



FACTSHEET – JURISDICTION RULES

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 (CSGIV)”

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I. 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 IV of the implementation report on jurisdiction rules. 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.

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

II. General remarks

Sexual exploitation and sexual abuse facilitated by ICTs are likely to be linked to more than one jurisdiction because of their online component. The application of rules governing the exercise of jurisdiction are necessary to determine which Party can prosecute a particular case and under which requirements. The aim of this chapter is therefore to provide an overview of jurisdictional rules applicable to offences related to child self-generated sexual images and/or videos.

Article 25 – Jurisdiction

1. Each Party shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:
 - a) in its territory; or
 - b) on board a ship flying the flag of that Party; or
 - c) on board an aircraft registered under the laws of that Party; or
 - d) by one of its nationals; or
 - e) by a person who has his or her habitual residence in its territory.
2. Each Party shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of its nationals or a person who has his or her habitual residence in its territory.
3. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraph 1.e of this article.
4. For the prosecution of the offences established in accordance with Articles 18, 19, 20, paragraph 1.a, and 21, paragraph 1.a and b, of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraph 1.d is not subordinated to the condition that the acts are criminalised at the place where they were performed.
5. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right to limit the application of paragraph 4 of this article, with regard to offences established in accordance with Article 18, paragraph 1.b, second and third indents, to cases where its national has his or her habitual residence in its territory.
6. For the prosecution of the offences established in accordance with Articles 18, 19, 20, paragraph 1.a, and 21 of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraphs 1.d and e is not subordinated to the condition that the prosecution can only be initiated following a report from the victim or a denunciation from the State of the place where the offence was committed.
7. Each Party shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged offender is present on its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality.
8. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.
9. Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its internal law.

III. Jurisdiction in cases of child sexual exploitation and abuse facilitated by ICTs committed on the territory of a Party: the territoriality principle (Article 25(1)(a-c))

In all Parties subject to the current monitoring round, the State assumes jurisdiction if the offence is committed in its territory or on a ship or aircraft registered in that State. However, as sexual exploitation and abuse facilitated by ICTs may in many cases involve more than one State and given the nature of offences related to child self-generated sexual images and/or videos, it is not always evident to determine one single territory where the offence was committed. As a result, it is necessary to look at Parties' application of the territoriality principle when the offence has a transnational perspective and was committed in the territory of more than one State, or when its result materialised in another State.

Recommendation of the Lanzarote Committee

The Committee **requests** Parties that are not already doing so²:

- to take the necessary legislative or other measures to establish jurisdiction over

transnational cases of child sexual exploitation and abuse facilitated by ICTs, when one of the constituent elements of the offence has taken place in their territory.³⁴

IV. Jurisdiction in cases of child sexual exploitation and abuse facilitated by ICTs based on the nationality, residency or location of the perpetrator having committed the offence

Jurisdiction based on nationality (Article 25(1)(d))

The Lanzarote Convention requires all Parties to assume jurisdiction in cases where the offence covered by the Convention is committed by one of their nationals, even if the offence occurs abroad (Article 25(1)(d)). All Parties covered by this monitoring round, except for Cyprus, informed that they can prosecute offences committed abroad by their nationals.

² Bulgaria, Cyprus, Denmark, Estonia, Georgia, Greece, Italy, Liechtenstein, Lithuania, Malta, Montenegro, North Macedonia, San Marino, Serbia.

³ Recommendation IV-1.

⁴ After the adoption of the report, the Committee was informed that the situation in Cyprus is in fact in line with recommendation IV-1. Indeed, Article 5(1) (e)(v) of Section 154 of the Cyprus Criminal Law provides for universal jurisdiction for offences committed in any foreign country by any person, if the offence is "one of the offences in respect of which, by virtue of a treaty or international convention binding the Republic, the law of the Republic is applied", which is the case for the Lanzarote Convention.

Recommendation of the Lanzarote Committee

The Committee **requires** Cyprus:

- to take the necessary legislative or other measures to establish jurisdiction over cases of child sexual exploitation and abuse facilitated by ICTs committed by one of its nationals, even if the offence occurs abroad.⁵⁶

Jurisdiction based on residency (Article 25(1)(e))

The Lanzarote Convention also provides that Parties should take the necessary legislative and other measures to establish jurisdiction over offences committed by persons who have their habitual residence in their territory (Article 25(1)(e)). A minority of Parties have made reservations to this provision in accordance with Article 25(3). The Lanzarote Committee also notes that 11 Parties do not establish jurisdiction over offences established in accordance with the Convention committed abroad by persons who have their habitual residence in their territory.

