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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

NETHERLANDS

2nd 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 13 March 2018

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?

Since 2012 there's a core objective for sexuality and sexual diversity in primary and secondary education. Awareness raising about the risks of producing and/or sharing self-generated sexually (explicit) content is part of the completion of the core objective.

In the Netherlands there is a help line, "Kindertelefoon", operated by volunteers and reachable via chat or phone for children between the age of 8 and 18. Children get advice or help regarding topics or questions around sexuality, including self-generating sexually explicit images/videos. The volunteers can reach out for professional help, when youth are in need of professional help and give permission.

Within the Dutch Safer Internet Center on a public-private base, the ECP, the Expertisebureau Online Kindermisbruik and Mediawijzer.net work together to enable youngsters, their parents, teachers and professionals to make the digital environment for youngsters safer (<https://ecp.nl/activiteiten/safer-internet-center-nederland>). It's part of the INSAFE network (network of European Safer Internet Centres, coordinated by European Schoolnet). An initiative of the Safer Internet Center is Meldknop.nl that gives youngsters quick and easy access to advise and help when they are confronted with self-generated sexually (explicit) material, child pornography, sextortion, grooming etc. Another initiative is the "Digiraad" that does awareness activities by and for youngsters about safe internet. The helpline Help Wanted.nl of the Expertisebureau Online Kindermisbruik does awareness activities on these issues (www.helpwanted.nl). Via Mediawijzer.nl kids, youngsters, parents and schools are encouraged to deal wisely with the new media and to be aware about the risks of putting self-generated sexually (explicit) material online (www.mediawijzheid.nl).

Once a month vice detectives of the Dutch National Police chat with youngsters who can ask questions about online sexual conduct, like producing and sharing (self-generated) sexual explicit images, videos and content (www.Vraaghetdepolitie.nl).

- 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?

Since 2012 there's a core objective specifically for sexuality and sexual diversity in primary and secondary education. Awareness raising about the risks of producing and/or sharing self-generated sexually (explicit) images and/or videos is part of the completion of the core objective.

"Pupils learn essentials about spiritual movements in the Dutch multicultural society who play an important role, learn about similarities, differences and changes in culture and philosophy in the Netherlands, learn to see the relationship between his own lifestyle and those of others, and learn to see the importance to society of having respect for each other's opinions and lifestyles, and learn to deal respectfully with sexuality and diversity within society, including sexual diversity".

The help line “Kindertelefoon” is also there for children who are bystander or observer. Children can ask advice when they are confronted with self-generated sexually (explicit) images and/or videos, f.e. if they see a friend producing or sharing self-generated sexually explicit images and videos. They can call, but also chat or create a new topic on the forum.

- 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?

In the teachers training awareness raising tools and methods are treated about the risks for children when producing and/or sharing self-generated sexually explicit images and/or video's and self-generated sexual content.

Health care professionals and psychologists in the Netherlands often use a flag system. This is a particular method to make sexual behaviour of youth and children (<18) discussable. The purpose of this flag system is to prevent and limit cross-border sexual behaviour. It helps professionals/psychologists to indicate whether behaviour is healthy or cross-border sexual behaviour. This behaviour also includes self-generated sexually explicit images, videos and self-generated sexual content. The flag system helps youth to increase their life skills to cope with cross-border sexual behaviour. The system is based on scientific research and helps professionals to improve their professional action.

The National Youth Institute offers a media toolbox for professionals and parents. This toolbox offers training and factsheets including the awareness of self-generated sexually images/videos of children. This toolbox helps parents regarding their questions about their children's behaviour online. The toolbox is categorised in different age groups to target the different needs.

→ 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.

“Stichting School en Veiligheid” is the entity that carries out educational activities to facilitate schools (information, advice, practical support and training, offer teaching materials and methods). Via Mediawijzer.net information is given about safe use of internet for parents, children and schools.

Via the program Sense (www.sense.info) information is given about sexuality (health and relations), including a module about sexting.

The helpline Help Wanted (www.helpwanted.nl) offers information and (practical) support (f.e. advice how to get it removed of the internet) for children, parents, school and professionals about sexting, grooming and sextortion, online (website, chat) but there's also a telephone line. It also offers (anonymous) for downloaders of child pornography. There will be a campaign especially to reach downloaders of child pornography in 2018, to make them aware of the helpline and why it's important to get help.

→ 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).

