




INTERNATIONAL AND COUNCIL OF EUROPE STANDARDS AGAINST ONLINE SEXUAL ABUSE AND EXPLOITATION OF CHILDREN

MARIA ANDRIANI KOSTOPOULOU

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Status of ratification of relevant international and regional instruments	
International and CoE Instruments	Date of Ratification/Accession
UN Convention on the Rights of the Child 1989	1995
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – 2000	2002
UN Optional Protocol to the Convention on the Rights of the Child on a communications procedure	2017
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	25 March 2003
Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse	1 April 2012
Council of Europe Convention on Action against Trafficking in Human Beings	1 September 2016
Council of Europe Convention on Cybercrime	1 January 2015
Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence	1 August 2014



GUIDELINES TO RESPECT, PROTECT AND FULFIL THE RIGHTS OF THE CHILD IN THE DIGITAL ENVIRONMENT - RECOMMENDATION CM/REC(2018)7 OF THE COMMITTEE OF MINISTERS

- **victim-focused policing**
- **monitor whether and how child sexual abuse materials are hosted within State's jurisdiction**
- **enterprises should take measures to ensure that their networks or online services are not misused**
- **law-enforcement agencies should connect to the INTERPOL database**
- **engage with the Internet Corporation for Assigned Names and Numbers (ICANN)**

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A. CRIMINALISATION


B. EXTRATERRITORIAL JURISDICTION

C. ECTHR CASE-LAW

A. CRIMINALISATION

1. CHILD PORNOGRAPHY(CHILD SEXUAL ABUSE MATERIAL)

OPSC	any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes	criminalise the acts of producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography.
Lanzarote Convention		criminalise producing, offering or making available, distributing or transmitting, procuring, possessing and knowingly obtaining access through the use of ICTs to child pornography.
Budapest Convention		conduct of producing, offering or making available, distributing or transmitting, procuring through a computer system and possessing child pornography.

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- CRIMINALISATION OF CHILD PORNOGRAPHY AS A DISTINCT OFFENCE
 - SCOPE OF CRIMINALISATION (CONSTITUTIVE ELEMENTS)
 - DEFINITION OF “CHILD”



B. LEGISLATIVE TREATMENT OF SEXTING BETWEEN CONSENTING MINORS

“Sexting ”does not amount to conduct related to “child pornography” (article 20 of the Lanzarote Convention), when it is solely for the children’s own private use

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C. SOLICITATION OF A CHILD FOR SEXUAL PURPOSES

intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age of sexual consent for the purpose of sexual exploitation and abuse where this proposal has been followed by material acts leading to such a meeting.



C. SOLICITATION OF A CHILD FOR SEXUAL PURPOSES

constitutive elements of grooming:

- (i) the solicitation of children through information and communication technologies (i.e. “sexual chatting with a child”);
- (ii) the purpose of committing sexual activities with them or producing child pornography
- (iii) the intentional proposal to meet the child for the above purposes and
- (iv) posterior “material acts leading to such a meeting”.

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C. SOLICITATION OF A CHILD FOR SEXUAL PURPOSES

Article 23 of the Lanzarote Convention does not require that a sexual offence involving physical contact is committed. It suffices that concrete steps to make the meeting happen were taken (e.g. the perpetrator arriving at the meeting place).



C. SOLICITATION OF A CHILD FOR SEXUAL PURPOSES

Opinion (June 2015) of the Lanzarote Committee:

“Parties should consider extending the criminalisation also to cases when the sexual abuse is not the result of a meeting in person, but is committed online.”



2. EXTRATERRITORIAL JURISDICTION AND RULE OF DUAL CRIMINALITY

- offence is committed abroad by a State's nationals (article 25 para 4 of the Lanzarote Convention)
- offence is committed abroad against a State's national or habitual resident (article 25 para 2)



3. ECtHR CASE-LAW

- **Positive obligations**

Söderman v. Sweden

K.U. v. Finland

- **Procedural safeguards**

X v. Austria (Commission)

Vanhatalo v. Finland

Accardi and others v. Italy



3. ECtHR CASE-LAW

- **Positive obligations**

Söderman v. Sweden

covert filming of a 14-year old girl

Positive obligation to protect the child and to provide for a criminal or a civil remedy



3. ECtHR CASE-LAW

- **Positive obligations**

K.U. v. Finland

Protection from being targeted by paedophiles via the Internet

Framework for reconciling the confidentiality of Internet services with the prevention of disorder or crime

3. ECtHR CASE-LAW

- **Procedural safeguards: the child in criminal proceedings**

- ❑ conduct of hearings without the presence of public, X v. Austria (Commission)
- ❑ limited number of successive interviews with children (Bulgaria, Denmark)
- ❑ Not an absolute right of the accused to put directly questions to the child (Vanhatalo v. Finland, Accardi and others v. Italy)

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THANK YOU!