Recommendations of the Lanzarote Committee

The Committee **invites** Parties which have made a reservation in accordance with Article 25(3) with regards to Article 25(1)(e)⁷:

- to consider removing this reservation and establish jurisdiction for offences under the Convention when such offences are committed abroad by persons having their habitual residence in their territory.⁸

The Committee **requires** Parties that are not already doing so and which have not made a reservation to the application of Article 25(1)(e) of the Lanzarote Convention⁹:

- to establish jurisdiction over offences established in accordance with the Convention committed abroad by persons who have their habitual residence in their territory.^{10 11}

⁵ Recommendation IV-2.

⁶ After the adoption of the report, the Committee was informed that the situation in Cyprus is in fact in line with recommendation IV-2. Indeed, Article 5(1) (e)(v) of Caption 154 of the Cyprus Criminal Law provides for universal jurisdiction for offences committed in any foreign country by any person, if the offence is “one of the offences in respect of which, by virtue of a treaty or international convention binding the Republic, the law of the Republic is applied”, which is the case for the Lanzarote Convention.

⁷ Germany, Hungary, Latvia, Montenegro, Poland, Russian Federation, Slovenia and Switzerland.

⁸ Recommendation IV-3.

⁹ Albania, Estonia, Georgia, Italy, Monaco, North Macedonia, San Marino, Serbia, Spain and Turkey.

¹⁰ Recommendation IV-4.

¹¹ After the adoption of the report, the Committee was informed that the situation in Cyprus is in fact in line with recommendation IV-4. Indeed, Article 5(1) (e)(v) of Caption 154 of the Cyprus Criminal Law provides for universal jurisdiction for offences committed in any foreign country by any person, if the offence is “one of the offences in respect of which, by virtue of a treaty or international convention binding the Republic, the law of the Republic is applied”, which is the case for the Lanzarote Convention.

Jurisdiction not subordinated to the condition that prosecution can only be initiated following a report from the victim or denunciation from the State where the offence was committed (Article 25(6))

According to Article 25(6) of the Lanzarote Convention, with regard to the two aforementioned jurisdictional grounds (offence committed by one of its nationals or by a person who has his or her habitual residence in its territory), Parties shall take the necessary measures to ensure that jurisdiction is not subordinated to the condition that prosecution can only be initiated following a report from the victim or denunciation from the State where the offence was committed for the prosecution of offences of sexual abuse (Article 18), offences concerning “child prostitution”¹² (Article 19), the production of “child pornography”¹³ (Article 20(1)(a)) and offences concerning the participation of a child in pornographic performances (Article 21).

Recommendation of the Lanzarote Committee

The Committee **requires** Parties that are not already doing so^{14 15}:

- to remove the requirement that prosecution can only be initiated following a report from the victim or a denunciation from the State of the place where the offence was committed for offences of sexual abuse (Article 18),

offences concerning child prostitution (Article 19), the production of “child pornography” (Article 20(1)(a)) and offences concerning the participation of a child in pornographic performances (Article 21), when committed by one of their nationals or by a person who has his or her habitual residence in its territory.¹⁶

Jurisdiction not subordinated to the condition that the acts are criminalised at the place where they were performed (Article 25(4))

For offences committed abroad by one of their nationals, Article 25(4) of the Lanzarote Convention additionally provides that Parties should take the necessary legislative or other measures to ensure that its jurisdiction is not subordinate to the condition that the acts are criminalised at the place where they were performed, i.e. subject to the dual criminality principle. This concerns the following offences: sexual abuse (Articles 18), offences concerning “child prostitution” (Article 19), the production of “child pornography” (Article 20(1)(a)), and offences concerning the participation of a child in pornographic performances (Article 21(1)(a) and (b)). This provision does not apply to the offences of possessing, offering, distributing, transmitting, procuring “child pornography”, and the fact of knowingly obtaining access to “child pornography” through ICTs. The Lanzarote Committee

¹² The Lanzarote Committee acknowledges that terms such as “child pornography” and “child prostitution” are gradually being replaced as they can be misleading and undermine the gravity of the crimes they refer to. It thus recommends to follow the guidance set out in the [“Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse”](#) to choose the most appropriate terminology and endeavours itself to increasingly use the term “child sexual abuse material” (CSAM) and “sexual exploitation of children through prostitution” wherever possible (i.e. any time it is not quoting legal texts where it is still used, including Articles 19 and 20 of the Lanzarote Convention).

¹³ See footnote 8.

¹⁴ Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, Georgia, Germany, Greece, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Portugal, San Marino, Serbia, Slovak Republic, Turkey, Ukraine.

¹⁵ 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 IV-5. Indeed, article 276(1) of the Criminal Procedure Code provides an exhaustive list of crimes following which a complaint of the victim is a mandatory condition for starting a criminal case. These do not include crimes provided for in the Lanzarote Convention.

¹⁶ Recommendation IV-5.

however notes that the challenges raised by child self-generated sexual images and/or videos mostly concern the latter offences committed across boundaries. It therefore considers that the dual criminality principle should also not apply to offences of possessing, offering, distributing, transmitting, procuring “child pornography”, and the fact of knowingly gaining access to “child pornography” through ICTs, when child self-generated sexual images and/or videos are involved.

