

THE LANZAROTE CONVENTION

PROTECTING CHILDREN
AGAINST SEXUAL EXPLOITATION
AND SEXUAL ABUSE

ARTICLE 20 | OFFENCES CONCERNING CHILD PORNOGRAPHY



**Council of Europe Project
Combating violence against
children in Ukraine**



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

ARTICLE 20

OFFENCES CONCERNING CHILD PORNOGRAPHY

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:

- a. producing child pornography;
- b. offering or making available child pornography;
- c. distributing or transmitting child pornography;
- d. procuring child pornography for oneself or for another person;
- e. possessing child pornography;
- f. knowingly obtaining access, through information and communication technologies, to child pornography.

Clarifications

"Child pornography" is any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes.

In order to enable an effective law enforcement response to the phenomenon of "child pornography", it is essential to attach a criminal consequence to the conduct of each participant in the chain, from production to possession/consumption.

As laid down in the Explanatory Report to the Lanzarote Convention the possession of child pornography, by whatever means, such as magazines, video cassettes, DVDs or portable phones, including stored in a computer system or on a data carrier, as well as a detachable storage device, a diskette or CD-Rom, is criminalised in paragraph 1 e. The Convention also introduces a new element that is intended to catch those who view child images online by accessing child pornography sites but without downloading and who cannot therefore be caught under the offence of procuring or possession in some jurisdictions. To be liable the person must both intend to enter a site where child pornography is available and know that such images can be found there. Sanctions must not be applied to persons accessing sites containing child pornography inadvertently. The intentional nature of the offence may notably be deduced from the fact that it is recurrent or that the offences were committed via a service in return for payment. Moreover, the existing offences in the Lanzarote Convention remain criminalised by national law in the same way, whatever the means used by sexual offenders to commit them, be it through the use of ICTs or not, even when the text of the Lanzarote Convention does not specifically mention ICTs.

The criminalisation and prosecution of child sexually suggestive or explicit images and/or videos generated, shared and received by children (so-called sexting) should be treated with caution as described in the Lanzarote Committee Opinion regarding the matter.

The term "child pornography" is still used when addressing legal issues and contexts, in particular when reference is made to international and domestic legal treaties that explicitly include this term. However, this term should otherwise be avoided to the extent possible, in particular when referring to non-legal contexts. In such contexts, "child sexual abuse material" or "child sexual exploitation material" should be the terms of choice.

'Opinion on Child sexually suggestive or explicit images and/or videos generated, shared and received by children available here:

<https://rm.coe.int/opinion-of-the-lanzarote-committee-on-child-sexually-suggestive-or-exp/168094e72c>

www.coe.int/lanzarote

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) available here:

<https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>



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