Links to educational materials:

- <https://www.schoolenveiligheid.nl>
- <https://www.mediawijzer.net>

Links to (other) awareness raising materials:

- <https://www.wegwijzermensenhandel.nl>
- <https://www.nji.nl/nl/Databank-Effectieve-Jeugdinterventies>
- <https://www.nji.nl/nl/Mediaopvoeding-Praktijk/Toolbox-Mediaopvoeding-Media-Gewoon-opvoeden>
- <https://www.shop.rutgers.nl/webwinkel/wat-zoekt-u/trainingen-en-bijeenkomsten/workshop-sexting-wanneer-wordt-dit-een-probleem/130438&page>
- <https://www.Mijnkindonline.nl>
- <https://www.helpwanted.nl>
- <https://www.kindertelefoon.nl>
- <https://www.sexenzo.nl>, online platform for youngsters
- www.mediawijsheid.nl
- <https://www.meldknop.nl>
- <https://www.vraaghetdepolitie.nl>

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?

The government works together with civil society in programs and structures like the Dutch Safe Internet Centre and specific organizations that develop/offer prevention programs for kids, youngsters and educators.

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?

In the media there is a lot of attention to self-generated sexually images, videos and content. Topics such as sexual resilience and cyber bullying are widely discussed to raise awareness.

There are multiple NGO's who offer training and preventing activities at schools, community centers and online. For example CHOICE (<https://choiceforyouth.org>), Help Wanted (<https://www.helpwanted.nl>), SoaAids Nederland (<https://www.langlevedeliefde.nl>), We Can Young Tilburg (<https://www.onuitwisbaar.nl>). Defense for Children has developed an inspiration guide for peer educators, to inform their peers about sexting or grooming (<https://defenceforchildren.nl>).

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?

There is no national curriculum, but there are core objectives, reference levels for Dutch and Arithmetic and attainment targets. School Boards are responsible for their schools and the quality of education, including achieving the core objectives, reference levels and attainment targets. Schools are at liberty to choose de educational methods to achieve the quality of education. The Inspectorate supervises the schools and the school boards.

Since 2012 there's a core objective specifically for sexuality and sexual diversity in primary and secondary education. Awareness raising about the risks of producing and/or sharing 1.1 a or 1.1.b is part of the completion of the core objective.

"Pupils learn essentials about spiritual movements in the Dutch multicultural society who play an important role, learn about similarities, differences and changes in culture and philosophy in the Netherlands, learn to see the relationship between his own lifestyle and those of others, and learn to see the importance to society of having respect for each other's opinions and lifestyles, and learn to deal respectfully with sexuality and diversity within society, including sexual diversity".

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?

The teacher trainings includes these subjects.

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?

Each year the Central Bureau for Statistics conducts research to the general lifestyle, including sexuality. In addition, every 5 years there is a more extensive research.

The organization Rutgers also conducts regularly research on the topic. In (June) 2017 together with Soa Aids Netherlands and in cooperation with the GGD (the network of Dutch public health services in the municipalities), financed by the Dutch Ministry of Health, Welfare and Sport, they conducted the research "Sex onder je 25e", a representative investigation regarding the sexual health of young people in the age of 12 until 25 (Rutgers, Soa Aids Nederland, Seks onder je 25e, 2017, including sexting, www.sexonderje25e.nl)¹.

¹ In 2005 and 2012 this research was also conducted.

SoaAidsNederland and Rutgers have together with the area health authorities a website: www.sense.info. This website offers a training module about sex and the internet. Different tracks are about sexting and flirting via internet. Rutgers and SoaAidsNederland keep this information up to date.

The WODC (Research and Documentation center of the Ministry of Justice and Security) recently publish on the subject of sexting: *“Scientific knowledge on behavior regarding five topics (sexting, violence during football games, employee theft, digitalizing dispute solutions and neighborhood nuisance and conflict)”* - H.U. Nohlen, F. van Harreveld (2017).

