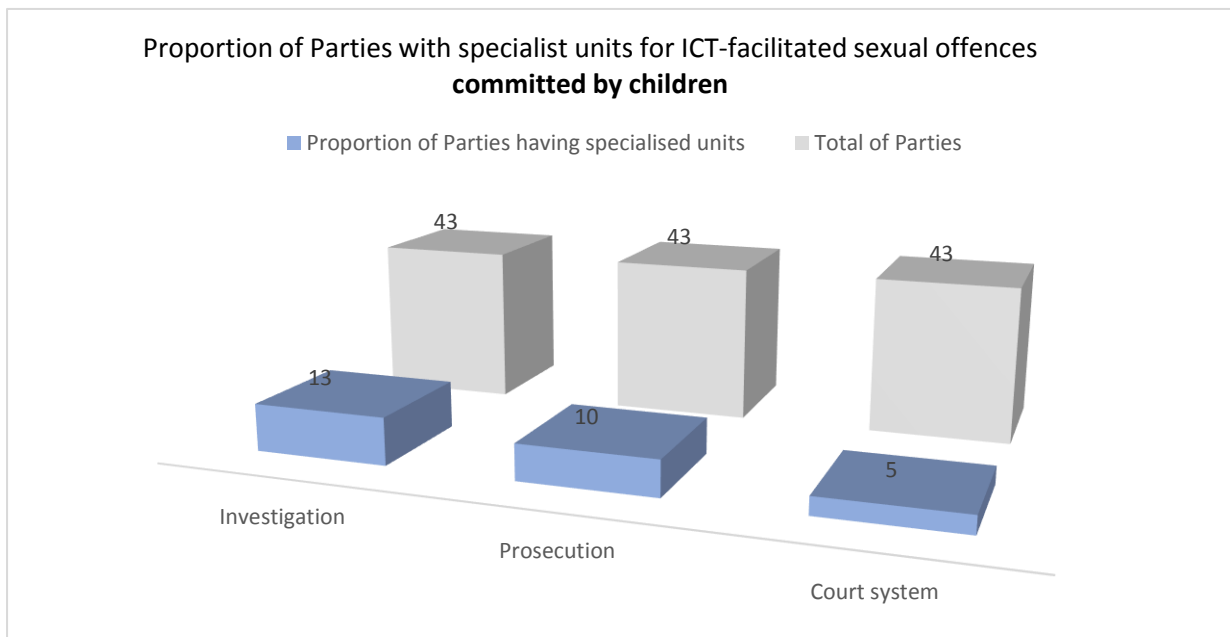
¹⁰ Recommendation III-8.

¹¹ Recommendation III-9.

¹² Recommendation III-10.

Specialisation in dealing with child offenders

It is essential to ensure that children are only prosecuted as a last resort for ICT-facilitated sexual offences (including those related to CSGSIV) and that alternative methods of dealing with their behaviours are prioritised. However, the Committee notes that only a minority of Parties have investigation, prosecution and court system sections specialised in ICT-facilitated sexual offences committed by children.



Recommendation of the Lanzarote Committee

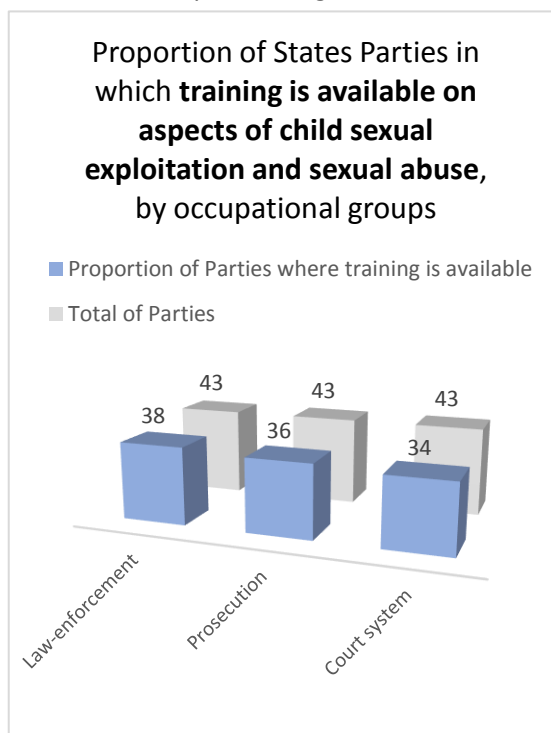
The Lanzarote Committee **invites** those Parties that are not already doing so to have units, sections or persons specialised in ICT-facilitated sexual offences committed by children against other children for authorities responsible for investigation and for authorities responsible for prosecution.¹³

