

ONLINE CHILD SEXUAL ABUSE AND EXPLOITATION

Guidelines for the Adoption of
National Legislation in Latin America

2016



International Centre
FOR MISSING & EXPLOITED CHILDREN

*A publication of The Koons Family Institute on
International Law & Policy*

ONLINE CHILD SEXUAL ABUSE AND EXPLOITATION:

Guidelines for the Adoption of National Legislation in Latin America

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This project was a partnership between UNICEF and ICMEC under the UK-funded WePROTECT Initiative (grant number LACRO PD 2015/002).

The opinions, findings, conclusions, and recommendations expressed herein are those of ICMEC and do not necessarily reflect the policies or views of UNICEF.

As always, ICMEC extends its continuing gratitude to Jeff and Justine Koons for their unwavering support for our mission.

About ICMEC

The International Centre for Missing & Exploited Children (ICMEC) works around the world to advance child protection and safeguard children from abduction, sexual abuse and exploitation. Headquartered in Alexandria, Virginia, U.S.A., ICMEC also has regional representation in Brazil and Singapore. Together with an extensive network of public and private sector partners, ICMEC's team responds to global issues with tailored local solutions.

The Koons Family Institute on International Law & Policy (The Koons Family Institute) is ICMEC's in-house research arm. The Koons Family Institute combats child abduction, sexual abuse and exploitation on multiple fronts by conducting and commissioning original research into the status of child protection laws around the world, creating replicable legal tools, promoting best practices, building international coalitions, bringing together thinkers and opinion leaders, and collaborating with partners in the field to identify and measure threats to children and ways ICMEC can advocate for change.

Our Mission

For more than 15 years, ICMEC has been identifying gaps in the global community's ability to properly protect children from abduction, sexual abuse and exploitation and expertly assembling the people, resources and tools needed to fill those gaps.

ICMEC works every day to make the world safer for children by eradicating child abduction, sexual abuse and exploitation. To this end, **ICMEC's mission is to advocate, train and collaborate to protect the world's children.**

- **ADVOCATE:** ICMEC proposes changes to laws, treaties and systems based on rigorous research and the latest technology to better protect children worldwide.
- **TRAIN:** ICMEC provides tools to professionals who interface with children to improve prevention, facilitate treatment for victims, and increase the efficacy of the identification and prosecution of people who victimize children.
- **COLLABORATE:** ICMEC builds international networks of professionals across disciplines to anticipate issues, identify gaps, and develop cross-cutting solutions.

About UNICEF

UNICEF promotes the rights and wellbeing of every child, in everything we do. Together with our partners, we work in 190 countries and territories to translate that commitment into practical action, focusing special effort on reaching the most vulnerable and excluded children, to the benefit of all children, everywhere. For more information about UNICEF and its work, visit www.unicef.org.

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Preface

These guidelines for the adoption of national legislation on online child sexual abuse and exploitation were developed by the International Centre for Missing & Exploited Children (ICMEC), in partnership with the United Nations Children's Fund (UNICEF), Latin America and Caribbean Regional Office, under the UNICEF Global Programme to build capacity to tackle online child sexual exploitation supported by the Government of United Kingdom under the WePROTECT Initiative.

These guidelines can be used by anyone interested in effecting change and advocating for legal reform to combat child sexual abuse and exploitation online. They contain broad definitions of the different aspects of child sexual abuse and exploitation and comparative charts illustrating the existence or lack of legislative components considered essential for the prevention and investigation of these crimes, in accordance with international standards and practices.

Much of the terminology used throughout these guidelines reflects that set forth in the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines), which are available at: <http://luxembourgguidelines.org/>.

It is our hope that the individual country assessments that accompany these guidelines will catalyze change and encourage countries to adopt laws and policies on awareness, prevention, and investigation of online crimes against children.

The guidelines provide both comprehensive and individualized perspectives for each of the countries reviewed, which interested parties should consider when initiating efforts in those countries. ICMEC and UNICEF will continue to drive organizational efforts in accordance with our shared mission of building a safer world for children and fighting to eradicate the abduction, sexual abuse, and sexual exploitation of children.

Executive Summary

Introduction

The primary objective of these guidelines is to determine whether laws and policies exist in Latin America that address prevention, reporting mechanisms, tools, and specialized units for the investigation and prosecution of crimes related to online child sexual abuse and exploitation through the review of the regulatory frameworks in each country.

The guidelines are intended to be used by relevant stakeholders including law enforcement, investigators, prosecutors, judges, and governmental and non-governmental organizations seeking to promote reform in legislation and in their fields of action, as well as to advocate for the development and reform of policies concerning prevention, victim assistance, and investigation of production, sale, distribution, and possession of child sexual abuse material.

The Report

Under a cooperative project with the United Nations Children's Fund (UNICEF), Latin America and Caribbean Regional Office, as part of the UNICEF Global Programme to build capacity to tackle online child sexual exploitation, supported by the Government of United Kingdom under the WePROTECT Initiative, ICMEC has conducted a review of the current legislation, policies, and mechanisms for reporting and investigating technology-facilitated child sexual abuse and exploitation crimes in 18 countries. These guidelines focus on the following:

- (1) National legislation on online child sexual abuse material (child pornography);¹
- (2) National legislation regarding possession or simple possession of online child sexual abuse material (child pornography) regardless of the intent to distribute;
- (3) National legislation criminalizing the solicitation of minors for sexual purposes through the use of information and communication technologies (online grooming);²
- (4) National legislation criminalizing simulated (virtual) child sexual abuse material (child pornography);³
- (5) National legislation that criminalizes impersonation by means of information and communication technologies for the commission of crimes of child sexual abuse and exploitation;⁴
- (6) National legislation that penalizes revenge pornography (with a particular focus on child victims);⁵
- (7) National legislation allowing the use of an undercover agent and to conduct undercover investigations to investigate crimes related to online child sexual abuse and exploitation;
- (8) Legal obligations of Information and Communication Technology (ICT) service providers for data retention/preservation;
- (9) National legislation that penalizes the use of information and communication technologies to commit crimes of child sexual abuse and exploitation;
- (10) Obligation of ICTs or government entities to filter and remove child sexual abuse material of which they have been made aware by notice or complaint by any person;
- (11) Specialized units within prosecutor's offices for the prosecution of crimes related to online child sexual abuse and exploitation;

- (12) Specialized police units for the investigation of crimes related to online child sexual abuse and exploitation;
- (13) Reporting mechanisms (i.e., hotlines); and
- (14) Public policies focused on prevention, awareness, and victim assistance related to online child sexual abuse and exploitation.

Methodology

The legislative review began in November of 2015. The main sources of information included: national legislation obtained from the websites of the legislative bodies of each country and from the library of the Organization of American States (OAS); country reports published on official government websites; and direct contact with district attorneys, judges, law enforcement, and representatives of non-governmental organizations.

Upon compiling the information, each of the documents was analyzed to determine whether national laws and public policies existed with a focus on the aforementioned 14 elements.

Results

Of the 18 countries reviewed:

18 countries criminalize child sexual abuse material (child pornography)
15 countries criminalize the simple possession of online child sexual abuse material (child pornography)
8 countries criminalize the solicitation of minors for sexual purposes through the use of information and communication technologies (online grooming)
8 countries criminalize simulated (virtual) child sexual abuse material (child pornography)
2 countries criminalize impersonation for the purpose of committing online child sexual abuse and exploitation
18 countries <u>do not</u> criminalize the act of taking revenge through the dissemination of pornography (“revenge pornography”)
7 countries explicitly allow for the use of undercover agents and undercover investigations to investigate crimes of online child sexual abuse and exploitation
10 countries allow the use of undercover agents and undercover investigations in cases of online child sexual abuse and exploitation committed within the context of organized crime
18 countries <u>do not</u> obligate Information and Communication Technology service providers to retain data

8 countries provide for requests to the judicial body for authorization to retain, preserve, or intercept information or communication for the purpose of investigation

18 countries criminalize use of information and communication technologies to commit crimes related to child sexual abuse and exploitation

2 countries require Information and Communication Technology service providers and State entities to filter Internet content and remove child sexual abuse material

7 countries have specialized units within District Attorneys' precincts for the prosecution of crimes related to online child sexual abuse and exploitation

12 countries have specialized units within police precincts for the criminal investigation of online child sexual abuse and exploitation

2 countries have reporting mechanisms (hotlines) to report online child sexual abuse material

4 countries have specific public policies addressing victim assistance in relation to crimes involving online child sexual abuse and exploitation

5 countries have specific prevention policies in relation to online child sexual abuse and exploitation

International Law

Child sexual abuse and exploitation is a multi-sectoral and multi-jurisdictional problem that calls for an integrated, global response. While successfully combating crimes related to child sexual abuse material (child pornography) requires national, regional, and global coordination must be backed by the strengthening of public policies through the development of uniform legislation. While laws vary from country to country, social and cultural factors should never be the basis for the normalization of criminal behavior. These differences in laws weaken the stance against child sexual abuse and exploitation, further complicating the situation, when offenses committed through the use of information and communication technologies are not regulated, allowing offenders to focus their efforts in countries where they know they will not be punished or where laws or prosecution of these crimes are weaker. A comprehensive approach to prevention, victim assistance, and investigation is the most effective means to combat crimes related to online child sexual abuse and exploitation by raising public awareness of the problem, increasing the services available to assist victims, and improving the overall efforts of law enforcement at the national and international levels. Complying with international legal standards is only the first step, followed by the adoption and implementation of national legislation and the creation of national programs within public policies related to violence against children.

There are several legal instruments that address child sexual abuse and exploitation: UN Convention on the Rights of the Child; Optional Protocol to the (UN) Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; International Labour Organization (ILO) Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; Council of Europe Convention on Cybercrime; and the Ibero-American Cooperation Agreement on Investigation, Assurance and Collection of Evidence in the Matter of Cybercrime. All of these instruments are effective tools to combat child sexual abuse and exploitation as they contain specific definitions of related crimes, outline investigation mechanisms, evidence collection, and mutual legal assistance, and above all, the importance of restoring the rights of child victims and their families that have been threatened or violated.

In this section, some key aspects of each of the aforementioned international instruments are highlighted to demonstrate the importance of the instruments and the benefit to countries that ratify them. The country-specific information, with regard to the ratification of these instruments, can be found in Table 3 of the Legislative Review Results.

Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) was adopted by the United Nations General Assembly on 20 November 1989.⁶ The CRC recognizes children as rights holders and is the primary international instrument that provides the full range of human rights protections to children, as well as regulates the obligation of countries to adapt national laws so as to ensure, protect, and defend each of the governing principles. The guiding principle of the Best Interests of Child is one of the most important principles framed within the instrument, which is stated in Article 3:

1. *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
2. *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*
3. *States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

In relation to the sexual abuse and exploitation of children including through the use of information and communications technologies, Article 34 requires:

- *States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:*
 - (a) *The inducement or coercion of a child to engage in any unlawful sexual activity;*
 - (b) *The exploitative use of children in prostitution or other unlawful sexual practices;*
 - (c) *The exploitative use of children in pornographic performances and materials.*

Article 35 stipulates that States Parties shall take all appropriate national, bilateral, and multilateral measures to prevent the abduction of, the sale or traffic in children for any purpose or in any form.

Article 39 stipulates that States must take appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman, or degrading treatment or punishment; or armed conflicts.

Optional Protocol on the sale of children, child prostitution and child pornography

While the Convention on the Rights of the Child aims to ensure a broad range of human rights for children (including civil, political, economic, social, and cultural rights⁷), there are several Articles within the CRC and the Optional Protocol that protect children from all forms of sexual abuse and sexual exploitation.

The Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Optional Protocol or OPSC) entered into force on 18 January 2002.⁸ The Optional Protocol contains the following specific provisions relating to child sexual abuse material (child pornography):

- Article 2 (c) defines “child pornography” as “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.”
- Article 3 (1) requires States Parties to criminalize child pornography, whether committed domestically or transnationally, on an individual or organized basis.
- Article 3 (1) (c) requires States Parties to criminalize simple possession regardless of the intent to distribute.
- Article 3 (4) addresses the liability of legal persons and encourages each State Party to establish such liability for offenses specific to child pornography. This article reflects the notion that a comprehensive approach requires industry involvement.
- Article 7 recognizes the right of victims to seek compensation.
- Article 8 requires States Parties to adopt appropriate measures to protect the rights and interests of child victims at all stages of the criminal justice process with the best interest of the child being the primary consideration.
- Article 9 requires States Parties to adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programs to prevent the offenses that are referred to in the Optional Protocol paying attention, in particular, to the protection of children who are especially vulnerable to such practices. In addition, Article 9 acknowledges the right of recovery and reintegration of child victims.
- The Optional Protocol also encourages the strengthening of international cooperation and assistance and the adoption of extra-territorial legislation. Article 10 (1) addresses the need for international cooperation. As mentioned above, child pornography is readily distributed across borders; without international cooperation, many offenders may evade detection and punishment.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

The ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour entered into force on 19 November 2000.⁹ The fundamental objective of the Convention is for Members to adopt instruments for the prohibition and elimination of the worst forms of child labor, focusing on national and international actions, and recognizing child pornography as a form of commercial sexual exploitation.¹⁰

Within its framework, the following is set forth:

- Article 3 states that the term “the worst forms of child labour” includes:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) focuses on ensuring the best interests of children through prevention of sexual abuse and exploitation, protection and assistance for victims, punishment of perpetrators, and promotion of national and international law enforcement cooperation.¹¹ The Lanzarote Convention was opened for signature on 25 October 2007, and entered into force on 1 July 2010. The Lanzarote Convention is open for signature by member States, non-member States that have participated in the Convention's elaboration by the European Union, and for accession by other non-member States. Currently, 41 member States have ratified the Lanzarote Convention, and 6 other member States have signed, but not ratified.¹² With regard to offenses related to child sexual abuse material (child pornography):

- Articles 4 to 8 establish preventive measures to be adopted by countries that ratify the Convention to protect children from all forms of sexual exploitation and sexual abuse. This includes the recruitment, training and awareness-raising of persons who work directly with children, education for children, the creation of preventive intervention programs or measures and risk assessment, the promotion of awareness-raising campaigns addressed to the general public.
- Articles 11 to 14 discuss protective measures and assistance to victims. These include taking the necessary legislative or other measures to: ensure child-serving professionals are not hindered by confidentiality rules from reporting suspected sexual exploitation or sexual abuse of a child; encourage and support the creation of information services such as Internet helplines to provide advice to callers; and assist victims in the short- and long-term in both their physical and psycho-social recovery.
- Article 20 (1) requires Each Party to criminalize: producing child pornography; offering or making available child pornography; distributing or transmitting child pornography; procuring child pornography for oneself or for another person; possessing child pornography; and knowingly obtaining access, through information and communication technologies, to child pornography.
- Article 20 (2) defines "child pornography" as "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."
- Article 21 (1) and (2) recommend Each Party adopt legislation criminalizing the activities of those who recruit or coerce a child into participating in child pornography or to knowingly attend pornographic performances involving the participation of children.
 1. *Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised: a. recruiting a child into participating in pornographic performances or causing a child to participate in such performances; b. coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes; c. knowingly attending pornographic performances involving the participation of children.*
 2. *Each Party may reserve the right to limit the application of paragraph 1.c to cases where children have been recruited or coerced in conformity with paragraph 1.a or b.*

- Article 22 establishes the obligation of countries to criminalize the corruption of minors for sexual purposes.