There are several studies about media and youth and about media and sexual behaviour:

- Adolescents' exposure to sexually explicit material on the Internet by Jochen Peter, Patti M Valkenburg, 2006/4, Communication Research
- Adolescents' exposure to sexually explicit Internet material, sexual uncertainty, and attitudes toward uncommitted sexual exploration: Is there a link? Jochen Peter, Patti M Valkenburg, 2008/10, Communication Research
- Processes underlying the effects of adolescents' use of sexually explicit internet material: The role of perceived realism, Jochen Peter, Patti M Valkenburg, 2010/6, Communication Research
- The use of sexually explicit internet material and its antecedents: A longitudinal comparison of adolescents and adults, Jochen Peter, Patti M Valkenburg, 2011/10/1, Archives of Sexual Behavior
- Unwanted online sexual solicitation and risky sexual online behavior across the lifespan. Susanne E Baumgartner, Patti M Valkenburg, Jochen Peter, 2010/12/31, Journal of Applied Developmental Psychology
- The influence of sexually explicit internet material on sexual risk behavior: A comparison of adolescents and adults, Jochen Peter, Patti M Valkenburg, 2011/8/1, Journal of health communication
- Adolescents' use of sexually explicit internet material and sexual uncertainty: The role of involvement and gender, Jochen Peter, Patti M Valkenburg, 2010/9/1, Communication Monographs
- Identifying teens at risk: Developmental pathways of online and offline sexual risk behavior, Susanne E Baumgartner, Sindy R Sumter, Jochen Peter, Patti M Valkenburg, 2012/12/1, Pediatrics
- Does country context matter? Investigating the predictors of teen sexting across Europe, Susanne E Baumgartner, Sindy R Sumter, Jochen Peter, Patti M Valkenburg, Sonia Livingstone, 2014/5/31, Computers in Human Behavior.
- The NGO centre of expertise Rutgers initiates research and advises about sexual well-being and effective interventions. For example: Whitepaper Youth and sex online by Rutgers (NGO), April 2016.
- J. de Haan, NL Kids online, Nieuwe mogelijkheden en risico's van internetgebruik door jongeren, Den Haag, SCP 2010. N. Sonck & J. de Haan, Kinderen en internetrisico's, EU Kids Online onderzoek onder 9-16 jarige internetgebruikers in Nederland, Den Haag, SCP 2011.
- H. de Graaf & J. Kerstens, 'Ervaringen van jongeren met seksualiteit op internet: resultaten van het onderzoek Jeugd & Cybersafety', Tijdschrift voor de Jeugdgezondheidszorg 2015, jrg. 47, p. 87-91.

- 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?

See also 5.1. The knowledge institutes SANL, Rutgers, RIVM and the area health authorities give support to individuals and maintain the needed professional knowledge.

There is also research by Patti Valkenburg (see question 5.1) and Joyce Kerstens and Wouter Stol.

Kerstens, J., & Stol W. (2014). Receiving online sexual request and producing online sexual images: The multifaced and dialogic nature of adolescents' online sexual interactions. *Cyberpsychology: Journal of Psychosocial Research on Cyberspace*, 8 (1), article 8.

→ 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.

Results of research, initiated/supported are used by the development of new policy, legislation or in the communication with the House of Representatives.

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?

There are all kind of mechanisms and helplines to ensure that child victims get support, assistance or help. www.meldknop.nl; www.helpwanted.nl; www.vraaghetdepolitie.nl.

Child victims (and their parents, teachers) of exposure online of self-generated sexual (explicit) content can get information and advice about how to deal with the situation and the impact (child pornography, grooming, sexting, sextortion) at the help line Help Wanted (www.helpwanted.nl) reachable by chat.

By law schools are obligated to report any illegal offence. In case of these incidents schools get help from special trust inspectors who also guide the school in assisting potential victims for example to a Centre for sexual violence.

In the Netherlands victims of sexual abuse, also when it occurs online, can get help at the local Centre for Sexual Violence. In total there are 16 centres. At these centres the victims can get the needed medical attention and psychological help. A team of doctors, nurses, police, psychologists and community workers gives the specific required help to persons who need help.

They can also contact the help line, “Kindertelefoon” (www.kindertelefoon.nl), operated by volunteers and reachable via chat or phone for children between the age of 8 and 18. Children get advice or help regarding topics/questions around sexuality, also about self-generating sexually explicit images/videos. The volunteers can reach out for professional help, when youth are in need of professional help and give permission.

In case of (sexual) child abuse professionals can report it at “Veilig Thuis”(Advice and Reporting Centre for Child Abuse and Neglect and domestic violence) which advises the reporting person on possible actions, adopt urgent measures if needed to protect the minor and reports to the law enforcement institutions.

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?

- There is access to counselling, support, and psychological help for child victims that have fallen victim to such a crime. This will be indicated to them by the police officers. There are several care facilities for victims to receive psychological care.