¹³ Recommendation III-11.

Training of professionals

Article 34(1) of the Lanzarote Convention requires Parties to provide training in the field of combating child sexual exploitation and sexual abuse to those in charge of investigations. Article 36(1) aims to ensure that those involved in criminal proceedings have access to training on children’s rights and sexual exploitation and abuse. While the Convention does not mandate such training, it provides that it should be made available and that all actors involved in criminal proceedings should be able to benefit from it, in particular judges, prosecutors and lawyers. These provisions should be read in line with the Committee’s Interpretative Opinion, which states that training should be provided to authorities responsible for investigation and prosecution, in order to ensure effective investigation and prosecution of sexual offences against children facilitated through the use of ICTs (paragraph 14).

The Lanzarote Committee noted that very few trainings specifically address the challenges raised by child self-generated sexual images and/or videos.¹⁴ However, most of the Parties have trainings dealing with general issues involving the protection of children from sexual exploitation and abuse (not necessarily facilitated by ICTs) (see, table). The number of Parties that are training their relevant professionals on how to interview and otherwise deal with children in cases of sexual exploitation and sexual abuse is anyhow encouraging.



Examples of promising practices identified by the Lanzarote Committee:

Denmark conducts mandatory training at its National Police Academy for front desk officers in handling cyber-related crime, which includes child self-generated sexual images and/or videos, sharing of content between children, coercion and extortion.

In the **Czech Republic**, the Judicial Academy regularly organises or co-organises educational events related to ICT facilitated criminal offences including sexual offences, available to prosecutors, judges, and, depending on the capacity of the courses, legal and judicial trainees, as well as assistants to judges and prosecutors. Among these, two long seminars were organised in 2021 on the theme “Cybercrime – selected issues”, focusing, among others, on “threats on social networks, especially against children, cyberbullying, cybergrooming, sexting, cyberstalking, extortion, production and distribution of child pornography”. In addition, a three-day seminar “Juveniles and minors” was organised in 2019, focusing on the issue of “children and risks of cyberspace”, including on the issues of “crimes committed by children and on children through the cyber environment and the protection of children, cyberbullying, sexting, webcamtrolling, cybergrooming”.

In **Finland**, judges were offered a voluntary course on the Lanzarote Convention and related legislative amendments in 2011.

¹⁴ Some exceptions were found in Austria, Denmark, the Czech Republic, Iceland, Portugal, Italy, Bosnia and Herzegovina and Germany.

In **Romania**, the CYBEREX (Romanian Centre for Excellence in Combatting Cybercrime) provides training courses in the field of cybercrime investigation for legal professionals (judges, prosecutors and police officers) both in matters of substantive and procedural law, as well as in forensic issues.

Recommendations of the Lanzarote Committee

The Lanzarote Committee **requires:**

- Georgia, Liechtenstein, North Macedonia, Serbia and Ukraine to ensure training on sexual offences against children to all law enforcement agents who are likely to come into contact with such cases, including front desk officers, rather than reserving it to specialised units.¹⁵
- those Parties that are not already doing so¹⁶ to put training in place for prosecutors on aspects of child sexual exploitation and sexual abuse.¹⁷