“Each Party shall take the necessary legislative or other measures to criminalise the intentional causing, for sexual purposes, of a child who has not reached the age set in application of Article 18, paragraph 2, to witness sexual abuse or sexual activities, even without having to participate.”

- Article 23 defines the solicitation of children for sexual purposes (grooming) and requiring Each Party to take necessary measures to criminalize the conduct.

“Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.”

- Article 24 addresses attempt crimes as well as aiding and abetting.

- Article 26 addresses the issue of corporate liability.

1. *Each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable for an offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on: a. power of representation of the legal person; b. an authority to take decisions on behalf of the legal person; c. an authority to exercise control within the legal person.*

2. *Apart from the cases already provided for in paragraph 1, each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of an offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.*

3. *Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.*

4. *Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.*

- Article 28 addresses the aggravating circumstances that should be considered in the determination of sentences for the commission of certain crimes, including the existence of serious injury, the use of serious violence or torture, the perpetrator is a family member, among others.

- Article 30 refers to the following principles:
 1. *Each Party shall take the necessary legislative or other measures to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child.*
 2. *Each Party shall adopt a protective approach towards victims, ensuring that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate.*
 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 ensure an effective investigation and prosecution of offences established in accordance with this Convention, allowing, where appropriate, for the possibility of covert operations; – 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 31 regulates protective measures regarding the rights and interests of victims at all stages of investigations and criminal proceedings:
 1. *Each Party shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and criminal proceedings, in particular by: a. informing them of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases; b. ensuring, at least in cases where the victims and their families might be in danger, that they may be informed, if necessary, when the person prosecuted or convicted is released temporarily or definitively; c. enabling them, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and to choose the means of having their views, needs and concerns presented, directly or through an intermediary, and considered; d. providing them with appropriate support services so that their rights and interests are duly presented and taken into account; e. protecting their privacy, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification; f. providing for their safety, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation; g. ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.*

2. *Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings.*
 3. *Each Party shall ensure that victims have access, provided free of charge where warranted, to legal aid when it is possible for them to have the status of parties to criminal proceedings.*
 4. *Each Party shall provide for the possibility for the judicial authorities to appoint a special representative for the victim when, by internal law, he or she may have the status of a party to the criminal proceedings and where the holders of parental responsibility are precluded from representing the child in such proceedings as a result of a conflict of interest between them and the victim.*
 5. *Each Party shall provide, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, the possibility for groups, foundations, associations or governmental or non-governmental organisations, to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention.*
 6. *Each Party shall ensure that the information given to victims in conformity with the provisions of this article is provided in a manner adapted to their age and maturity and in a language that they can understand.*
- Article 38 addresses the general principles and measures for international cooperation.
 1. *The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of: a. preventing and combating sexual exploitation and sexual abuse of children; b. protecting and providing assistance to victims; c. investigations or proceedings concerning the offences established in accordance with this Convention.*
 2. *Each Party shall take the necessary legislative or other measures to ensure that victims of an offence established in accordance with this Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence.*
 3. *If a Party that makes mutual legal assistance in criminal matters or extradition conditional on the existence of a treaty receives a request for legal assistance or extradition from a Party with which it has not concluded such a treaty, it may consider this Convention the legal basis for mutual legal assistance in criminal matters or extradition in respect of the offences established in accordance with this Convention.*
 4. *Each Party shall endeavour to integrate, where appropriate, prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third state.*

Council of Europe Convention on Cybercrime

Technological developments have allowed cyber-criminals to be located in different jurisdictions (e.g., countries) than those of the victims affected by their criminal behavior. As a result, the Council of Europe established the Convention on Cybercrime (Budapest Convention) with the hope of implementing a cooperative and uniform approach to the prosecution of cybercrime.¹³ The Budapest Convention is open for signature by the Council of Europe member States and non-member States that participated in its elaboration, and for accession by other non-member States. Currently, 49 countries (40 member States and 9 non-member States) have ratified the Budapest Convention, and 6 other countries (5 member States and 1 non-member State) have signed, but not ratified.¹⁴

Title 3 of the Budapest Convention, entitled “Content-related offences”, is pertinent to the area of child sexual exploitation. Specifically, Article 9 of Title 3 deals with offenses related to child sexual abuse material (child pornography):

- Article 9 (1) recommends Each Party adopt measures to make it a criminal offense to: produce child pornography for the purpose of its distribution through a computer system; offer or make available child pornography through a computer system; distribute or transmit child pornography through a computer system; procure child pornography through a computer system for oneself or for another person; and possess child pornography in a computer system or on a computer-data storage medium.
- Article 9 (2) defines “child pornography” as “pornographic material that visually depicts...a minor engaged in sexually explicit conduct [,]... a person appearing to be a minor engaged in sexually explicit conduct [, or]...realistic images representing a minor engaged in sexually explicit conduct.”
- Article 9 (3) states that the term “‘minor’ shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.”
- Article 11 requires Each Party to enact legislation necessary to address attempt crimes as well as aiding and abetting.
- Article 12 (1) addresses corporate liability.
- Article 13 (1) mandates Each Party to adopt legislative measures to ensure that criminalized offenses “are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.”
- Article 23 addresses the issue of international cooperation.

Ibero-American Cooperation Convention on investigation, assurance and evidence collection in the matter of cybercrime

The Ibero-American Cooperation Convention on investigation, assurance and evidence collection in the matter of cybercrime is a regional and international instrument adopted by the Conference of Ministers of Justice of the Ibero-American Countries (COMJIB) that recognizes the importance of developing comprehensive and coordinated legislation to effectively combat cybercrime.¹⁵

- Article 1 discusses the importance of strengthening mutual cooperation among the Parties.
- Article 2 defines “cybercrime” as “any form of criminality carried out in an environment of social interaction defined by the use of information and communications technology.”

Within its framework, the following points are established:

- Article 3 describes the principle of mutual cooperation, which emphasizes the importance of cooperation among the Parties in relation to the investigative measures and highlights the cases in which a Party can deny this assistance.
- Article 4 requires that all the actions carried out under the framework of the Convention respect human rights as stipulated in related international treaties and agreements.
- Article 5 explains the procedures and activities that can be carried out during the investigation and prosecution, specifically in relation to the evidence processing within the territory of the State Parties. It also refers to the measures that countries should undertake to improve national legislation to comply with the provisions of the Convention.
- Article 10 details the procedure for making requests for mutual assistance and cooperation, specifically referencing the formality and legality of these requests, so that they comply with the material and procedural requirements described under the Convention.

Recommended Legal Framework

A comprehensive legislative strategy that is aimed at addressing online child sexual abuse and exploitation and that allows for the investigation and prosecution of offenders must extend beyond the criminalization of certain actions by child sex offenders. While this is of obvious importance, of equal value are, among others: adequately defining the terminology used in national penal codes; ensuring access to justice for victims; legislating corporate social responsibility; providing remedial measures; enhancing sanctions; forfeiting assets; and strengthening sentencing provisions.

The recommended legal framework is divided into two parts:

- (1) Substantive elements, and
- (2) Procedural elements

Based on the information gathered, comparative tables were compiled that reflect whether the aforementioned elements exist with citation to the appropriate legislative language as needed, in each of the 18 countries reviewed.

Substantive Elements

In this section, many of the terms and definitions that may be considered in the drafting of legislation on child sexual abuse and exploitation online were taken from the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) adopted by the Interagency Working Group in Luxembourg on 28 January 2016.¹⁶ Terms that are not contained within the Luxembourg Guidelines are referenced separately and are not yet internationally agreed upon terms. The country-specific information with respect to these terms can be found in Table 1 of the Legislative Review Results.

Child sexual abuse

In accordance with the provisions of the Luxembourg Guidelines, “[t]he sexual abuse of children requires no element of exchange, and can occur for the mere purpose of the sexual gratification of the person committing the act. Such abuse can be committed without explicit force, with other elements, such as authority, power, or manipulation being determining factors. Moreover, it is noteworthy that, when the child has not reached the age of sexual consent, there is no legal requirement to establish any of these elements. The mere fact of the sexual activity taking place is sufficient to constitute abuse. Furthermore, child sexual abuse can take the form of both contact and non-contact abuse. Child sexual abuse is a broad category that, at its core, defines the harm caused to children by forcing or coercing them to engage in sexual activity, whether they are aware of what is happening or not.”¹⁷

Child sexual exploitation

The Luxembourg Guidelines provide that, “[a] child is a victim of sexual exploitation when she/he takes part in a sexual activity in exchange for something (e.g. gain or benefit, or even the promise of such) from a third party, the perpetrator, or by the child her/himself.”¹⁸ It is further explained that:

“A child may be coerced into a situation of sexual exploitation through physical force or threats. However, she/he may also be persuaded to engage in such sexual activity as a result of more complex and nuanced factors, either human or situational, including a power imbalance between the victim and the perpetrator. While any child may be sexually exploited, children may also find themselves in a situation that makes them particularly vulnerable to such exploitation (e.g. poverty, abuse/neglect, unaccompanied/homeless). Furthermore, the age of

a child may increase her/his vulnerability to sexual exploitation, with older children often mistakenly assumed to be either consenting to their own abuse or not in need of protection.

...

What distinguishes the concept of child sexual exploitation from other forms of child sexual abuse is the underlying notion of exchange present in exploitation. While these two phenomena must be distinguished, it is also important to acknowledge that there is considerable overlap between them, and that, semantically, the distinction will probably never be completely clear. For example, many cases of child sexual abuse also involve some kind of benefit to the child or exchange—often to win trust or ensure silence (especially non-tangible benefits like small gifts, attention, and affection). Similarly, the idea of exploitation is arguably applicable to all victims of abuse in the sense of exploiting the vulnerability of a child.”¹⁹

Commercial child sexual exploitation

The term “commercial child sexual exploitation” has increasingly been used interchangeably with the term “child sexual exploitation” as noted in the Luxembourg Guidelines, thus special attention should be paid to how the term is used.²⁰

While there is no formal definition for the term in international law, it is generally understood to be “...a form of sexual exploitation where the focus is specifically on monetary benefit, often relating to organised criminality where the primary driver is economic gain.”²¹

Online child sexual exploitation

The term “online child sexual exploitation” is generally understood to include “...all acts of a sexually exploitative nature carried out against a child that have, at some stage, a connection to the online environment. It includes any use of ICT that results in sexual exploitation or causes a child to be sexually exploited or that results in or causes images or other material documenting such sexual exploitation to be produced, bought, sold, possessed, distributed, or transmitted. This notion can thus encompass (but is not limited to):

- sexual exploitation that is carried out while the victim is online (such as enticing/manipulating/threatening a child into performing sexual acts in front of a webcam)
- identifying and/or grooming potential child victims online with a view to exploiting them sexually (whether the acts that follow are then carried out online or offline)
- the distribution, dissemination, importing, exporting, offering, selling, possession of, or knowingly obtaining access to child sexual exploitation material online (even if the sexual abuse that is depicted in the material was carried out offline).²²

Child sexual abuse material (Child pornography)

In recent years, the term “child sexual abuse material” has increasingly been used to replace the term “child pornography” by many of those working in the child protection sphere as it is thought to more accurately portray/describe the criminal act committed. The term “child pornography” is used not only “to describe child sexual abuse material, but also to describe the offences of producing/preparing, consuming, sharing/spreading/disseminating, or possessing such material. 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.”²³

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, defines in Article 2 “child pornography” as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or representation of

the sexual parts of a child for primarily sexual purposes”.²⁴ In addition, it states in Article 3, all State Parties shall take measures to ensure that at a minimum the acts and activities listed below are fully addressed under its criminal law, whether committed inside or outside of its borders, or whether committed individually or collectively: “[p]roducing, distributing, disseminating, importing, exporting, offering, selling, or possessing for the above purposes child pornography”, in the sense that it is defined in Article 2.²⁵

In order to fully understand the existing legal definitions of the term “child pornography”, it is useful to look at some of its components as included in the Optional Protocol. The following are highlighted in the Luxembourg Guidelines:²⁶

- *“any representation, by whatever means”*
The use of the expression “any representation, by whatever means” reflects the broad range of pornographic material available in a variety of media, which depict children in a manner intended to sexually arouse or gratify the user. This includes, but is not limited to, visual material such as photographs, movies, drawings, and cartoons; audio representations; live performances; written material in print or online; and physical objects such as sculptures, toys, or ornaments. It arguably also covers so called “virtual child pornography”. There remain significant variations in the national laws of States Parties to the OPSC with regard to the kinds of representations included in the criminalisation of “child pornography”.
- *“or any representation of the sexual parts of a child for sexual purposes”*
The term “for sexual purposes” refers to the intent behind the production and/or use of the material, and it is only those representations that were (intended to be) used for sexual purposes that are deemed to be child pornography. For example, photographs of a child’s genitalia produced for a scientific text book would not be considered pornographic, whereas the same images (re)produced for a pornographic website may be deemed child pornography.
- The constitutive elements of the offense
In terms of the material representing the sexual abuse of a child, the OPSC requests State Parties to criminalize the following acts: “[p]roducing, distributing, disseminating, importing, exporting, offering, selling or possessing [...] child pornography.”

Legislation should penalize the use of information and communication technologies in the commission of crimes against children and adolescents, specifically crimes that are directly related to child sexual abuse material.

Crimes related to child sexual abuse material

Production	The act of manufacturing, creating, or exhibiting child sexual abuse material for oneself or another, or having provided the material, financial resources, or both for the making of such material.
Distribution	The act of delivering, selling, giving, trading, or marketing child sexual abuse material to an intermediary, distributor, or consumer.
Dissemination	The act of publishing, transmitting, or making available child sexual abuse material to the public.

Importation	The act of bringing child sexual abuse material from one country into another.
Exportation	The act of sending child sexual abuse material to another country for sale.
Offer	The act of providing access to or making available to another child sexual abuse material.
Sale	The act of transferring child sexual abuse material to others for an agreed upon price or exchange.
Possession	The act of owning or having child sexual abuse material, physically or virtually, intended for one's own use or for the use of another.
Storage	The act of collecting, storing, or recording child sexual abuse material.

Legislation should require ICT service providers or government entities to filter and remove materials containing child sexual abuse, of which they are officially notified by any person's filed complaint or by judicial order.

In many countries, child sexual abuse material is not officially removed by the local ICT service providers. In order to facilitate this removal process, it is necessary for service users to report the child sexual abuse material to the authorities rather than directly to the service providers; in many cases, this is the procedure ICTs suggest to users. The purpose of this section is to determine which countries mandate the filtering and removal of these images.