- Victims of sexual abuse can also report for help at the Centers of sexual violence.

→ 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).

We do not have numbers of victims who received support in the above mentioned specific contexts.

There are also helplines like Help Wanted, as mentioned at question 3.1. In 2016 Help Wanted received 1,869 reports about sexual (explicit) content (80% of children/adolescents under 25 years).

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.

Some of the helplines are run by the civil society. And the government works together with organisations as Rutgers, Movisie (knowledge institutes).

The Ministry of Justice and Security subsidizes (partly) the Expertise Center Online Child Abuse (<https://www.eokm.nl>). The EOKM maintains a Contact Point Child Pornography where people can report sexual explicit pictures or videos, in order to get it removed of the internet (if it can be qualified as child pornography). The EOKM has a helpline “Help Wanted”, where children and young adults can report online sexual abuse, or refers them to the police for a report, and offers practical advice.

Prosecution

Question 8. Legislation

- 8.1. Does national law contain any reference to:
- self-generated sexually explicit images and/or videos in the context of offences covered by the Lanzarote Convention (Art. 18-23)?
 - self-generated sexual content in the context of offences covered by the Lanzarote Convention (Art. 18-23)?

Article 20 of the Lanzarote Convention, offences concerning child pornography, is criminalized in article 240b of the Dutch Criminal Code (in the Title on sexual offences).

Producing, distributing, procuring (for oneself or another), possessing and obtaining (including downloading or watching the material real time) access to child pornography is criminalized in article 240b. Child pornography is defined as an image or data carrier containing an image of a minor (not reached the age of 18) involved or seemingly involved in sexual behavior. It's an offence, even if it's self-generated images and/or videos whether there is consent or not.

Case law of the Dutch Supreme Court has provide insight how to determine if an image is child pornography. An image – as mentioned above – is in any case child pornography if it depicts behavior that is explicit of a sexual nature, like the behavior that is criminalized as a sex offence in the Title on sexual offences of the Dutch Criminal Code (that includes the offences covered by the Lanzarote Convention (article 18-23). Furthermore if an image or video will be seen as child pornography depends on the specific character of the picture (the pose or position, emphasis on the genitals) of the involved child and the context (clothes, attributes, environment, creation process), whether it must be seen as an normal image of a minor (naked or semi-naked) in family setting or not. Besides the explicit sexual images, also will those images that are produce in a way that generates sexual stimuli, that have an unmistakable sexual bearing, be seen as child pornography.

- 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)?

No.

- 8.2. Does national law tackle the involvement of more than one child (i.e. consensual posing) in generating the:
- self-generated sexually explicit images and/or videos?
 - self-generated sexual content?

Yes. That is it, it doesn't make a distinction how many minors are involved.

- 8.3. Are there specificities related to the fact that more children appear on the:
- self-generated sexually explicit images and/or videos when these children accept that their image and/or video are produced and shared through ICTs?
 - self-generated sexual content when these children accept that their image and/or video are produced and shared through ICTs?

The criminalization of child pornography in article 240b of the Dutch Criminal Code also includes self-generated material of minors who have consented with the production (even if that's only self-used) and sharing through ICT's.

Question 9. Criminalisation

- 9.1. Does national law criminalise cases when adults:²
- possess child self-generated sexually explicit images and/or videos?
 - distribute or transmit child self-generated sexually explicit images and/or videos to other adults?
 - distribute or transmit child self-generated sexually explicit images and/or videos to other children than those depicted on such images and/or videos?

Yes. The possession, distribution or transmitting of child pornography to other persons (adults or children) is criminalized in article 240b of the Dutch Criminal Code (in the Title on sexual offences).

- 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?

Yes, in very light cases of child pornography, if the adult has only downloaded only a few images, there's an alternative intervention, called INDIGO-afdoening (Initiative doing nothing is not an option). It is a conditional discharge, with the condition that the suspect will undergo treatment (in the very near future) to prevent the behavior from happening again.

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

According to article 240b of the Dutch Criminal Code the penalty for possession, distribution or transmitting is imprisonment for a maximum period of 4 years or a maximum fine of the 5th category (€ 82,000.-).

If it's a habit or a profession then the penalty can be according to article 240b of the Dutch Criminal Code imprisonment for a maximum period of 8 years or a maximum fine of the 5th category (€ 82,000.-).