The Lanzarote Committee **requests:**

- Georgia, Liechtenstein, North Macedonia, San Marino, Serbia and Ukraine to include ICT facilitated sexual offences against children in training of law enforcement agents who are likely to come into contact with such cases.¹⁸
- those Parties that are not already doing so¹⁹ to ensure that training on ICT facilitated sexual offences against children is available for prosecutors who are or will be working on these issues.^{20 21}
- those Parties that are not already doing so²² to ensure that training on ICT facilitated sexual offences against children is available

for prosecutors and judges who are or will be working on these issues.²³²⁴

The Lanzarote Committee **invites:**

- Parties that are not already doing so to provide specific training on ICT facilitated sexual offences against children, including when such offences involve CSGSIV, and ICT facilitated coercion or extortion to law enforcement agents who are likely to come into contact with such cases.²⁵
- those Parties that are not already doing so to ensure that training on the challenges raised by CSGSIV and ICT-facilitated coercion or extortion of children is available to prosecutors.²⁶
- all Parties to ensure that training on the challenges raised by CSGSIV and ICT facilitated coercion or extortion of children is available to judges.²⁷
- Parties that are not already doing so to offer joint (or “joined-up”) training for professionals, and particularly law enforcement, prosecutors and judges, involved in legal proceedings involving ICT-facilitated child sexual exploitation and

¹⁵ Recommendation III-12.

¹⁶ Albania, Cyprus, Greece, Luxembourg, Monaco, San Marino, Ukraine.

¹⁷ Recommendation III-15.

¹⁸ Recommendation III-13.

¹⁹ Albania, Andorra, Belgium, Cyprus, Estonia, Georgia, Greece, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Romania, San Marino, Slovak Republic, Slovenia, Switzerland, Turkey and Ukraine.

²⁰ Recommendation III-16.

²¹ After the adoption of the report, the Committee was informed that the situation in the Republic of Moldova is in fact in line with recommendation III-16. Indeed, prosecutors receive regular trainings on aspects of ICT facilitated sexual offences against children.

²² Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Georgia, Greece, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Switzerland, Turkey and Ukraine.

²³ Recommendation III-18.

²⁴ After the adoption of the report, the Committee was informed that the situation in the Republic of Moldova is in fact in line with recommendation III-18. Indeed, judges receive regular trainings on aspects of ICT facilitated sexual offences against children.

²⁵ Recommendation III-14.

²⁶ Recommendation III-17.

²⁷ Recommendation III-19.

sexual abuse, in order to ensure consistency at all stages.²⁸

- Parties that are not already doing so to ensure that training on ICT-facilitated sexual

offences against children for law-enforcement, prosecutors and judges contains a practical element, involving simulated or real cases.²⁹

Effective investigation and prosecution

Victim identification

Article 30(5) of the Lanzarote Convention calls on Parties to develop techniques for examining child sexual abuse material (CSAM) for the purpose of victim identification. Read in conjunction with Article 20 of the Lanzarote Convention, the term “victim identification” refers to the analysis of CSAM with the objective of identifying the child and/or abuser appearing in such material and intervening to safeguard the child. It thus consists in a combination of image analysis and traditional investigative methods. Image analysis is the examination of the digital and visual content of those photographs and films for identification purposes. Clues can come from many places and in many forms, and it is the task of the victim identification specialists to retrieve those clues and piece them together using a range of specialised tools. The results of this analysis in the virtual world will be crucial to the investigation that can then take place in the physical world.

After CSAM are seized or identified by Parties’ law enforcement agencies, this material shall be analysed for victim identification purpose. In such cases, the following should be determined:

- Whether the child depicted is being sexually abused or exploited currently or in the past;
- Whether the child originates from or resides in the country in which CSAM was identified, or in another country;
- Whether the child sexual abuse or sexual exploitation case is or is not known at the national or international level;
- Whether the child victim is or is not yet identified.

Given the transnational character of ICT-facilitated sexual exploitation and sexual abuse, international cooperation may frequently be necessary to identify victims and pursue investigations and other proceedings. The Lanzarote Committee already held that “Parties shall, in accordance with Article 38 of the Convention, co-operate in order to face the transnational character often present in sexual offences against children facilitated through the use of ICTs.” In this context, Article 38(1) calls on Parties to cooperate with one another, in particular to reduce obstacles to rapid sharing of information and evidence.