Solicitation of minors by means of information and communication technologies (Online grooming)

“Grooming” is a form of child sexual exploitation that refers to the solicitation of children for sexual purposes. “Online grooming” refers specifically “...to the process of establishing/building a relationship with a child either in person or through the use of the Internet or other digital technologies to facilitate either online or offline sexual contact with that person.”²⁷

The process of online grooming entails an offender preparing a child “...for a meeting, especially via an Internet chat room, with the intention of committing a sexual offence” or “the criminal activity of becoming friends with a child, especially over the internet, in order to try to persuade the child to have a sexual relationship.”²⁸

The definition of grooming/online grooming should not be “limited to acts where a physical, in-person meeting has been attempted and/or occurred” because in many recent grooming cases the sexual abuse and exploitation of a child is happening in an online ‘meeting’ rather than an in-person meeting.²⁹ As further explained in the Luxembourg Guidelines:

Data on online grooming from the UK have suggested that children are most frequently lured or manipulated into producing sexual images or videos without any intention by the “groomer” of meeting the children in real life. This boosts the production of child pornographic material and is often linked to other forms of exploitation such as “sexual extortion” ... and blackmailing. Moreover, experience shows that victims of grooming often suffer the same consequences as victims of physical sexual abuse or exploitation. In addition to this, they often have to deal with feelings of shame and guilt for having, to some extent, contributed to their own exploitation (e.g. because initially they agreed to turn on their webcams and/or take photos), as well as the anxiety of permanently losing control of the images and not knowing who has seen them. To

reflect this reality, it appears necessary to extend the definition of “grooming” to cover meetings in the online sphere.³⁰

Sexting

“Sexting” is a commonly used term which has been defined as the “self-production of sexual images”, or as the “exchange of sexual messages or images” and “the creating, sharing and forwarding of sexually suggestive nude or nearly nude images through mobile phones and/or the internet”.³¹ In cases where sexting leads to abuse or exploitation, it is essential that the child is not held criminally liable for the production of child sexual abuse material based on the fact that the material was self-generated.³²

Sexual extortion (Sextortion)³³

“Sexual extortion” or “sextortion” refers to the “blackmailing of a person with the help of self-generated images of that person in order to extort sexual favours, money, or other benefits from her/him under the threat of sharing the material beyond the consent of the depicted person (e.g. posting images on social media).”³⁴ The manipulative techniques (i.e., threats, intimidation, coercion) often used by groomers are used in cases of sexual extortion to persuade or coerce the child or young person to send sexual images of her/himself to the offender, and to continue producing sexual material and/or performing sexual acts “under threat of exposure to others of the material that depicts them.”

Procedural Elements

This section presents procedural elements related to the investigation and prosecution of online child sexual abuse and exploitation that should be taken into account when drafting legislation. Country-specific information can be found in Table 2 of the Legislative Review Results.

Undercover agents and investigations

Countries should have legislation allowing authorities to conduct undercover operations to promote investigation and evidence collection. In these investigations, the investigators may also serve as undercover agents. It is thus important to establish guidelines concerning the actions that may be taken by undercover agents, as well as any limitations on the actions, and clear indication as to the agency that may authorize an undercover operation. A plan for continuous training and professional development should be developed for undercover agents, as well as for those who authorize their activities.

For the purposes of these guidelines, countries are considered to allow undercover operations if their legislation authorizes these operations to be conducted for the purpose of prosecution of crimes related to online child sexual abuse and exploitation. In addition, reference is made in the endnotes to countries that allow for undercover operations provided that the crime being investigated fits within the parameters of organized crime.

Data retention by ICT service providers

Data retention by ICT service providers should be mandated by law; however, reference is made in the footnotes to the Latin American countries that regulate the possibility of data retention and preservation for the purpose of criminal investigation with prior judicial authorization.

Specialized prosecutor’s office

For the purposes of these guidelines, countries are considered to have specialized prosecutor’s offices when they either have units specialized in investigating technology-facilitated crimes against children or cybercrime units within which there is a team or department that specializes in children and adolescents, crimes related to child sexual abuse material, or have the operational capacity to investigate those crimes committed through information and communication technologies.

Specialized police unit

For the purposes of these guidelines, countries are considered to have specialized police units when they either have units specialized in investigating technology-facilitated crimes against children or cybercrime units within which there is a team or department that specializes in children and adolescents, crimes related to child sexual abuse material, or have the operational capacity to investigate crimes committed through information and communication technologies.

Reporting Mechanism (Hotline)

Countries should have a reporting mechanism (hotline), which allows for the reception and acknowledgment of URLs with child sexual abuse content and materials, and which enables coordination among the hotline and the authorities for investigation and removal of the content.

Policies regarding prevention, awareness, and victim assistance

Countries should have specific public policies for prevention, awareness, and comprehensive care of victims, as well as policies to support personnel involved in the investigation of crimes of child sexual abuse and exploitation committed through information and communication technologies.

In many countries there are policies related to prevention, awareness, victim assistance, and law enforcement wellness for those involved in the investigation of child sexual abuse, violence, and exploitation, however the purpose of this section is to determine which countries address the “online” medium within their public policies, and which countries lack such policies.

Legislative Review Results

Table 1. Crimes related to online child sexual abuse and/or exploitation (or technology-facilitated crimes)

✓ = Yes
✗ = No

Country	Online Child Sexual Abuse Material (Child Pornography)	Possession or Simple Possession of Child Sexual Abuse Material	Solicitation of Minors for Sexual Purposes by means of ICTs (Online Grooming)	Simulated (virtual) Child Sexual Abuse Material ³⁵	Impersonation for the purpose of Commission of Offenses of Child Sexual Abuse through ICTs ³⁶	Revenge Pornography ³⁷
Argentina	✓ ³⁸	✗ ³⁹	✓ ⁴⁰	✗	✗	✗
Bolivia	✓ ⁴¹	✗ ⁴²	✗	✗	✗	✗
Brazil	✓ ⁴³	✓ ⁴⁴	✓ ⁴⁵	✓ ⁴⁶	✗	✗
Chile	✓ ⁴⁷	✓ ⁴⁸	✓ ⁴⁹	✗	✓ ⁵⁰	✗
Colombia	✓ ⁵¹	✓ ⁵²	✓ ⁵³	✗	✗	✗
Costa Rica	✓ ⁵⁴	✓ ⁵⁵	✓ ⁵⁶	✓ ⁵⁷	✓ ⁵⁸	✗
Dominican Republic	✓ ⁵⁹	✓ ⁶⁰	✓ ⁶¹	✓ ⁶²	✗	✗
Ecuador	✓ ⁶³	✓ ⁶⁴	✓ ⁶⁵	✗	✗ ⁶⁶	✗
El Salvador	✓ ⁶⁷	✓ ⁶⁸	✗	✗	✗	✗
Guatemala	✓ ⁶⁹	✓ ⁷⁰	✗	✓ ⁷¹	✗	✗
Honduras	✓ ⁷²	✓ ⁷³	✗	✗	✗	✗
Mexico	✓ ⁷⁴	✓ ⁷⁵	✗	✓ ⁷⁶	✗	✗
Nicaragua	✓ ⁷⁷	✓ ⁷⁸	✗	✓ ⁷⁹	✗	✗
Panama	✓ ⁸⁰	✓ ⁸¹	✗	✓ ⁸²	✗	✗
Paraguay	✓ ⁸³	✓ ⁸⁴	✗	✗	✗	✗
Peru	✓ ⁸⁵	✓ ⁸⁶	✓ ⁸⁷	✗	✗	✗
Uruguay	✓ ⁸⁸	✓ ⁸⁹	✗	✓ ⁹⁰	✗	✗
Venezuela	✓ ⁹¹	✗	✗	✗	✗	✗

Table 2. Investigation of crimes related to online child sexual abuse and/or exploitation

✓ = Yes

✗ = No

Country	Undercover Agent and Investigation	Data Retention by ICT Service Providers ⁹²	Use of ICTs to Commit Crimes against Children	Filtering or Removal of CSAM	Specialized Prosecutors' Offices	Specialized Police Units	Reporting Mechanism (Hotline) ⁹³	Policy of Prevention, Victim Assistance, and Investigation of Crimes against Children ⁹⁴
Argentina	✗ ⁹⁵	✗	✓ ⁹⁶	✗	✓	✓	✗	✗
Bolivia	✗	✗	✓ ⁹⁷	✗	✗	✗	✗	✗
Brazil	✗ ⁹⁸	✗ ⁹⁹	✓ ¹⁰⁰	✗	✓	✓	✓ ¹⁰¹	✗
Chile	✗ ¹⁰²	✗	✓ ¹⁰³	✗	✗	✗	✗	✓ ¹⁰⁴
Colombia	✗ ¹⁰⁵	✗ ¹⁰⁶	✓ ¹⁰⁷	✓ ¹⁰⁸	✗	✓	✓ ¹⁰⁹	✓ ¹¹⁰
Costa Rica	✗ ¹¹¹	✗	✓ ¹¹²	✓ ¹¹³	✗	✓	✗	✓ ¹¹⁴
Dominican Republic	✓ ¹¹⁵	✗ ¹¹⁶	✓ ¹¹⁷	✓	✗	✓	✗	✓ ¹¹⁸
Ecuador	✓ ¹¹⁹	✗ ¹²⁰	✓ ¹²¹	✗	✗	✗	✗	✗
El Salvador	✗ ¹²²	✗	✓ ¹²³	✗	✓	✓	✗	✗
Guatemala	✗ ¹²⁴	✗	✓ ¹²⁵	✗	✓	✓	✗	✗
Honduras	✗	✗	✓ ¹²⁶	✗	✗ ¹²⁷	✗	✗	✗
Mexico	✓ ¹²⁸	✗ ¹²⁹	✓ ¹³⁰	✗	✓	✓	✗	✗
Nicaragua	✓ ¹³¹	✗ ¹³²	✓ ¹³³	✗	✗	✗	✗	✗
Panama	✓ ¹³⁴	✗ ¹³⁵	✓ ¹³⁶	✗	✗	✗	✗	✗
Paraguay	✗ ¹³⁷	✗	✗	✗	✗	✓	✗	✗
Peru	✓ ¹³⁸	✗ ¹³⁹	✓ ¹⁴⁰	✗	✗	✓	✗	✓ ¹⁴¹
Uruguay	✗ ¹⁴²	✗	✓ ¹⁴³	✗	✗	✓	✗	✗
Venezuela	✓ ¹⁴⁴	✗	✓ ¹⁴⁵	✗	✓	✓	✗	✓ ¹⁴⁶

Table 3. Ratification by countries of the international instruments related to online child sexual abuse and exploitation

✓ = Yes
 ✗ = No

Country	Convention on the Rights of the Child	Optional Protocol to the CRC on the sale of children, child prostitution and child pornography	Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	Ibero-American Cooperation Convention for Investigation, Assurance and Evidence Collection on the Matter of Cybercrime	Convention on Cybercrime	Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse
Argentina	✓	✓	✓	✗ ¹⁴⁷	✗	✗
Bolivia	✓	✓	✓	✗	✗	✗
Brazil	✓	✓	✓	✗	✗	✗
Chile	✓	✓	✓	✗	✗	✗
Colombia	✓	✓	✓	✗	✗	✗
Costa Rica	✓	✓	✓	Signed	✗	✗
Dominican Republic	✓	✓	✓	✗	✓	✗
Ecuador	✓	✓	✓	✗	✗	✗
El Salvador	✓	✓	✓	✗	✗	✗
Guatemala	✓	✓	✓	✓	✗	✗
Honduras	✓	✓	✓	✗	✗	✗
Mexico	✓	✓	✓	✓	✗	✗
Nicaragua	✓	✓	✓	✓	✗	✗
Panama	✓	✓	✓	✗	✓	✗
Paraguay	✓	✓	✓	✗	✗	✗
Peru	✓	✓	✓	✓	✗	✗
Uruguay	✓	✓	✓	✓	✗	✗
Venezuela	✓	✓	✓	✗	✗	✗

Conclusion

The legal systems of the countries reviewed in these guidelines are based on written law (positive law). The absence of laws (national or international regulations) governing the prosecution of criminal conduct committed against children, which have arisen in large part due to the evolution of information and communications technologies, leaves such actions unpunished to the detriment of the victims. The following issues should be considered in the study and development of national laws concerning child sexual abuse and exploitation online:

Evolutionary principle and the existence of new threats

The methods for identifying perpetrators and victims of online crimes should evolve parallel to technologies. Technological evolution leads to the rise of other behaviors that should be criminalized, thus the creation of new tools for investigation and prosecution should be developed in parallel. The evolutionary principle, as a fundamental legal principle, should be reflected in legal instruments through legislative reform and amendments.

Absence of records

The lack of standardized information collection, recordkeeping databases, communication, and centralization of data are significant challenges for institutions in all of the countries surveyed. In addition, there is a general lack of data collected related to crimes of sexual abuse and exploitation against children or data is recorded in a general way without sub-classifications or specific behavioral indicators.

Information sources such as the media, non-governmental organizations, and private enterprise clearly show the existence and the growth in crimes committed against children through the use of information and communication technologies.

Lack of specialized training

Many practitioners in the justice sector in the region do not have the necessary expertise to deal with complaints and investigations of sexual offenses committed against children by means of information and communication technologies, despite the fact that it is a constantly growing and evolving phenomenon that has been around for more than two decades. In some countries, cybercrime is a very new concept, thus hindering the development of measures for prevention, victim assistance, investigation, and punishment of related crimes.

Lack of national legislation

The lack of specialized national legislation creates a legal vacuum in many countries, which is remedied by utilizing provisions for other criminal offenses that may be related, such as the solicitation of minors by the use of information and communication technologies (online grooming), sexual extortion (sextortion), and the corruption of minors, among others. Where specific national laws exist that provide penalties for offenses related to child sexual abuse or exploitation through the use of information and communication technologies, penalties are often lower than those imposed for similar offenses.

*The following endnotes were unofficially translated from Spanish into English.