- 9.4. Does national law criminalise cases when adults:³
- possess child self-generated sexual content?
 - distribute or transmit child self-generated sexual content to other adults?
 - distribute or transmit child self-generated sexual content to other children than those depicted such sexual content?

If an image or video will be seen as child pornography depends on the specific character of the picture (the pose or position, emphasis on the genitals) of the involved child and the context (clothes, attributes, environment, creation process), whether it must be seen as an normal image of a minor (naked or semi-naked) in family setting or not. Besides the explicit sexual images, also will those images that are produce in a way that generates sexual stimuli, that have an unmistakable sexual bearing, be seen as child pornography. In the designation child pornography of the Prosecution Office is defined what is child pornography (the criteria are based on case law of the Supreme Court).

² 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.

³ 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.

It is irrelevant whether the child himself or herself generated the child pornography or some other person did. Furthermore, it is irrelevant whether the perpetrator transmits the child pornography to other adults or to a child who has not been perpetuated in the self-generated sexual content.

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?

Yes, very light cases of child pornography, if the adult has only downloaded only a few images, can be dealt with an alternative intervention. Like the so called INDIGO-afdoening (Initiative doing nothing is not an option). It is a conditional discharge, after a short criminal investigation, with the condition that the suspect will undergo treatment (in the very near future) to prevent the behavior from happening again. This leaves more time for the identification of victims and the investigation in more tougher cases (the producers and child abusers etc.).

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

According to article 240b of the Dutch Criminal Code the penalty for possession, distribution or transmitting is imprisonment for a maximum period of 4 years or a maximum fine of the 5th category (€ 82,000.-).

If it's a habit or a profession then the penalty can be according to article 240b of the Dutch Criminal Code imprisonment for a maximum period of 8 years or a maximum fine of the 5th category (€ 82,000.-).

- 9.7. Does national law criminalise cases when children:⁴
- a. produce self-generated sexually explicit images and/or videos?
 - b. possess self-generated sexually explicit images and/or videos?
 - c. distribute or transmit self-generated sexually explicit images and/or videos of themselves to peers?
 - d. distribute or transmit self-generated sexually explicit images and/or videos of themselves to adults?
 - e. distribute or transmit self-generated sexually explicit images and/or videos of other children to peers?
 - f. distribute or transmit self-generated sexually explicit images and/or videos of other children to adults?

Producing, distributing, procuring (for oneself or another), possessing and obtaining (including downloading or watching the material real time) access to child pornography is criminalized in article 240b of the Dutch Criminal Code. Child pornography is defined as an image or data carrier containing an image of a minor (not reached the age of 18) involved or seemingly involved in sexual behavior. It's an offence, even if it's self-generated images and/or videos whether there is consent or not. It is irrelevant whether the child itself distributes or transmits the child pornography to an adult or to a child.

The Prosecution Office and the police have made a guidance for the disposal of those kind of sexting cases (www.om.nl/onderwerpen/sexting). The purpose of the policy is to prevent victimization, new offenders, the safety of those involved and if possible damage repairs.

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

The way that the depicted person is compromised in his or her interest, is a guiding principle in the assessment to prosecute the suspect or not. Assessment factors are the nature of the sexting material, the extent of voluntariness in the production, the way and seriousness of the distribution and the relation between the involved persons. Determinants of the voluntariness are if there is an unequal relation (f.e. because of an age difference) or if there was mutual consent (not by pressure of coercion).

If the person depicted has not reached the age of 12, there will be assumed it's an unequal situation and there will be an criminal investigation. If the person is older than the police will talk with the youngsters involved and will confiscate the data carrier(s). It will depend on the individual circumstances what decision the police and Prosecution Office will take.

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?

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

The choice for an intervention is always a tailor-made approach. The aim is that cases in which the material is produced voluntarily, in an affective and consensual relation are not prosecuted.

In the investigation and prosecution phase there are three categories of cases. Category 3 are the lightest cases that will only be dealt with an alternative intervention. The material is produced or seemed to be produced voluntarily, the involved are both minors (or there is an age difference of at most 5 years) and there are no aggravating circumstances. In case of a category 2 (the motive is bullying, libel, slander, blasphemy or harassment) can also be chosen for not criminal proceedings, like a conditional discharge or a settlement with the Public Prosecution Service (OM-afdoening) and/or a Halt-intervention. In 2017 a specific alternative intervention was developed, the Halt-intervention "Respect online" especially for lighter cases of sexting. This intervention will not be visible in the judicial documentation and will have no consequences for a future request of a certificate of good behaviour ('VOG'). Category 1 cases, the heaviest cases will be prosecuted (circumstances can be that the victim has not reached the age of 12 or the age difference exceeds 5 year, there is a dependency relationship, there are commercial elements or coercion etc.). Because of reasons of protection the prosecution can be for a lighter sexual offence than child pornography or for another criminal crime.