The Committee noted that most Parties (32 out of 42) have victim identification units within law enforcement for cases of ICT facilitated sexual offences against children.

Example of a promising practice identified by the Lanzarote Committee:

In several Parties, victim identification functions are located within units dedicated specifically to child sexual abuse materials, namely: **Finland’s** Child Abuse Material Group, **France’s** Centre for the analysis of images of child pornography (CNAIP), **Italy’s** National Centre for the Fight against

²⁸ Recommendation III-20.

²⁹ Recommendation III-21.

Recommendations of the Lanzarote Committee

The Lanzarote Committee **requires:**

- Montenegro and San Marino to take measures to enable units or investigative services to identify the victims of the offences established in accordance with Article 20 of the Lanzarote Convention, in particular by analysing CSAM.³⁰
- Bosnia and Herzegovina, Georgia, Luxembourg, North Macedonia and Serbia to set-up victim identification function within law enforcement in charge of combating ICT facilitated sexual offences against children.³¹

Certain databases are designed to assist investigators in the automated categorisation of media-evidence files (images and videos) and within the victim identification process. This can significantly reduce the amount of time required, by an investigator, to analyse seized media files found on computer hard drives and in other digital storage sources. The number of case media-evidence files that require examination can be counted in millions which can take months for an investigator to analyse. With the implementation of such databases, this process can be reduced to days. Beyond national databases, INTERPOL hosts the International Child Sexual Exploitation (ICSE) image and video database. The database is a powerful intelligence and investigative tool which allows specialised investigators to share data with other actors across the world. It uses sophisticated image and video comparison software to make connections between victims, abusers and places of abuse. As of October 2020, the database helped identify 23,564 victims worldwide. **The Lanzarote Committee noted that 31 out of 43 Parties make an active contribution to the INTERPOL's ICSE database.**

Example of a promising practice identified by the Lanzarote Committee:

In 2014, experts from **Denmark, France, Germany, Netherlands, Spain, Sweden** and the **United Kingdom** (as well as Australia, the USA, EUROPOL and INTERPOL) engaged in a Victim Identification Taskforce (VIDTF) to harness international cooperation in victim identification. This initiative continued, including its 10th edition in October-November 2021.

Recommendations of the Lanzarote Committee

The Lanzarote Committee **invites:**

- all Parties to ensure that measures, services and technology available to those in charge of identifying child victims of ICT-facilitated sexual offences are up to date, reflecting current practices across Parties, include the establishment and use of national CSAM databases, and that resources are sufficiently allocated.³²
- all Parties to engage in and strengthen inter-Party cooperation for the purpose of identifying child victims of ICT facilitated sexual offences, including, where appropriate, by providing access to each other's databases or shared databases.³³
- Albania and North Macedonia to establish a connection with the INTERPOL's ICSE database.³⁴

³⁰ Recommendation III-22.

³¹ Recommendation III-23.

³² Recommendation III-24.

³³ Recommendation III-25.

³⁴ Recommendation III-26.

- Bosnia and Herzegovina, Greece, Latvia, Liechtenstein, Montenegro and San Marino to ensure that any obstacles to active contribution to INTERPOL's ICSE's

database are removed and that national contributions are implemented in practice, regardless of the nationality of the victims.³⁵

Challenges in the prosecution of perpetrators

The character of ICT-facilitated sexual offences complicates the prosecution of perpetrators. Parties identified three main challenges in the prosecution of perpetrators who commit these kinds of offences involving child self-generated sexual images and/or videos: the identification of perpetrators, data retention and the closely related issue of obtaining and handling evidence. The Committee reiterated the relevance of paragraphs 13 and 14 of its Interpretative Opinion to respond to these challenges.

15 Parties indicated that a key challenge for a successful prosecution phase is to obtain electronic evidence that can be validly used before courts. The Lanzarote Committee therefore considered that it is important for the Parties to be able to order preservation of specified stored computer data in connection with a specific criminal investigation or proceedings so that the data is kept safe from modification, deterioration or deletion. This can be done by means of search and seizure of stored computer data. This must be done while respecting a suspected perpetrator's rights to a fair trial and to privacy, including in relation to their data.