- ¹ In recent years, the term “child sexual abuse material” has increasingly been used to replace the term “child pornography” by many of those working in the child protection sphere as it is thought to more accurately portray/describe the criminal act committed.
- ² See Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 8, at <http://luxembourgguidelines.org/>. “Minor” is a term often seen in legislative texts. In major dictionaries, it is referred to as a legal term indicating a person who is “under the age at which you legally become an adult”—that is, who has not attained the age of majority—which could be attained before (or after) the age of 18 depending on the legislation of each country.
- ³ Simulated (virtual) child sexual abuse material includes all acts that represent and imitate aspects of reality, seem, or appear to be minors engaged in sexual activities through the use or modification of pictures, cartoons, drawings, or representations of any kind, including realistic images created through computer-generated imaging or morphing two images into one. This definition was developed by ICMEC based on the concepts included in the aforementioned conduct as defined in the Royal Spanish Academy Dictionary, at <http://dle.rae.es/>. *This is not an internationally recognized term.*
- ⁴ Impersonation by means of information and communication technologies for the commission of crimes of child sexual abuse and exploitation is defined as impersonating or using a false identity in an effort to deceive a minor by any means in order to establish communications that are erotic or sexual in nature with a minor or disabled person, whether or not the communications include images, videos, text, or audio. This definition was developed by ICMEC based on the concepts included in the aforementioned conduct as defined in the Royal Spanish Academy Dictionary, at <http://dle.rae.es/>. *This is not an internationally recognized term.*
- ⁵ Revenge pornography is defined as the act of publishing images on the Internet of another person’s explicit sexual content to satisfy a grievance or damage allegedly caused to the person who published them. This definition was developed by ICMEC based on the definitions for several related terms (e.g., revenge, pornography) in the Royal Spanish Academy Dictionary, at <http://dle.rae.es/>. *This is not an internationally recognized term.*
- ⁶ Convention on the Rights of the Child, G.A. Res. 44/25, 61st plen. mtg., U.N. Doc. A / RES / 44 / 25 (20 November 1989), which became effective on 02 September 1992, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ⁷ Id.
- ⁸ Optional Protocol for the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography - UN, New York, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ⁹ ILO Convention 182, Convention on the Worst Forms of Child Labour of 1999, http://www.ilo.org/dyn/normlex/es/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312327,en:NO (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹⁰ See Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 26, at <http://luxembourgguidelines.org/>. The term “commercial child sexual exploitation” has increasingly been used interchangeably with the term “child sexual exploitation” as noted in the Luxembourg Guidelines.
- ¹¹ *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201)*, 25 October 2007, <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084822> which became effective on 1 July 2010 (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹² See Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201): Chart of Signatures and Ratifications, at <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/201/signatures> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹³ Council of Europe Convention on Cybercrime, http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/ETS_185_spanish.PDF (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹⁴ See Convention on Cybercrime (CETS 185): Chart of Signatures and Ratifications, at <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185/signatures> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹⁵ The Ibero-American Cooperation Convention on Investigation, Assurance and Collection of Evidence in the Matter of Cybercrime, http://www.comjib.org/sites/default/files/Ciberdelito_Convenio%20y%20adhesiones.pdf (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹⁶ Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, at <http://luxembourgguidelines.org/> (last visited July 9, 2016) (on file with the International Centre for Missing & Exploited Children).
- ¹⁷ Id. at pgs. 19-20.
- ¹⁸ Id. at pgs. 24-25.
- ¹⁹ Id. at pgs. 24-25.
- ²⁰ Id. at pg. 26.
- ²¹ Id. at pg. 27.
- ²² Id. at pgs. 27-28.
- ²³ Id. at pgs. 35-36.
- ²⁴ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Article 2, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).

- 25 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Articles 3 and 3(c), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx> (last visited Sept. 27, 2016) (on file with the International Centre for Missing & Exploited Children).
- 26 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 35-37, at <http://luxemburgguidelines.org> (last visited Aug. 3, 2016) (on file with the International Centre for Missing & Exploited Children).
- 27 Id. at pg. 51.
- 28 Id. at pg. 51.
- 29 Id. at pg. 51.
- 30 Id. at pg. 50.
- 31 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 44, at <http://luxemburgguidelines.org> (last visited Aug. 3, 2016) (on file with the International Centre for Missing & Exploited Children).
- 32 Id. at pg. 44.
- 33 The preferred term is “sexual extortion of children” rather than the more colloquial term “sextortion”. Sexual extortion of children highlights that the extortion is of a sexual nature and is a form of sexual exploitation against a child. See, Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 53.
- 34 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, pg. 52, at <http://luxemburgguidelines.org> (last visited Aug. 3, 2016) (on file with the International Centre for Missing & Exploited Children).
- 35 *Supra* note 3.
- 36 *Supra* note 4.
- 37 *Supra* note 5.
- 38 Penal Code. Article 128. Whoever produces, finances, offers, trades, publishes, facilitates, spreads or distributes, by any means, all and any representation of a person under eighteen (18) years of age dedicated in explicit sexual activities or any representation of their genitals for predominantly sexual purposes, as with what is organized in live shows of explicit sexual representations, which such minors participate in. Shall be punished with imprisonment of four (4) months to two (2) years whoever is in possession of the representations described in the preceding paragraph for unequivocal distribution or sales purposes. Shall be punished with imprisonment of one (1) month to three (3) years whoever facilitates access to pornographic shows or provides any pornographic material to minors aged below fourteen (14) years. (Article substituted by art. 2 of Law #26,388, B.O. 25/6/2008) http://www.oas.org/dil/esp/Codigo_Penal_de_la_Republica_Argentina.pdf.
- 39 Id.
- 40 Law 26,904 (Penal Code Reform). Article 131.- Shall be punished with imprisonment of six (6) months to four (4) years whoever through electronic communications, telecommunications or any other data transmission technology, contacts a minor for the purposes of committing any offense that violates the minor's sexual integrity. <http://www.infoleg.gov.ar/infolegInternet/anexos/220000-224999/223586/norma.htm>.
- 41 Penal Code, Article 281c.- Pornography and Obscene Shows with Children and Adolescents. Whoever by himself or by a third party, by any means, promotes, produces, displays, markets or distributes pornographic material, or promotes lewd shows in which children or adolescents are involved, shall be punished with imprisonment of three (3) to six (6) years. The penalty shall be increased by a quarter when the perpetrator or participant is the parent, guardian or whoever has the child or adolescent under his care, supervision or authority. https://www.unodc.org/res/cld/document/bol/codigo-penal_html/Bolivia_Codigo_Penal.pdf.
- 42 Id.
- 43 Brazilian Child and Adolescent Statute (ECA), Article 240.- Produce, reproduce, direct, photograph, film or record by any means, scenes of explicit sex or pornography, involving children or adolescents: Penalty – imprisonment of four to eight years and fine. § 1 Shall be liable to the same penalties whoever procures, facilitates, recruits, coerces or otherwise causes the participation of children or adolescents in the scenes previously referred to in this Article, or those involved in it. § 2 The penalty is increased by one third, if an agent had committed the crime: I - In the exercise of his office or public functions or on the pretext of exercising it; II - Building a domestic relationship, of cohabitation or hospitality; or III - Building a family relationship or consanguinity up to the third degree, or by adoption, as tutor, curator, teacher, employer or any other title whatsoever that represents authority over the victim or has been given consent to exercise it. http://www.planalto.gov.br/ccivil_03/LEIS/L8069.htm.
- 44 Id. at Article 241-A.- Offer, exchange, dispose, transmit, distribute, publish or disclose by any means, also through computer system or information technology, photography, video or other record containing scene of explicit or pornographic sex involving children or adolescents: Penalty - imprisonment of three to six years and fine. § 1 Shall incur the same penalty whoever: I - Secure facilities or services for storing photographs, videos or other images previously referred to in this Article; II - Ensure by any means access by computer networks to photographs, scenes or images previously referred in this Article. § 2 The conduct described in items I and II of § 1 of this Article is punishable when the legal party responsible for the service, officially notified, fails to disable access to the illegal content referred to by this Article.
- 45 Id. at Article 241-D.- Attracts, besieges, instigates or constrains children by any means of communication, with the purpose of performing lewd acts with them: Penalty – imprisonment of one to three years, and fine. Sole paragraph. The same penalties are incurred by those who: I – facilitate or induce children's access to material containing pornographic scenes or explicit sex in order to practice lewd acts with them; II - practice the behaviors described in the beginning of this article in order to induce children to be shown in a pornographic or sexually explicit manner.
- 46 Id. at Brazilian Child and Adolescent Statute, Article 241-C.- Simulate the participation of children or adolescents in explicit or pornographic sex scenes through falsification, makeups, participation of children or adolescents in scenes of explicit or pornographic sex through falsification, makeups or modification of pictures, video or any other form of visual representation: penalty - imprisonment for one to three years and fine. Sole paragraph. Shall incur the same penalties whoever sells, exposes for sale, makes available, distributes, publishes or divulges by any means, acquires, possesses or stores material produced in the form previously described in this Article.

- 47 Chilean Penal Code. Article 366 d.- Whoever participates in the production of pornographic material, by whatever support, in whose preparation children under eighteen years of age have been used, shall be punished with the smallest imprisonment to its maximum extent. For the effects of this article and article 374 bis, pornographic material shall mean one whose compilation comprises the use of minors under eighteen years, any representation of these engaged in real or simulated explicit sexual activities or any representation of their genitals primarily for sexual purposes or any representation of such minors who use their voice or image for the same purposes. <http://www.leychile.cl/Navegar?idNorma=1984>.
- 48 Id. Article 374 Bis - Whoever markets, imports, exports, distributes, disseminates or displays pornographic material, no matter under what support, the preparation of which uses minors less than eighteen years old, shall be punished with the penalty of small imprisonment from its medium to maximum extent. Whoever maliciously purchases or stores pornographic material, under whatever support, whose preparation used children under eighteen years of age, shall be punished with small imprisonment to middle extent.
- 49 Id. Article 366 d - Whoever, without performing a sexual act in the above terms to seek his own sexual arousal or another's sexual arousal, carried out actions of sexual significance to one person under the age of fourteen years, makes him/ her see or listen to pornographic material or witness shows of the same character, shall be punished by imprisonment from medium to maximum extent. If, for the same purpose of seeking one's own or another's sexual arousal, one determines a person under fourteen years to perform actions of sexual significance before oneself or someone else to send, deliver or display images or recordings of oneself or someone else under 14 years of age with sexual significance, the penalty shall be small imprisonment to maximum extent. Whoever does any of the acts described in the preceding subparagraphs with a minor person who is older than fourteen years, undergoing any of the circumstances of paragraph 1 of article 361 or listed in Article 363 or by means of threats within the meaning of articles 296 and 297, shall be convicted with the same penalties referred to in the preceding subparagraphs. The penalties referred to in this article shall also apply when the described offenses are committed from distance by any electronic means. If in the Commission of any of the offenses described in this Article, the author falsifies his identity or age, the penalty applicable shall increase by one degree.
- 50 Id. at last paragraph.
- 51 Penal Code of Colombia. Article 218.- Pornography with minors. Whoever photographs, films, records, produces, reports, offers, sells, buys, possesses, carries, stores, transmits or by any means for personal use or exchange, depictions of actual sexual activity involving persons under 18 years of age, shall incur an imprisonment verdict of 10 to 20 years and a fine of 150 to 1,550 current minimum wages. The same penalty shall apply to those who feed databases over the internet with child pornography, with or without profit-making. The penalty shall increase from one-third to half whenever the responsible person is a member of the victim's family. <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6388>.
- 52 Id.
- 53 Law 1329 of 2009, whereby the Title IV of Law 599 of year 2000 is amended and other provisions are dictated to counteract the commercial sexual exploitation of children and adolescents. Article 219A.- Utilization or facilitation of communication media to offer sexual activities with persons less than 18 years old. Whoever uses or facilitates through traditional mail, global information networks, telephone, or any means of communication, intent on obtaining, soliciting, offering or providing contact or activity involving sex with persons under the age of 18 years, shall incur imprisonment of ten (10) to fourteen (14) years and a fine of sixty-seven (67) to (750) monthly legal minimum wages in force. The penalties referred to in the previous paragraph shall be increased by up to half (1/2) when the behavior occurred with children under fourteen (14) years. <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36874#0>.
- 54 Penal Code, Law No. 4573. Article 173.- Manufacture, production or reproduction of Pornography. Persons who manufacture, produce or reproduce child pornographic material in any way will be sanctioned with imprisonment for four to eight years. Anyone who transports or enters the country with this type of material will be sanctioned with imprisonment for three to six years. For the purposes of this Code, child pornographic material means any written, visual or auditory representation produced by any means, of an underage person, his/her image or voice, altered or modified, dedicated to explicit sexual activities, whether real or simulated, or any representation of an underage person's genitalia with sexual purposes. http://www.oas.org/dil/esp/Codigo_Penal_Costa_Rica.pdf.
- 55 Id. at Article 173 Bis.- Possession of pornographic material. Any person who possesses child pornographic material will be sanctioned with imprisonment for one to four years.
- 56 Id. at Article 167 Bis.- Seduction or encounters with minors through electronic means. Any person who, through any means, establishes communication of sexual or erotic nature, whether or not it includes images, videos, text or audio with a legally incapacitated person or under the age of fifteen will be imprisoned for one to three years. The same penalty shall be imposed upon any person who, by impersonating a third party or through the use of false documentation, through any means intends communication of sexual or erotic nature, whether or not it includes images, video, text or audio with an underage or legally incapacitated person. Punishment shall be imprisonment for two to four years in the acts described in the above two paragraphs, when the party procures a personal encounter in a physical location with an underage or legally incapacitated person.
- 57 Id. at Article 174 Bis.- Virtual pornography and pseudo pornography. Imprisonment for six months to two years shall be imposed to any person who, through any means possesses, produces, sells, distributes, showcases or facilitates pornographic material that shows an adult person who simulates being an underage person performing sexual acts. Uses an image, cartoon, drawing or representation of any kind, that impersonates or simulates an underage person performing sexual acts.
- 58 Law 9048, Costa Rica Penal Code Reform. Article 230.- Impersonation. Any person who falsely impersonates another person in any social network, website, electronic or technological media, shall be sanctioned with imprisonment for three to six years. The same penalty shall be imposed upon any person who, assuming a false or non-existing identity, causes injury upon a third party. Imprisonment shall be for a term of four to eight years if the aforementioned conducts cause injury upon a legally incapable or underage person. http://www.mopt.go.cr:10039/portal/Home%20Educacion%20Vial/Documentos/legislacion/Ley_9048_Delitos_Informaticos.pdf.
- 59 Law Number 53-07 Against High-Tech Crimes and Malpractice. Article 24.- Child Pornography. Production, distribution, sale and any type of marketing of images and depictions of a child or adolescent with pornographic character in the terms defined under this law, shall be punished with imprisonment for two to four years and a fine of ten to five hundred times the minimum wage. http://www.wipo.int/wipolex/es/text.jsp?file_id=235326#LinkTarget_601.
- 60 Id. at Paragraph.- Acquisition and Possession of Child Pornography. The acquisition of child pornography through an information system for oneself or another person, and the intentional possession of child pornography in an information system or any of its components, shall be punished with a verdict of three months to one year in prison and a fine of two to two hundred times the minimum wage.