The basic team of the police knows the living context of the persons involved. This information is used by the handling of the case, the choice of an alternative intervention.

An alternative intervention can concern the suspect, the victim or the direct social environment. An alternative intervention can be used by the police or one of the network partners (for example, education on school or a talk with the involved youngsters and their caretakers to warn them about the risks of their behavior and the consequences of recidivism or to refer them to psychotherapeutic help or social care or mediation).

- 9.10. Does national law criminalise cases when children:⁵
- 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?

⁵ This question does not in any way suggest that these behaviours should be criminalised.

- 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?

In case the material is determined as child pornography see 9.7.

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?

In case the material is determined as child pornography see 9.8.

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

In case the material is determined as child pornography see 9.9.

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 2⁶

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?

The opportunity principle makes it possible not to prosecute.

10.2. For Parties that have not made a reservation in accordance with Article 20(3) indent 2⁷

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?

The opportunity principle makes it possible not to prosecute.

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?

⁶ Denmark, Germany, Liechtenstein, the Russian Federation, Sweden, Switzerland.

⁷ 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.

In case of coercion and/or extortion of children and/or other persons related to the child depicted, the Public Prosecution Office can use that as an aggregating circumstance within the indictment, f.e. in case of the sexual offence child pornography 240b of the Dutch Criminal Code, grooming (248e of the Dutch Criminal Code) or sexual assault (246 of the Dutch Criminal Code) or prosecute for the general criminalisation of coercion (284 of the Dutch Criminal Code). In general extortion and blackmail are also criminalised (317 and 318 of the Dutch Criminal Code).

Question 12. Jurisdiction rules⁸

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.

The Dutch criminal law has a broad jurisdiction regarding sexual offences against minors. It meets the requirements of article 25.

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?

The judgement of the severity of sexting cases is done by the special vice division in consultation with the Public Prosecution Office.

The more serious cases are done by the special TBKK units that handle child pornography (and child sex tourism). They also support the regional units with expertise.

Cases with youngsters regarding sexting that are eligible will be dealt with by bureau Halt, in the interest of the future of the involved youngsters.

- 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.)?

13.1 vice units (614 fte)

13.2 TBKK (150 fte)

⁸ Please answer this question taking into account the requirements of Article 25 of the Lanzarote Convention.

→ As regards law enforcement, please indicate if:

- a. there is a victim identification function? *yes*
- b. there is an active contribution to the INTERPOL's International Child Sexual Exploitation (ICSE) image database? If not, why? *Yes. The Netherlands also contributes financial for 5 years for the development/implementation of ICSE (including training). Also a police offer with technical knowledge is temporarily places at Interpol.*

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?

There are all kind of challenges, like combatting online sexual child abuse on the Dark web, the growing reports of online sexual child abuse (child pornography, sexting) mostly form NMEC.

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.

Every vice detective gets an all-round training how to act in vice cases, including sexting etc.

Within the basic training of prosecutors basic and advanced training vice cases is given. There is also a child pornography training of the Police Academy that prosecutor can take part in.

The basic rule is that each judge has enough basic knowledge for identifying the accurate facts and circumstances in each trial. But at the same time there is a demand for more specialization of judges. There is a training vice legislation; a training vice cases, covering general aspects and specific elements of child abuse cases.

And also there is a more advanced training vice cases, covering the latest update on scientific research regarding offenders; child pornography (including case law and research methods); digital research and all kind of aspects of vice cases (the dealing with children and mental disables people, treatment of offenders and victims).

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?

The Dutch National Police and Prosecutor's Office work structural together with law enforcement partners and other (private) parties together in policy, operational structures but also I specific cases.

Important for the international cooperation are Interpol and Europol (f.e. the European Crime Centre –EC3- that has a division that focus on child sexual exploitation). And also does the Dutch police work together with other countries, law enforcement partners, NGOs and companies in the Virtual Global Taskforce in the combat of specific phenomena of sexual child abuse.