*In **Trabajo Rueda v Spain**, the European Court of Human Rights found a violation of Article 8 of the European Convention on Human Rights (right to respect for private life) after the applicant's computer was seized and files inspected on the grounds that he possessed CSAM. While emphasising that child sexual abuse is a grave human rights interference, the action, which had been carried out without the usual requirement of prior judicial authorisation, had been disproportionate. In this situation, the computer was already in the hands of the police and prior authorisation could have been obtained fairly quickly, without impeding police enquiries.*

The Committee acknowledged that the heavy task, both in time and resource, of analysing data generated through ICTs during investigations is a major challenge to ensuring timely investigations (as required by Article 30(3) of the Lanzarote Convention), which requires significant investments in human, financial and physical resources. In particular, national and international cooperation through databases and other information sharing tools can provide valuable assistance, as can investment in specific technologies, including artificial intelligence technologies.

Similarly, engaging and cooperating with the private sector, from internet service providers to developers of technologies which can be used by law-enforcement authorities, plays a pivotal role in investigating and prosecuting ICT-facilitated sexual offences against children. This may require increased self-regulation or new regulatory schemes – both at the national as well as European level – to ensure that private companies are fulfilling their responsibilities in upholding human rights.

In September 2020, the European Commission proposed a temporary derogation to provisions in the e-Privacy Directive to allow for the processing of personal and other data for the purpose of combating child sexual abuse online. Following the debate triggered in this context, the States Parties to the Lanzarote Convention asked the Council of Europe in December 2020 to bring together the Organisation's expertise to support them in exploring appropriate solutions to reconcile the various human rights and safeguards at stake in the use of automated detection technologies by private sector

³⁵ Recommendation III-27.

actors in order to detect, report and remove child sexual abuse material as well as text-based threats, such as grooming. The first answer to the Lanzarote Committee's call was the preparation of the independent experts' report "[Respecting human rights and the rule of law when using automated technology to detect online child sexual exploitation and abuse \(OCSEA\)](#)". The report puts forward recommendations stemming from Council of Europe expertise in the fields of human rights, child protection, data protection and the fight against cybercrime. These are aimed at reconciling the various human rights at stake while ensuring necessary safeguards in actions carried out in the public interest.

Recommendations of the Lanzarote Committee

The Lanzarote Committee **requires** all Parties to ensure that investigations and criminal proceedings in ICT facilitated sexual offences against children are treated as priority and carried out without any unjustified delay.³⁶

The Lanzarote Committee **requests** those Parties that are not already doing so³⁷ to take the necessary legislative or other measures, in conformity with the fundamental principles of their internal law, to ensure an effective investigation and prosecution of ICT facilitated sexual offences against children, allowing, where appropriate, for the possibility of covert operations.³⁸

The Lanzarote Committee **invites** all Parties to:

- engage in and strengthen inter-Party cooperation for the purpose of

identifying perpetrators of ICT facilitated sexual offences against children, including, where appropriate, by providing access to each other's databases or shared databases containing information on such perpetrators.³⁹

- take the necessary legislative or other measures to ensure that preservation of specified stored computer data in connection with a specific criminal investigation or proceedings is made possible, fully upholding the rights of the parties involved.⁴⁰
- take the necessary legislative or other measures to ensure that the investment in human, financial and physical resources is sufficient to have data generated by ICTs analysed in a timely manner so that investigations are carried out without any unjustified delay.⁴¹

³⁶ Recommendation III-30.

³⁷ Albania, Andorra, Belgium, Bosnia and Herzegovina, Denmark, Estonia, Georgia, Germany, Greece, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, San Marino, Serbia, Slovak Republic, Spain,

Turkey, and Ukraine.

³⁸ Recommendation III-28.

³⁹ Recommendation III-29.

⁴⁰ Recommendation III-31.

⁴¹ Recommendation III-32.