- 61 Id. at Article 23.- Sexual Attack. The act of exercising a sexual attack on a child, girl, teenager, handicapped or alienated mind, through use of an information system or any of its components, shall be punished with the penalties of three to ten years in prison and a fine from five to 200 times the minimum wage.
- 62 Id. at Article 24. Regarding the depiction of boys, girls, or adolescents.
- 63 Penal Code Organic Integral Penal Code, Article 103.- Pornography using children or adolescents. Any person who photographs, films, records, produces, transmits or edits visual, audiovisual, electronic or any other kind of media in a physical format or otherwise which contains a visual representation of nudity or semi-nudity, real or simulated of children or adolescents in a sexual act shall be sanctioned with imprisonment for thirteen to sixteen years. If the victim also suffers from some kind of disability or serious or incurable disease, this is punishable with imprisonment from sixteen to nineteen years. When the offending person is the father, mother, or relative to the fourth degree of consanguinity or second of affinity, guardian, legal representative, tutor or belongs to the intimate setting of the family; minister of religion, teacher, master, or person who by profession or activity has abused the victim, the offender shall be punished with imprisonment of twenty-two to twenty-six years. http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ECU/INT_CEDAW_ARL_ECU_18950_S.pdf.
- 64 Id. at Article 104.- Trading of pornography with use of children and adolescents. The person who publishes, purchases, possesses, carries, transmits, downloads, stores, imports, exports or sells by any means, for personal use or sharing pornography of children and adolescents, shall be punished with imprisonment of ten to thirteen years.
- 65 The Integral Criminal Code of Ecuador in its article 173 regulates the crime of contact with sexual purpose under eighteen by electronic media.- The person who by electronic means proposes to make a dating with a person under eighteen years of age, provided that such a proposal is accompanied by material about acts leading to approach with sexual or erotic purpose, shall be punished with imprisonment of one to three years. <http://www.desarrolloamazonico.gob.ec/wp-content/uploads/downloads/2014/05/CODIGO-ORGANICO-INTEGRAL-PENAL-act.pdf>.
- 66 Id. at Article 328 Forgery and use of False Documents is the crime that the prosecutors are using to criminalize identity theft, but does not fit in the behavior where impersonation is used as a means to commit a crime related to the use of technologies.
- 67 Penal Code of El Salvador. Article 172.- Whoever by any direct means, including electronic means, manufactures, transfers, disseminates, distributes, rents, sells, offers, produces, implements, exhibits or shows movies, magazines, leaflets or any other pornographic material to minors under eighteen years of age or mentally handicapped, shall be punished with imprisonment of three to five years. The same penalty shall be incurred by whoever does not warn in a visible way about the content of movies, magazines, leaflets or any other material, including those that can be transmitted through electronic means, whenever such material is unsuitable for children under eighteen years old or mentally deficient. https://www.oas.org/dil/esp/Codigo_Penal_El_Salvador.pdf.
- 68 Id. at Possession of Pornography. Article 173-A.- The possession of pornographic material with the image of persons under eighteen, incompetent or mentally handicapped being used in pornographic or erotic activities shall be punished with two to four years. Article 173-B.- The crimes referred to by Arts. 169 and 173 of this Code, shall be punished with the corresponding maximum penalty increased by up to one third of the maximum set penalty and disqualification from exercising their profession for the duration of the sentence, if any of the actions described below was carried out by: a) Ancestors, descendants, siblings, adoptive parents, adoptees, spouses, cohabitants and relatives to the fourth degree of consanguinity and second of affinity; b) All persons referred to in Article 39 of this Code; c) The person in charge of guardianship, protection or surveillance of the victim; and d) Any person taking advantage of the superiority arising from relations of trust, domestic, educational or work environment or any other relationship.
- 69 Penal Code of Guatemala, Decree 17-73 and its Conformity Reforms with the Law Against Sexual Violence, Exploitation and Human Trafficking, Decree 9-2009. Article 194.- Production of Pornography of Minor Persons. Any person who, in any form and through any means produces, manufactures or develops pornographic material that contains an image or voice, real or otherwise, of one or more underage or mentally disabled persons, performing pornographic or erotic acts, shall be sanctioned with imprisonment for six to ten years and fined with 50,000 to 500,000 Quetzales. Article 195 Bis.- Commercialization or Dissemination of Pornography with Underage Persons. Whoever publishes, reproduces, imports, exports, distributes, transports, showcases, advertises, disseminates or trades, in any way and through any means, pornographic material with underage or mentally disabled persons, in which their image or voice, real or otherwise is used, shall be sanctioned with imprisonment for six to eight years and a fine of 50,000 to 500,000 Quetzales. Article 195 Ter.- Possession of Child Pornography of underage persons. Whoever knowingly possesses or acquires pornographic material involving one or various underage or mentally disabled persons, in pornographic or erotic acts, shall be sanctioned with imprisonment for two to four years. http://www.oas.org/dil/esp/Codigo_Penal_Guatemala.pdf.
- 70 Id.
- 71 Id. at Article 194.
- 72 Decree 144-83. Penal Code. Article 149-D.- Committing the crime of pornography means financing, reproducing, distributing, importing, exporting, offering, commercializing or spreading, through any means, whether direct, mechanical or electronic, of material in which the person and images of persons under the age of eighteen (18) are used in pornographic or erotic acts or activities. The person engaging in such crime shall be sanctioned with imprisonment from ten (10) to fifteen (15) years and a fine of two hundred (200) to three hundred (300) times the minimum wage. Possession of pornographic material involving children and adolescents shall be sanctioned with imprisonment for four (4) to six (6) years. [http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20\(09\).pdf](http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20(09).pdf)
- 73 Id.
- 74 Federal Penal Code of the United States of Mexico, Article 200.- Any person who commercializes, distributes, displays, circulates or offers persons under the age of eighteen in books, writings, recordings, films, photographs, printed advertisement, images or objects of a pornographic nature, whether real or simulated, physical or otherwise, shall be sentenced to six months to five years in prison and three hundred to five hundred times the minimum wage. Any material that means scientific, artistic or technical dissemination or, where appropriate, sexual education regarding the reproductive function, prevention of sexually-transmitted disease and teenage pregnancy, shall not be considered pornographic or damaging to society as long as they are approved by the corresponding authority. http://www.conacyt.mx/cibiogem/images/cibiogem/normatividad/vigente/CODIGO_PENAL_FEDERAL.pdf.
- Federal Law against Organized Crime, Article 2.- Whenever three or more persons factually organize to perform, permanently or repeat, acts that, alone or jointly with others, have the purpose of committing any of the following crimes, shall be sanctioned, by that fact alone, as members of organized crime:... V. Corruption of minor persons under eighteen years of age or persons who are unable to

understand the meaning of the fact or of people who lack capacity to understand the meaning of the fact or people who are unable to resist it as provided in Article 201; Pornography of minor persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or people who are unable to resist it, as provided in article 202; Sexual tourism against persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or who have no capacity to resist it, as provided in Articles 203 and 203 Bis; Brothels of persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or people who are incapable to resist it, as provided in article 204; Attack, as provided in articles 286 and 287; Trafficking in minors or people who have no ability to understand the meaning of the fact, referred to in article 366 Ter, and Theft of vehicles, as provided in Articles 376 Bis and 377 of the Federal Criminal Code, or the relevant provisions of the state or Federal District criminal laws. <http://www.diputados.gob.mx/LeyesBiblio/pdf/101.pdf>.

75 Federal Penal Code of the United Mexican States, Article 202 BIS.- Any person who stores, buys or leases the material referred to in the previous paragraph for purposes other than trade or distribution shall be subject to one to five years imprisonment and 100 to 500 days' fine. Similarly, they shall be subject to specialized psychiatric treatment. http://www.conacyt.mx/cibiogem/images/cibiogem/normatividad/vigente/CODIGO_PENAL_FEDERAL.pdf.

76 Id. at Federal Penal Code of the United Mexican States, Article 200.

77 Law Number 641, Nicaragua Penal Code. Article 175.- Sexual exploitation, pornography and paid for sexual acts with adolescents. Anyone who induces, enables, promotes, or makes use of persons who are under the age of 16 or handicapped for sexual or erotic purposes, forcing them to attend or take part in public or private shows or performances, regardless of the victim consenting to attend or take part in the performance, shall be sentenced to five to seven years in prison, and four to six years of prison shall be imposed when the victim is above 16 years of age and younger than 18. Anyone who promotes, finances, manufactures, reproduces, publishes, commercializes, imports, exports, disseminates or distributes for purposes of sexual exploitation, through any medium, whether that medium is direct, mechanical, digital, audio-visual, or in a computerized, electronic or other form, the image or voice of a person below the age of 18 involved in sexual or erotic activity, whether it is real or simulated, explicit or implicit, or the depiction of their genitals for sexual purposes, shall be sentenced to five to seven years in prison and 150 to 500 days' fine. Anyone in possession of pornographic or erotic material in line with the terms outlined in the previous paragraph for purposes of sexual exploitation shall be sentenced to one to two years in prison. Anyone who commits a sexual act with a person, of either sex, above the age of 15 and below the age of 18, and who pays, promises to pay or give in return an economic or other advantage, shall be sentenced to five to seven years in prison. http://www.cicad.oas.org/fortalecimiento_institucional/legislations/PDF/NI/ley_641_codigo_penal.pdf.

78 Id.

79 Id.

80 Law n° 16, which states provisions for prevention and classification of crimes against integrity and sexual freedom, modifies and adds articles to the Criminal and Judicial Codes. Article 231-D. Anyone who manufactures, prepares or produces pornographic material, or offers, trades, exhibits, publishes, publicizes, disseminates or distributes such material via the internet or any other mass media or national or international information, virtually presenting or representing minors involved in activities of a sexual nature, whether they are real or simulated, shall be sentenced to four to six years in prison and 150 to 200 days' fine. Anyone who possesses, transports or brings this material into the country shall receive the same punishment. Article 231-E. Anyone who uses a minor in acts of indecent exposure or pornography, whether or not it is photographed, filmed or recorded through any medium, before a third party or alone, with one or more other minors or adults, of the same or different sex, or with animals, shall be sentenced to four to six years and prison and 150 to 200 days' fine. The same punishment shall be applied to anyone who uses email, global information networks or any other individual or mass communication medium, in order to incite or promote the online sex of minors, or in order to offer their sexual services or force them to simulate such conduct by telephone or in person. Article 231-F. Anyone who show pornographic material, or gives access to pornographic performances, to minors, handicapped or disables persons shall be sentenced to four to six years in prison and 150 to 200 days' fine. If the person initiating the conduct outlined in the paragraph above is the father, mother, guardian, carer or anyone else with any form of custody for the victim, shall lose the right to parental authority or the right to which they have been allowed, as appropriate, to have them under their care up until the date on which the crime occurred. http://www.unodc.org/res/cld/document/pan/2008/ley-16-2004_html/Ley_16_2004.pdf.

81 Id.

82 Id.

83 Paraguayan Penal Code Law No. 1.160/97. Article 140.- Pornography related to children and adolescents. 1st Anyone who 1. produces publications in terms of Article 14, 3rd paragraph, which represent sexual acts involving a person under the age of 18 or displays their genitals; 2. organizes, finances or promotes public or private shows involving a person under the age of 18 performing sexual acts, or; 3. distributes, imports, exports, offers, exchanges, displays, disseminates, promotes or finances the production or reproduction of publications in line with paragraph 1, shall be sentenced with a term of imprisonment of up to five years or a fine. 2nd Anyone who reproduces publications in line with the 1st point of paragraph 1 shall be sentenced to a term of imprisonment of up to three years or a fine. 3rd The punishment of the previous points may be increased by up to ten years when: 1. the publications and performances in line with the 1st and 2nd points refer to children under the age of 14, or children under said age are given access to publications or performances in line with those points; 2. the offender has parental authority, or a right of care of guardianship for the child or adolescent, or they had been entrusted with the education or care of the child or adolescent; 3. the offender operates in tandem with anyone with the right to educate, care for or protects the child or adolescent in question; 4. the offender had initiated, with regards to the child or adolescent, violence, force, threat, coercion, deception, payoff, or the promise of remuneration of any form; or 5. the author shall act commercially or as a member of a gang dedicated to the repeated implementation of the punishable acts. 4th Whoever obtained possession of publications in the sense of paragraphs 1 and 3 shall be punished with imprisonment of up to three years or a fine. 5th According to relevance, the provisions of Articles 57 and 94 shall apply. http://www.oas.org/dil/esp/Codigo_Penal_Paraguay.pdf.

84 Id.

85 Legislative Decree No. 635 Penal Code of Peru and its Reforms for Conformity with Law No. 28251. Article 183-A.- Child pornography. Whoever has, promotes, manufactures, distributes, exhibits, offers, sells or publishes, imports or exports by any means, including over the Internet, objects, books, printed matter, visual images or audios, or performs live pornographic shows, using people of fourteen and less than eighteen years of age, shall be punished with deprivation of liberty for not less than four and not more than six years and from one hundred twenty to three hundred sixty days of fine. If the child is less than fourteen years of age, the penalty shall be no less

than six nor longer than eight years and one hundred fifty to three hundred sixty-five days of fine. If the victim is in any of the conditions provided for in the last paragraph of Article 173, or if the agent acts as a member of an organization devoted to child pornography the imprisonment verdict shall not be less than eight nor longer than twelve years. If so, the agent shall be disqualified in accordance with article 36, paragraphs 1, 2, 4 and 5." https://www.oas.org/juridico/mla/sp/per/sp_per_cod_pen.pdf.

86 Id.

87 Law Number 30096, Cybercrime Law. Article 5.-Propositions to children and adolescents for sexual purposes through technological media. Whoever, by means of information or communication technologies, contacts a person under fourteen years to ask for or obtain pornographic material, or to make sex with such person, shall be punished with imprisonment of no less than four nor longer than eight years as well as disqualification as per paragraphs 1, 2 and 4 of section 36 of the Criminal Code. If the victim is aged between fourteen and under eighteen years and undergoes deceit, the penalty shall be not less than three or longer than six years, as well as disqualification in accordance with paragraphs 1, 2, and 4 of Article 36 of the Criminal Code.http://www.peru.gob.pe/docs/PLANES/10434/PLAN_10434_2013_Ley_N%C2%B0_30096-DELITOS_INFORMATICOS.pdf.

88 Law # 17.815. Commercial or Non-commercial Sexual Violence Committed Against Children, Adolescents or Incapacitated Individuals. Article 1.- Manufacture or production of pornographic material using minors or incapacitated individuals. Anyone who manufactures or produces any form of pornographic material using minors or incapacitated persons of legal age, or uses their image, shall be sentenced to twenty-four months in prison to six years in penitentiary. Article 2.- Trade and dissemination of pornographic material including the image or any other representation of minors or incapacitated persons of legal age. Anyone who trades, disseminates, displays, stores for the purposes of distribution, imports, exports, distributes or offers pornographic material including the image or any other representation of a minor or incapacitated person shall be sentenced from twelve months in prison up to four years in penitentiary. Article 3.- Facilitating the trade and dissemination of pornographic material including the image or another representation of one or more minors or incapacitated individuals. Anyone who facilitates, in any way, for their own benefit or that of others, the trade, dissemination, display, import, export, distribution, supply, storage or acquisition of pornographic material that contains the image or any other form of representation of one or more minors or incapacitated individuals shall receive a sentence from six months in prison up to two years of penitentiary. For the purposes of this and the previous articles, pornographic products or materials are understood as anything which, through any medium, contains the image or any other form of representation of minors or incapacitated individuals engaged in explicit sexual activities, real or simulated, or the image or representation of their genitals for primarily sexual purposes. (Law No. 17.559, of September 27th, 2002, [Optional Protocol](#) to the [Convention](#) on the rights of children concerning the sale of children, child prostitution and child pornography.). <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=17815&Anchor>.