The Committee, in addition, highlights that solicitation of children for sexual purposes (i.e., grooming) (Article 23)¹⁷ is an offence that may be committed from a distance and it happens that the victim and the abuser are in different countries. In such case, the Committee holds that, if the offence is committed by a national, it shall have no importance if the offence is criminalised in the victim's country. Moreover, in many cases, especially of grooming for production of child sexual abuse material, there can be no physical contact with the child, and it can even not be possible to identify from which country the child depicted in the resulted images and/or videos is.

Example of a promising practice identified by the Lanzarote Committee

In **Iceland**, Article 6 of the General Penal Code explicitly mentions the Lanzarote Convention among the international instruments on the basis of which specific jurisdictional rules apply. It provides that “punishment shall be imposed according to the Icelandic Penal Code for the following offences even if they are committed outside the Icelandic state and irrespective of the identity of the perpetrator (...); conduct covered by the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007”.

In some cases, foreign nationals who commit a criminal offence outside the territory of the Party can be prosecuted by the Party if an international treaty so requires. This can, in practice, cover persons who are habitually resident in the country, as requested by Article 25(1) e) of the Convention. In these cases, however, there is no clear reference to exemption of the application of the dual criminality principle. In other cases, reference to international treaties is made to exclude the application of the dual criminality principle, but it does not necessarily relate to the other provisions concerned, including extraterritoriality for acts of habitual residents.

Example of a promising practice identified by the Lanzarote Committee

Some Parties can prosecute persons who are neither nationals nor persons who have their habitual residence in their territory for sexual abuse or exploitation of children committed abroad, including children who are not their nationals, when the offender is present on their territory:

- **Germany** applies a principle of universal jurisdiction in relation to, among other offences, the dissemination of “child pornography” and “juvenile pornography” pursuant to sections 184b and 184c of the Criminal Code.
- In **Iceland** and in the **Republic of Moldova**, offences under the Lanzarote Convention will be punishable according to the Penal Code, even if they are committed outside the territory and irrespective of the identity of the perpetrator.
- In **Luxembourg**, a foreigner present in the territory of the Party who has committed offences under the Lanzarote Convention, can be prosecuted in the same way as a national or habitual resident of Luxembourg.

¹⁷ See the [Opinion on Article 23 - Solicitation of children for sexual purposes through information and communication technologies – Grooming](#), adopted by the Lanzarote Committee on 17 June 2015.

- Under the Criminal Code of **Monaco**, a person who has committed sexual abuse or exploitation against children can be prosecuted in the Principality of Monaco even if the offences were committed outside the territory by a foreigner or against foreign minors, in cases where the offender is present in Monaco.
- Article 11 of the **Slovenian** Criminal Code stipulates that it shall apply to any person who, in a foreign country, commits any criminal offence, which according to the international agreement has to be prosecuted in all signatory states, irrespective of the location where it was committed.

Recommendations of the Lanzarote Committee

The Committee **requires** Parties that are not already doing so¹⁸:

- to remove the requirement for dual criminality for offences of sexual abuse (Article 18), offences concerning child prostitution (Article 19), the production of child pornography (Article 20(1)(a)) and offences concerning the participation of a child in pornographic performances (Article 21), when committed by one of their nationals.¹⁹

The Committee **invites** Parties that are not already doing so:

- to remove the requirement for dual criminality for offences of possessing, offering, distributing, transmitting, procuring child pornography, and the fact of knowingly gaining access to child pornography through ICTs, when child self-generated sexual images and/or videos are involved when committed by one of their nationals.²⁰
- to remove the requirement for dual criminality for offences concerning solicitation of children for sexual purposes (Article 23) when committed by one of their nationals.²¹

V. Jurisdiction in cases of child sexual exploitation and abuse facilitated by ICTs committed against nationals or habitual residents of a Party: the passive personality principle (Art. 25(2))

As detailed in the Explanatory report of the Convention, Parties are not obliged, but can endeavour, to establish jurisdiction over an offence committed against one of its nationals or a person having habitual residence in the territory under Article 25(2).

¹⁸ Albania, Bosnia and Herzegovina, Bulgaria, Czech Republic, Cyprus, Georgia, Italy, Malta, Monaco, Montenegro, North Macedonia, Serbia, and Ukraine.

¹⁹ Recommendation IV-6.

²⁰ Recommendation IV-7.

²¹ Recommendation IV-8.

Recommendation of the Lanzarote Committee

The Committee **requests** Albania, Bosnia and Herzegovina, Denmark, Georgia, Greece, Lithuania, Luxembourg, Malta, Montenegro and Norway:

- to endeavour to take the necessary legislative or other measures to establish

jurisdiction over any offence established in accordance with the Lanzarote Convention where the offence is committed against one of its nationals or a person who has his or her habitual residence in its territory.²²

²² Recommendation IV-9.