89 Id.

90 Id.

91 Organic Law against Organized Crime and Terrorism Financing. Article 41. Anyone who, as an integral member of an organized crime group, promotes, contributes to, enables, or implements, by way or the recording, transport, transfer, hosting or reception of persons, makes use of threat, force, coercion, abduction, deception, abuse of power, situations of vulnerability, concession, reception or other fraudulent means of payment or profit, in order to obtain the victim's consent, directly or through an intermediary, or a person who has authority over the other, to implement begging, work or forced labor, debt bondage, illegal adoption, slavery and slavery-like practices, extraction of organs, any class of sexual exploitation; such as, prostitution of others, forced prostitution, pornography, sex tourism, servile marriage, even with the consent of the victim, shall be sentenced to 20 to 25 years in prison and the writing-off of compensation for the victim's recuperation and social reintegration costs. If the victim is a child or adolescent the prison sentence shall be twenty-five to thirty years. Article 46. Anyone who, as an integral member of an organized crime group, exploits the pornography industry/business to reproduce obscene or indecent material for general purposes of releasing it to the public, shall be sentenced to ten to 15 years in prison. If the pornography was created with children or adolescents the prison sentence shall be 25 to 30 years. Article 47. Anyone who, as an integral member of an organized crime group, sells, disseminates or displays pornographic material, through any means, to children or adolescents, shall be sentenced to 25 to 30 years in prison. Article 48. Anyone who, as an integral member of an organized crime group, makes us of children, adolescents, or their image, for the purposes of exhibitionist and pornographic performances, both public and private, or in order to create any form of pornographic material, irrespective of the medium on which they are stored, or the manner in which they are financed, shall be sentenced to 25 to 30 years in prison. Article 49. Anyone who, as an integral member of an organized crime group, produces, sells, distributes, exhibits or enables the production, sale, dissemination or exhibition, through any medium, of pornographic material which has been created using children or adolescents, irrespective of the material being of overseas or unknown origin, shall be sentenced to 20 to 25 years in prison. http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_del_org_finan_terr.pdf.

Special Law against Cybercrime. Article 23. Distribution or exhibition of pornographic material. Anyone who exhibits, distributes, shares or sells pornographic material or material intended for adults by means of information technology, without previously warning the user about child and teenager restrictions, shall be liable to two to six years' imprisonment and fines ranging from two hundred to six hundred tax units. Article 24. Pornographic display of children or adolescents. Anyone who uses the image or body of a child or teenager for exhibitionist or pornographic purposes by means of information technologies shall be liable to four to eight years' imprisonment and fines ranging from four hundred to eight hundred tax units. http://www.oas.org/juridico/spanish/mesicic3_ven_anexo18.pdf.

92 In these guidelines the focus of this section is the existence or non-existence of legislation in different countries which compels Information and Communication Technology service providers to store information. However, observations will be made on countries where there is the possibility for judicial officials to request jurisdictional entities for authorization on interception and storage of communications in technological devices.

93 A helpline is a tool created to assist children and adolescents, which aims to meet their needs on a variety of human rights related topics, at http://www.childhelplineinternational.org/media/69649/role_of_child_helplines_in_emergencies_chi_english.pdf.

A hotline or complaints line is an assistance mechanism for receiving complaints about possible crimes, at <http://www.inhope.org/gns/internet-concerns/overview-of-the-problem/illegal-content.aspx>. The primary difference between one and the helplines and hotlines in the case of child sexual abuse and exploitation is that the helpline is intended to generate immediate attention for children and adolescents and the hotline is meant for the reception of reports and their referral to the corresponding authorities. This report reflects the existence of hotlines in the countries of the region.

- ⁹⁴ In these guidelines, when reference is made to policies, it is specified that they address prevention, awareness, and investigation directly pertaining to the sexual abuse and exploitation of children online.
- ⁹⁵ The usage of an undercover agent is permitted following a court order according to Law 23,737 on Possession and Trafficking of Narcotics, but only for those specific crimes and the ones expressly related in said law. Article 31 bis. During the course of an investigation and for the purpose of verifying the commission of any offense under this law or in Article 866 of the Customs Code, upon hindrance of consummation, in order to succeed in the detection or arrest of the perpetrators, participants or abettors, or obtain and assure the necessary evidence, and in case the investigation purpose could not be achieved otherwise, upon grounded resolution, the judge may consent that the security force agents act covertly in such case: a) that they be introduced as members of criminal organizations whose aims include the commission of offenses under this Law or Article 866 of the Customs Code, and b) Participate in performing any of the acts contemplated in this law or in Article 866 of the Customs Code. The designation shall confirm the real name of the agent and the false identity under which he shall act in the case, and shall be reserved outside of the proceedings with proper security. The judge shall immediately be made aware of the information that the undercover agent attains. The name of an undercover agent shall always be kept completely secret. When it is completely necessary to provide as proof the personal information of the undercover agent, said agent shall testify as a witness, without prejudice to, where appropriate, the measures provided for in Article 31d. <http://www.mseg.gba.gov.ar/Investigaciones/Drogaslicitas/ley%2023737.htm>.
- ⁹⁶ Law 26,904 (Penal Code Reform). Article 131.- A sentence of between six (6) months and four (4) years in prison will be given to anyone who, via electronic communications, telecommunications or any other data transmission technology, contacts a minor with the purpose of committing any form of crime against the sexual integrity of that minor. <http://www.infoleg.gob.ar/infolegInternet/anexos/220000-224999/223586/norma.htm>.
- ⁹⁷ Penal Code, Article 281c.- Pornography and Obscene Entertainment with Children and Adolescents. Anyone who of their own accord or through a third party, through any means, promotes, produces, exhibits, commercializes or distributes pornographic material, or promotes obscene entertainment involving children or adolescents, shall be sentenced to a penalty of imprisonment of between three (3) and six (6) years. The penalty shall be increased by a quarter when the perpetrator or participant is the parent, guardian or whoever has the child or adolescent under his care, supervision or authority. <http://www.ine.gob.bo/indicadoresddhh/archivos/viole/nal/Codigo%20Penal.pdf>.
- ⁹⁸ Law No. 12.850/13, is the Law concerning organized crime and its methods of investigation, establishing that if there is an officer undercover in accordance with Art. 3º In any stage of the criminal prosecution, it shall be allowed, without prejudice to others already foreseen under the law, to use the following means toward obtaining the evidence:...VII - infiltration, by police officers, on duty in the investigation, in the way as provided in art. 11; however it does not refer to crimes related by means of technology, and certainly not against children and adolescents. http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/112850.htm.
- ⁹⁹ Law # 12.965, of 23 April 2014, Civil Framework of Internet. Subsection I, regarding Custody of Connection Logs, Article 13. - In providing Internet connection, it is incumbent upon the independent system administrator to maintain connection logs as confidential under a controlled and secure environment for the period of one year, pursuant to the regulation. § 1 The responsibility for maintenance of connection logs cannot be transferred to third parties. § 2 As a precautionary measure, the police or administrative authority or yet the public prosecutor may apply for the records to be stored for a time longer than stated in the preamble. § 3 In the event of § 2, the applying authority shall have until sixty days as of the application date to file a judicial petition for access to the logs foreseen in the preamble. § 4 The provider responsible for the custody of the logs shall maintain secrecy in relation to the application foreseen in paragraph 2, which shall become void in case the application for judicial authorization is rejected or has not been filed within the time limit laid down in paragraph 3. § 5º In any event, the availability of the logs to the applicant, as referred to in this Article, must be preceded by a judicial authorization, as provided in section IV of this Chapter. § 6 Upon application of penalties for non-compliance with the provisions of this Article, the nature and seriousness of the breach shall be taken into account, as well as the damage resulting therefrom, any possible benefit enjoyed by the offender, the aggravating circumstances, and the offender's criminal record and recurrence. Subsection III. Regarding Custody of the Internet Applications and Access Logs in Service Provision. Article 15. - The Internet service provider constituted as a company, which carries out this profit-making activity in an organized way, must keep the relevant internet applications and access logs strictly confidential in a controlled security environment for a period of six months, as per the regulation. § 1º For a certain time, a court order may compel internet service providers, who are not subject to the provisions in the preamble, to keep custody of the internet applications and access logs, since they are records relating to specific facts within specified time interval. § 2 The police or administrative authority or yet the Public Prosecutor may provisionally request any Internet service provider to keep custody of the internet applications and access logs, also for a period greater than foreseen in the preamble, subject to the provisions of §§ 3 and 4 of art. 13. § 3 In any event, the assured availability of the logs dealt with in this Article must be preceded by a court order, as provided in section IV of this Chapter. § 4 In the application of penalties for non-compliance with the provisions of this Article, the nature and severity of the infraction shall be taken into account, as well as the damage resulting therefrom, any benefit for the offender, aggravating circumstances, and the offender's criminal record and recurrence. http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/112965.htm.
- ¹⁰⁰ Brazilian Child and Adolescent Statute, Article 240, *supra* note 43.
- ¹⁰¹ Safernet.org, <http://new.safernet.org.br/#>.
- ¹⁰² The role of an undercover agent does exist; however, it is only used in cases for crimes related to drug trafficking. Law 20.000. Article 25.- The Public Prosecutor's Office may authorize law enforcement officials to act as undercover or revealing agents and, at the suggestion of those officials, authorize certain informants of those Services to act in either of the two above-mentioned capacities. An undercover agent is a law enforcement officer who hides their official identity and involves or introduces themselves into criminal organizations, or simply associations or groups with criminal purposes, with the aim of identifying participants, gathering information, and collecting the background information needed for the investigation. The undercover agent may have a fictitious history. The National Directorate for Public Registration and Identification shall provide the means necessary for the appropriate and proper realization of this activity. The revealing agent is the law enforcement officer who pretends to be a buyer or purchaser, for himself or for a third-party, of narcotic or psychotropic substances, with the aim of obtaining demonstration or seizure of the drug. An informant is anyone who supplies background information to law enforcement agencies concerning the preparation or commission of a crime, or those who have participated in the crime, or anyone who, without any intention of committing the crime and with the knowledge of said agencies, takes part in the terms outlined in the previous points. The undercover agent, the revealing agent and the informant, working as undercover agent or revealing agent, shall not be criminally liable for the crimes they must commit or cannot prevent as long as the

crimes are a necessary consequence of the development of the investigation and as long as they are proportional to its purpose. https://www.oas.org/juridico/mla/sp/chl/sp_chl-ley_%2020.000_%20drogas.pdf.

- 103 Chilean Penal Code. Article 366c.- Anyone who performs acts of sexual nature before a person under fourteen years of age, makes that person see or hear pornographic material or witness displays of said type without performing a sexual act on previously mentioned terms, in order to sexually arouse oneself or the other person, shall be punished with ordinary imprisonment on average to maximum terms. If, for the same purpose of seeking one's own or another's sexual arousal, one determines a person under fourteen years to perform actions of sexual significance before oneself or someone else to send, deliver or display images or recordings of oneself or someone else under 14 years of age with sexual significance, the penalty shall be small imprisonment to maximum extent. Whoever does any of the acts described in the preceding subparagraphs with a minor person who is older than fourteen years, undergoing any of the circumstances of paragraph 1 of Article 361 or listed in Article 363 or by means of threats within the meaning of Articles 296 and 297, shall be convicted with the same penalties referred to in the preceding subparagraphs. The penalties referred to in this Article shall also apply when the described offenses are committed from distance by any electronic means. If in the Commission of any of the offenses described in this Article, the author falsifies his identity or age, the penalty applicable shall increase by one degree.
- 104 The Chilean Ministry of Education has launched a national campaign called "Safe Internet", intended for children, parents, teachers and adolescents, which is supported by private movements and the Chilean Investigation Police. Its main purpose is to inform and educate the population by giving advice to surf the internet safely. It also includes videos for grooming prevention. <http://www.enlaces.cl/>.
- 105 Although this figure is regulated, it is hereby established that it shall be authorized in the event of acts related to crimes committed by certain criminal organization. Law 906 of 2004. Criminal Procedure Code of Colombia. Article 241. Analysis and infiltration of criminal organizations. Whenever, according to the cognitive means provided for in this code, the prosecutor has reasonable motives to infer that the defendant involved in the investigation set forward is involved with any criminal organization, he shall order the judicial police to analyze the organization in order to understand its structure, the aggressiveness of its members, and its weaknesses. Afterwards, he shall order the planning, preparation and handling of an operation for an undercover agent or agents to infiltrate it in order to obtain useful information regarding the investigation set forward, according to the provisions of the following article. The development of actions set forward in the present article shall meet the provisions and limitations established by International Treaties endorsed by Colombia. Article 242. Performance of undercover agents. Whenever, according to the cognitive means provided for in this code, the prosecutor has reasonable motives to infer that the defendant involved in the investigation set forward is still involved in criminal activity, he shall be able to command the work of undercover agents following an authorization by the National or Regional Director of Public Prosecutors, as long as it is essential for the success of investigations. For the development of this special authority, it shall be stated that one or more officials of the judicial police, or even civilians, may act in said condition and perform extrajudicial acts of legal significance. As a result, said agents will have the authority to intervene in commercial traffic, undertake obligations, to access and attend meetings in the defendant's workplace or household and, if necessary, to make transactions with said individual. Likewise, if the undercover agent discovers that the places where he has worked hold information that is useful for the purposes of the investigation, he shall inform the prosecutor in order for the latter to command the judicial police to begin a special operation in order for the information and supporting elements of evidence found to be gathered. Furthermore, it shall be possible for a civilian to act as an undercover agent if he or she has or gains the defendant's trust without changing his or her identity for the purpose of obtaining relevant information and supporting elements of evidence. The technical aids mentioned in the previous article may be used during the performance of undercover procedures. According to the provisions set forward in this article, the review of formal and material legality of the procedure shall be presented before the magistrate within the thirty-six (36) hours following the completion of the undercover operation. In said situation, the rules that shall apply are those provided for searches and raids. In all events, the use of undercover agents shall not extend beyond the period of one (1) year, which may be renewed for one (1) year more if appropriately justified. If, upon the expiration of the stated term, there is no evident result, it shall be cancelled notwithstanding the performance of the corresponding review of legality.
- 106 Decree 1704 of 2012. Article I.- Definition of legal interception of communications: The interception of communications, regardless of its origin or technology, is a means of public safety intended for the optimization of crime investigation carried out by competent authorities and entities according to the Constitution and the Law. Article II.- Duties of networks and telecommunications suppliers. The networks and telecommunications service providers who perform their commercial activity within the national territory must at all times implement and guarantee the necessary technological infrastructure to provide the connection and access points to capture communication traffic that transit their networks, so as to allow Judicial Police organisms with permanent functions to fulfill, with the authorization from the Nation's General Prosecutor or his/her delegate, all the tasks inherent to the interception of the required communications. Networks and telecommunications providers shall promptly fulfill the requests for communications interception made by the Attorney General, according to the provisions of the present decree and the current legal system, in order for the permanent bodies of the judicial police to make interception possible. Paragraph.- The Ministry of Information Technologies and Communications shall, when deemed necessary, define the technical specifications of the connection points and the type of traffic to be intercepted. It shall also compel networks and telecommunications providers through general resolutions to follow technical models and conditions, as well as systematic protocols in order to respond to interception requests made by the Attorney General. Article III.- Transport of information. The authority performing the interception shall assume the costs of information transportation from the connection points agreed with the networks and telecommunications providers to the site intended for said purpose. Networks and telecommunications providers shall take the necessary measures for the interception and transportation of communications to be carried out in a proper, swift and safe manner. Article 4.- Subscriber information: The network and telecommunications services providers, having fulfilled the existing legal requirements, must supply the Nation's General Prosecutor's Office or other relevant authorities, through the Judicial Police group assigned to the investigation of the case, the subscriber information, such as identity, billing address and connection type. This information shall be handed over immediately. Networks and telecommunications providers shall keep the information about their subscribers updated and keep it for a five-year term. http://www.mintic.gov.co/porta/604/articles-3559_documento.pdf.
- 107 Penal Code of Colombia. Article 218.- Pornography with minors. Whoever photographs, films, records, produces, reports, offers, sells, buys, possesses, carries, stores, transmits or by any means for personal use or exchange, depictions of actual sexual activity involving persons under 18 years of age, shall incur an imprisonment verdict of 10 to 20 years and a fine of 150 to 1,550 current minimum wages. The same penalty shall apply to those who feed databases over the internet with child pornography, with or without profit-making. The penalty shall increase from one-third to half whenever the responsible person is a member of the victim's family. <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6388>.

Law 679 of 2001, which issues a statute for the prevention and alleviation of child exploitation and pornography, and sexual tourism with minors. Said law also widens the scope of Article 44 of the Constitution. Article 7.- Prohibitions. Providers, servers, administrators and users of global information networks shall not: use any kind of image, text, document or audiovisual file that are directly or indirectly involved with sexual activities with minors on their sites. Use pornographic material, especially pictures or videos, on their sites, whenever there is evidence showing that the people being photographed or filmed are minors. Place links on their sites about websites containing or distributing pornographic material related to minors. Article 8.- Duties. Notwithstanding the obligation to report established by law for all residents of Colombia, suppliers, administrators and users of global information networks shall: Inform the competent authorities of any criminal act against minors of which they are aware of, even in the case of distribution of pornographic material associated with minors. Fight with all technical means available the distribution of pornographic material involving minors. Refrain from using global information networks for the distribution of illegal material involving minors. Establish technical blockage mechanisms through which users may protect themselves or their children from illegal, offensive or undesirable material involving minors. <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18309>

Law 1329 of 2009, through which Title IV of Law 599 of 2000 is modified and other dispositions are added to combat the commercial sexual exploitation of boys, girls and adolescents¹⁰⁷. Article 219A.- Utilization or facilitation of media to offer sexual acts with persons under the age of 18. Anyone who utilizes or facilitates the traditional mail service, global information networks, telephony or any other means of communication to obtain, solicit, offer or facilitate sexual contact of activity with persons under the age of 18, shall be sanctioned with imprisonment for ten (10) to fourteen (14) years and a fine of sixty-seven (67) to (750) times the valid minimum monthly wage. The penalties indicated in the above section shall be halved (1/2) when the acts are performed with persons under fourteen (14) years of age. <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36874#0>.

108 Id.

109 TeProtejo.org, <http://www.teprotejo.org/index.php/es/>.

110 Te Protejo is a prevention and care initiative jointly coordinated by an NGO (Red PaPaz) and state institutions. The hotline and program aims to support and provide assistance in cases of sexual abuse and exploitation online. For more information, please access: <http://www.teprotejo.org/index.php/es/>.

111 The role of the undercover agent is regulated only for cases related to drug trafficking. The Narcotics, Psychotropic Substances, Unauthorized Drugs, Related Activities, Money Laundering and Terrorism Financing Law. Costa Rica Law 7786. Article 10.- Law enforcement and legal authorities shall have the power to use undercover agents in ongoing investigations related to crimes under this law, in order for said agents to prove the commission of crimes. Article 11.- During investigations, police shall be able to obtain assistance from collaborators or informants, whose identity must be kept private with the purpose of guaranteeing their integrity. Should any of them be present during the commission of a crime, he shall inform the competent legal authority, without having to reveal his identity. He shall be compelled to appear before court only if his statement is essential in any phase of the process, and on the identification interrogation, he shall be allowed to omit information that may pose any harm towards him or his family. Said testimony may be automatically incorporated to trial by reading, except those cases where it is regarded essential for the testimony to be listened to. In that case, he shall testify only before the court, the prosecutor, the defendant and the defense counsel. The court shall be temporarily vacated for said purposes. The same process shall apply when the speaker is a foreign police officer that has participated in the case through channels of police assistance. <https://www.citibank.com.gt/costarica/Resources/pdf/leyNro8204.pdf>

112 Penal Code, Law No. 4573, Article 167 Bis.- Seduction or dating with minors via electronic media. Any person who, through any means, establishes communication of sexual or erotic nature, whether or not it includes images, videos, text or audio with a legally incapacitated person or under the age of fifteen will be imprisoned for one to three years. The same penalty shall be imposed upon any person who, by impersonating a third party or through the use of false documentation, through any means intends communication of sexual or erotic nature, whether or not it includes images, video, text or audio with an underage or legally incapacitated person. Punishment shall be imprisonment for two to four years in the acts described in the above two paragraphs, when the party procures a personal encounter in a physical location with an underage or legally incapacitated person. Article 173.- Manufacturing, production or reproduction of Pornography. Persons who manufacture, produce or reproduce child pornographic material in any way will be sanctioned with imprisonment for four to eight years. Anyone who transports or enters the country with this type of material will be sanctioned with imprisonment for three to six years. For the purposes of this Code, child pornographic material shall be understood as every written, visual or auditory representation produced by any means, of a minor, their image or voice, altered or modified, intended for explicit, real or simulated sexual acts, or every representation of a minor's genitalia with sexual purposes. Article 174 Bis.- Virtual pornography and pseudo pornography. Imprisonment for six months to two years shall be imposed to any person who, through any means possesses, produces, sells, distributes, showcases or facilitates pornographic material that shows an adult person who simulates being an underage person performing sexual acts. Uses the image, caricature, drawing or representation of any kind that simulates a minor performing sexual acts. Article 230.- Identity theft. Those who steal the identity of a person through any social network, website, electronic or technological means of information shall be punished with three to six years in prison. The same penalty shall be imposed upon any person who, assuming a false or non-existing identity, causes injury upon a third party. The punishment shall range from four to eight years in prison if along with the previous conducts there is a clear damage against a minor or an incompetent person. http://www.oas.org/dil/esp/Codigo_Penal_Costa_Rica.pdf

113 The installation of filters is indeed regulated, but only on facilities and stores that rent the use of computers with internet access. Law 8934, Protection of Childhood and Adolescence Against Harmful Content within the Internet and other Electronic Means. Article 2.- Installation of programs or filters. Owners and persons in charge of managing the establishments regulated by this Law must install filters on all computers assigned to underage persons, including browsers, computer network communications services or any other electronic means of communication, and exchange programs or special software purposed to block access to sites and communications whose contents include: a) Sites that display or promote general and child pornography. b) Sites that promote obscene language. c) Sites that promote aggression and physical, sexual and emotional violence. d) Sites that promote the manufacturing of guns or explosives. e) Sites that promote and induce the use of unauthorized drugs. f) Sites that promote warlike activities. g) Sites that promote racism, xenophobia or any other type of discrimination contrary to human dignity, in accordance with Article 33 of the Political Constitution and the international human rights instruments valid in Costa Rica. h) Programs or information which could be used to view, download, distribute, acquire and exchange child and general pornography. The State, through the institutions dedicated to protecting children and adolescents, shall facilitate free or low-cost access to the aforementioned filters and programs. Article 3.- Venue conditioning. The establishments regulated by this Law shall display visible signs warning underage persons about the dangers incurred when providing private and personal information in chat rooms, virtual forums, social networks or any other similar electronic

medium, which could potentially affect their physical and moral integrity. In case the establishments providing the rent of Internet access fail to be certified as free of pornography and harmful contents, in accordance with article 4 of this Law, they shall install the security filters indicated in Article 2 of this Law in at least eighty percent (80%) of the computers. The rest may be assigned exclusively to persons of legal age, provided the venue is set up in such a way that these screens are not visible from the locations and areas where underage persons may gain easy access. Only the computers located in these cubicles will lack the programs or filters indicated in Article 2 of this Law. The installation of the indicated filters and programs, as well as the fitting of the venue in accordance with this Law, shall be a mandatory requirement to access the municipal patents, sanitary permits from the Department of Health and the respective authorization from the General Telecommunications Supervisory Board (Sutel). http://www.gaceta.go.cr/pub/2011/09/08/COMP_08_09_2011.html#_Toc303164508.

114 The Patronato Nacional por la Infancia (PANI) is the governing body for the comprehensive integral child protection in Costa Rica. PANI has both victim assistance and prevention programs with campaigns and awareness on crimes against children and adolescents online. For more information, please access: <http://www.pani.go.cr/>.

115 Criminal Procedure Code of the Dominican Republic. Art. 372. Investigators subject. The prosecutor may ask the judge to reserve authorizing identity of one or more of its researchers when it is clearly useful for the development of research. The judge may reserve authorizing identity for a fixed time. This period may only be extended if the grounds of the application are renewed. In any case the term that identity can be reserved shall not exceed six months. After the deadline, the prosecution must present the court with a report on the outcome of these investigations, revealing the identity of the researchers, who may be called as witnesses at trial. The prosecution applicant is directly responsible for the performance of such researchers.

116 Criminal Procedure Code of the Dominican Republic. Article. 192.- Interception of telecommunications. A judicial authorization is required for interception, capture and recording of communications, messages, data, images or sounds transmitted through public or private telecommunication networks of the Dominican Republic's Criminal Procedural Code 75 for telecommunications by the accused or any other person that can reasonably provide information relevant to the determination of a punishable act, regardless of the technical means used to know them. One proceeds as per the registration and raid rules. The measure issued for communications interception is exceptional and shall be renewed every thirty days, and the reasons justifying the extension of the term shall be stated. The judicial ruling authorizing the interception or reception of communications shall indicate all identifying elements regarding the means to be intercepted and the facts causing the measure. The officer in charge must take detailed minutes of the transcript of useful and relevant communications for the investigation to the exclusion of any other communication of personal or family communications. Under these formalities recording can be reproduced at the trial or transcription may be incorporated by reading, notwithstanding that the parties may apply for full reproduction. Records and transcripts are destroyed at the expiration of the limitation period of public action. Communications interception applies only to the investigation of offenses with a maximum penalty provided exceeding ten years of imprisonment and to cases processed under the special procedure for complex issues. http://www.oas.org/juridico/spanish/mesicic3_rep_cod_pro_pen.pdf.

117 Law Number 53-07 Against High-Tech Crimes and Malpractice. Article 23.- Sexual assault. The fact of exercising a sexual assault against a child, adolescent, disabled or with a mental disorder, using an information system or any of its components, is punishable by penalties of three to ten years in prison and a fine from five to two hundred times the minimum wage. Article 24.- Child Pornography. The production, distribution, sale and any type of marketing of images and representations of a child or adolescent of a pornographic character in the terms defined under this law, shall be punished with imprisonment of two to four years plus a fine of ten to five hundred times the minimum wage. http://www.wipo.int/wipolex/es/text.jsp?file_id=235326#LinkTarget_601.

118 The Directorate General of Educational Information (La Dirección General de Información Educativa) have national prevention programs through education and counseling students for the safe and proper internet use. For more information, please access: <http://www.educando.edu.do/portal/dia-internacional-internet-seguro-2016/>.

119 Organic Integral Criminal Code of Ecuador, Art. 483.- Undercover operations.- During the exceptional investigations, under the direction of the Prosecutor's Office, it shall be possible to plan and execute -with the Specialized Integral System of Investigation, Legal Medicine and Forensic Sciences staff-, an undercover operation, authorizing its agents to infiltrate criminal organizations or groups, concealing their official identity, with the purpose of identifying participants and gathering and compiling information, evidence and convicting elements for the purpose of the investigation.

The undercover agent shall be exempt from criminal or civil liability for crimes whose commission is impossible to avoid, as long as they are a necessary result from the development of the investigation and maintain the proper proportionality with it, or else the agent shall be sanctioned in accordance with the legal regulations that apply. Art. 484.- Guidelines.- The undercover operations shall observe the following guidelines: 1. The undercover operation shall be directed by the Prosecutor's Office's specialized unit. Specialized Integral System of Investigation, Legal Medicine and Forensic Sciences personnel shall be able to request it, providing the Prosecutor with the necessary background that justify it. 2. The Prosecutor's authorization must be substantiated and be on a need-to-investigate basis. Time limitations and controls must be implemented for an adequate respect for the human rights of persons under investigation or prosecution. 3. The undercover agent shall not be permitted in any case to promote crimes not previously initiated by the investigated parties. 4. The identity given the undercover agent shall be maintained during the version presented in the proceedings. The authorization to utilize the identity shall not be longer than a period of two years, and it shall be renewable for two more years through due justification. 5. If required in the investigated case, every undercover agent shall have the same protection as the witnesses. 6. The undercover agent's testimony will be valid elements of conviction in the investigation. 7. The Prosecutor shall require judicial authorization from the relevant judge by any means, for those diligences that may require it, maintaining due discretion. 8. Convicting evidence obtained by unauthorized undercover agents is devoid of all value. <http://www.desarrolloamazonico.gob.ec/wp-content/uploads/downloads/2014/05/CODIGO-ORGANICO-INTEGRAL-PENAL-act.pdf>. See Articles 475-477, related to the Retention of Correspondence, including the electronic sort; the interception of Computer-based Communications or Data regarding sending and recording of computer data in transit through telecommunications services, and recognition of recordings.

120 Id. In accordance with Article 476, the interception of communication and computer data may be authorized by the Judge for a term of 90 days, with the possibility of extending it to six months on investigation cases related to organized crime and their related acts. This includes telecommunication services such as: land-based, satellite, mobile and wireless telephony, along with its services pertaining to voice calls, SMS messaging, MMS messaging, data and voice over IP, e-mail, social networks, video-calls, multimedia and others, when the prosecutor considers it indispensable to prove the existence of an infringement or liability by participants.

Article103.- Pornography involving girls, boys or adolescents. Anyone who photographs, films, records, produces, transmits or edits visual, audiovisual, computer-based, electronic or any other physical support or format material that contains a visual representation

of real or simulated nudity or semi-nudity of girls, boys or adolescents in a sexual attitude, shall be sanctioned with imprisonment for thirteen to sixteen years. If the victim also suffers from some kind of disability or serious or incurable disease, this is punishable with imprisonment from sixteen to nineteen years. When the offending person is the father, mother, or relative to the fourth degree of consanguinity or second of affinity, guardian, legal representative, tutor or belongs to the intimate setting of the family; minister of religion, teacher, master, or person who by profession or activity has abused the victim, the offender shall be punished with imprisonment of twenty-two to twenty-six years.

- ¹²² It is permitted, but only for specific crimes within a structure of organized crime. Law Against Organized Crime and Crimes of Complex Execution. Decree Number 190. Art 1.- The purpose of this law is to regulate and establish the competence of specialized tribunals and the procedures for the prosecution of crimes committed under the modality of organized or complex execution crime. Organized crime means crime originating from a structured group of two or more persons, and which exists for a certain period of time and acts in concert with the purpose of committing one or more crimes. For the purpose of this Law, the items below constitute the classification of complex execution crimes, when any of the following circumstances are met: the act was committed by two or more persons, the action falls on two or more victims or its perpetration provokes social alarm or commotion. Such crimes are: a) Manslaughter or aggravated homicide; b) Abduction; y, c) Extortion. Art 5.- In the investigation of offenses under this Act, the Attorney General of the Republic shall exercise all investigative powers, as provided in the Constitution and laws, as well as determine the responsibility of the authors or participants and avoid further consequences. The prosecutor in writing will authorize the use of special methods of investigation such as undercover operations or controlled deliveries. <http://pdba.georgetown.edu/Security/citizensecurity/salvador/leyes/decreto190.pdf>.
- ¹²³ Penal Code of El Salvador. Article 172.- Anyone who by any direct means, including through electronic means, manufactures, transfers, disseminates, distributes, rents, sells, offers, produces, executes, exhibits or shows movies, magazines, leaflets or any other pornographic material to minors under eighteen years of age or mentally handicapped shall be punished with three to five years in prison. The same penalty shall be incurred by whoever does not warn in a visible way about the content of movies, magazines, leaflets or any other material, including those that can be transmitted through electronic means, whenever such material is unsuitable for children under eighteen years old or mentally deficient. https://www.oas.org/dil/esp/Codigo_Penal_El_Salvador.pdf.
- ¹²⁴ The figure of the undercover agent is regulated, but only for cases involving organized crime and where there is direct or indirect purpose of financial gain or any kind or for a third party, it includes all the offenses covered in the Penal Code. Decree Number 21-2006, Law Against Organized Crime. Article 21. Undercover operations. It is understood by undercover operations, those who perform undercover agents in order to obtain information or evidence to prosecute people who are part of organized criminal groups and their disarticulation, by designing effective strategies with strict control of the Public Prosecutor. In the research phase against organized criminal groups or criminal organizations that undercover agents specifically conducted with due authorization and supervision and under the responsibility of the Public Prosecutor, undercover operations are prohibited and excluded from the following activities: 1. Provocation of crimes. 2. Operations made outside of the actions and plans in the research phase. For such activities to be permitted it will need to have in any case due authorization and supervision of the Public Prosecutor. Article 22. Undercover agents. Undercover agents are special police officers who voluntarily at the request of the Public Prosecutor are designated a function in order to obtain evidence or information that allows to discover and prosecute members of organized criminal groups. Undercover agents may temporarily assume identities and fictional roles, act secretly and omit performing the normal procedures of office before the commission of crimes, except for those set out in Article 25 of this Law, in cases assigned to them, in order to optimize investigations and prosecutions of members of such organizations. <http://leydeguatemala.com/ley-contra-la-delincuencia-organizada/ley-contra-la-delincuencia-organizada/10408/>.
- ¹²⁵ Penal Code of Guatemala, Decree 17-73 and its Conformity Reforms with the Law Against Sexual Violence, Exploitation and Human Trafficking, Decree 9-2009. Article 194.- Production of Pornography of Minor Persons. Any person who, in any form and through any means produces, manufactures or develops pornographic material that contains an image or voice, real or otherwise, of one or more underage or mentally disabled persons, performing pornographic or erotic acts, shall be sanctioned with imprisonment for six to ten years and fined with 50,000 to 500,000 Quetzales. http://www.oas.org/dil/esp/Codigo_Penal_Guatemala.pdf.
- ¹²⁶ Decree 144-83. Penal Code. Article 149-D.- The crime of pornography is committed by any means whether direct, mechanical or computerized, electronic or other support that finances, produces, reproduces, distributes, imports, exports, offers, sells, or distributes material, where the person is used and images of persons under eighteen (18) years of age in shares or pornographic or erotic activities, it will be punished with a penalty of ten (10) to fifteen (15) years in prison and a fine of two hundred (200) to three hundred (300) minimum wages. Possession of pornographic material involving boys, girls and adolescents shall be sanctioned with imprisonment for four (4) to six (6) years. [http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20\(09\).pdf](http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20(09).pdf).
- ¹²⁷ The Technical Criminal Investigation Agency of the Public Ministry, is in charge of the investigation of child pornography offenses. https://www.mp.hn/index.php?option=com_content&view=article&id=821&Itemid=274.
- ¹²⁸ Regulation of the Law of the Federal Police of the United Mexican States. Article 22.- It is the duty of the Undercover Operations Coordination: I. To direct the implementation of undercover operations and of simulated users with the purpose of obtaining, analyzing and exploiting information to prevent and, under supervision and commanded of the Public Prosecutor's Office, combat the commission of crime; II. To design and operate methods to undertake undercover operations and simulated users with the purpose of obtaining, analyzing and exploiting information to prevent and, under supervision and commanded of the Public Prosecutor's Office, combat the commission of crime; III. To establish prevention, action and resource allocation strategies, through undercover operations and simulated users, to prevent the commission of potential criminal acts; IV. To study, plan and execute methods and techniques for undercover operations and simulated users, with prior arrangement with the Commissioner General and Crime Prevention Secretary; V. To establish schemes for preventive investigation through the infiltration of agents to obtain information about criminal structures, modes of operation and scope of action in terms of applicable regulations; VI. To strengthen primary criminality prevention through undercover actions and simulated users, with the purpose of obtaining information; VII. To supervise the development of police intelligence information gathering systems that allow the prevention and identification of criminal groups; VIII. To administer within its competence, the use of methodologies for gathering, classifying and assessing police intelligence information to produce the necessary evidence of the commission of criminal acts and the presumed author(s); IX. To design identification and dismantling of criminal structures; X. Enforce ministerial and judicial regulations; XI. Supervise the collection of evidence under the leadership and command of the Public Prosecutor's Office, to determine the Commission of a criminal offense and the likely responsibility of the suspects; XII. Coordinate with other areas of the Division of intelligence the criteria and policies of collection and exchange of information linked to a fact or investigation item; XIII. Guide the investigation of undercover operations and simulated users that implement the institution

for fulfillment of its purposes; XIV. Strengthen mechanisms of cooperation and coordination with the authorities, agencies and entities of the three levels of government and promote inter-agency stewardship in operations under its care; XV. Direct and systematize, covert operations or of simulated users which implements the institution to fulfill its purposes; XVI. Prior agreement with the head of the Division, authorize the institution members to act under the supposed identity, as well as within the sphere of its competence, acquire and carry objects, effects, and instruments of crime and defer the seizure thereof; XVII. Supervise actions specialized in management of sources of information in society; XVIII. Periodically report to the Intelligence Division advances and results, as well as send reports and other documents that are generated in the matter of its competence, and XIX. Others as assigned by this regulation, other applicable legal provisions or those entrusted to an immediately higher stance on whom one depends. <http://www.cns.gob.mx/portalWebApp/ShowBinary?nodeld=/BEA%20Repository/776309//archivo>.

¹²⁹ Federal Law of Telecommunications and Radio Broadcasting. Article 189. The telecommunications concessionaires and in this case, the authorized service providers of applications and content are under obligation to comply with every order in writing, based on and motivated by the competent authority in the terms laid down by the laws. Those in charge of the security instances and law enforcement authorities shall appoint public servants responsible for managing requirements carried out for concessionaires and receive the relevant information, through agreements published in the Federation's Official Gazette. Article 190. Telecommunications dealers and, where appropriate, authorized must: I. Cooperate with the security, procurement and administration agents of Justice, to locate the mobile communication devices geographically in real time, in the terms set out by the laws. Any omission or disregard of these provisions shall be punished by the authority, under the terms of the provisions of the applicable criminal law. The institute establishes the guidelines, taking into consideration the opinions of those authorities which the paragraph 189 of the law refers to, for the telecommunication providers and, where necessary, otherwise authorized entities, to which they should adhere in order to enable an effective and appropriate collaboration with the aforementioned authorities; II. Keeping a record and control of the communications that are established from any type of line that has its own or leased number, of any type, that allows to precisely identify the following data: a) Name, title or official name and registered address of the subscriber b) Type of communication (voice transmission, voicemail, conference call, data exchange), additional services (including call divert and forwarding) or message or multimedia services used (including text messaging, multimedia services or any other advanced services); c) Information necessary to reconstruct and identify origin and destination of the mobile phone communications: the recipient's number, the type of lines with contracts or rate plans, as with pre-paid lines; d) Information necessary to determine, date, hour and duration of the communication, be it messaging or multimedia; e) Apart from the aforementioned data, date and hour of the service's first activation should be recorded as well as the location (cell id) from which the service has been activated. f) If necessary, identification and technical characteristics of the devices, that include, among others, international identification codes of fabrication and subscriber; g) The digitalized location of the telephone lines' geographic position, and h) The obligation to record this data starts on the day that the communication was established. For these purposes, the concessionaire must store data relating to the above paragraph for the first twelve months in systems that allow their inquiry and delivery in real time to the competent authorities by electronic means. Concluded the said period, the licensee shall retain such data for additional twelve months in electronic storage systems, in which case the delivery of information to the competent authorities be held within forty-eight hours, counted from the notification of the request. The request and delivery in real time of the data referred to in this subsection, shall be made by the mechanisms that determines the authorities referred to in Article 189 of this Law, which must inform the Institute for the purposes of the provisions of the third paragraph, section I of the present article. The telecommunications concessionaire and, in this case, the authorized ones, shall take the necessary technical measures regarding the target data in custody, that ensure their conservation, care, protection, no illicit tampering or access, destruction, alteration or cancellation, as well as authorized personnel for their management and control. Without prejudice to the provisions of this Law, with regard to the protection, treatment and control of the personal data in possession of concessionaires or those authorized ones, the provisions of the Federal law shall apply for Protection of Personal Data in Possession of Private Individuals; III. Deliver the stored data to the authorities referred to in Article 189 of this Law, who so require them, according to their attributes and in conformity with the applicable laws. The use of retained data for purposes other than those provided for in this chapter is prohibited, and any other use shall be punished by the competent authorities in administrative and criminal terms resulting therefrom. The telecommunications concessionaires and, in this case, those authorized, are obliged to provide the information within maximum twenty-four hours from notification, as long as there is no other express provision from the competent authority; IV. Rely on a responsible area available twenty-four hours a day and three hundred sixty-five days a year, to meet the information requirements, geographical location and intervention of private communications referred to in this Matter. For the above mentioned purposes, the concessionaires must notify the holders of the instances referred to in section 189 of this Law in the name of the party responsible for these areas and its location data; otherwise they must also have ample and sufficient powers to meet the requirements that the concessionaire or the authorized party formulates and take the necessary steps. Any change of the responsible party must be notified twenty-four hours in advance; V. Set expedite procedures for receiving reports from users of the theft or loss of equipment or mobile telephone devices and so that the user certifies the ownership of the contracted services. Said report should include, in this case, the manufacturing identity code of the equipment; VI. Suspend the service of equipment or mobile devices reported as either stolen or lost upon user's request. Concessionaires must enter into cooperation agreements that allow them to exchange lists of mobile communication devices reported by their respective customers or users as stolen or lost, either to make reports to the competent authority or to the concessionaires themselves; VII. Promote immediate blocking of mobile communication lines that operate under any mode reported by the customers, using any media, either stolen or lost; as well as ensure immediate blocking of the telephone service as soon as instructed by the competent authority in order to stop the commission of crimes, according to what is set out in the applicable legal provisions; VIII. Cooperate with the competent authorities so that within the operating technical environment permanent override of signals be enabled from mobile telephones, radio communication or data/ image transmission within the limits of social rehabilitation centers, federal prison premises or internment centers for minors or yet federative entities, whatever their denomination. The blocking of signals referred to in the preceding paragraph is to be done on all frequency bands used for the reception of communication equipment and in no case exceed twenty meters outside the premises of the centers or establishments in order to ensure the continuity and security of services to external users. In the collaboration that the concessionaires provide, one must consider the technical elements of replacement, maintenance and service. Telecommunications licensees, and especially those authorized, are compelled to collaborate with the National Public Safety System on monitoring the functionality of the devices used for the permanent blockage of cellphone signals, radio-communications and data or image transmission signals; IX. Implement a unique national number and, where appropriate, a global number for emergency services under the terms and conditions determined by the Institute, in accordance with the National Public Safety System, within interoperable platforms. There shall also exist mechanisms that allow to identify and geographically locate calls and, where necessary, emergency text messages; X. Inform users promptly and free of charge about phone numbers associated with security and emergency services determined by the Institute in coordination with the National Public Safety

System, as well as provide said services free of charge; XI. Give priority to communications related to emergency situations in the terms established by the Institute, in coordination with competent entities and authorities, and XII. Perform studies and investigations coordinated by the Institute for the development of technological solutions that allow to fight and disable the use of telecommunications devices for the commission of crimes or the update of risks and threats to national security. Concessionaires operating public telecommunication networks may voluntarily establish an organization intended to carry out the aforementioned studies and investigations. The results obtained are recorded in an annual report to be forwarded to the Institute, to the Congress and to the Federal Government. The private communications are inviolable. Only the federal judicial authority, at the request of the federal authority that enforces the law or the one in charge of Public Prosecutions of the corresponding federal entity, may authorize the intervention of any private communication.

- ¹³⁰ Federal Penal Code of the United States of Mexico, Article 200.- Any person who commercializes, distributes, displays, circulates or offers persons under the age of eighteen in books, writings, recordings, films, photographs, printed advertisement, images or objects of a pornographic nature, whether real or simulated, physical or otherwise, shall be sentenced to six months to five years in prison and three hundred to five hundred times the minimum wage. Any material that means scientific, artistic or technical dissemination or, where appropriate, sexual education regarding the reproductive function, prevention of sexually-transmitted disease and teenage pregnancy, shall not be considered pornographic or damaging to society as long as they are approved by the corresponding authority. http://www.conacyt.mx/cibiogem/images/cibiogem/normatividad/vigente/CODIGO_PENAL_FEDERAL.pdf.

Federal Law against Organized Crime, Article 2.- Whenever three or more persons factually organize to perform, permanently or repeated acts that, alone or jointly with others, have the purpose of committing any of the following crimes, shall be sanctioned, by that fact alone, as members of organized crime:... V. Corruption of minor persons under eighteen years of age or persons who are unable to understand the meaning of the fact or of people who lack capacity to understand the meaning of the fact or people who are unable to resist it as provided in Article 201; Pornography of minor persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or people who are unable to resist it, as provided in Article 202; Sexual tourism against persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or who have no capacity to resist it, as provided in Articles 203 and 203 Bis; Brothels of persons under eighteen years of age or persons who are incapable to understand the meaning of the fact or people who are incapable to resist it, as provided in Article 204; Attack, as provided in Articles 286 and 287; Trafficking in minors or people who have no ability to understand the meaning of the fact, referred to in Article 366 Ter, and Theft of vehicles, as provided in Articles 376 Bis and 377 of the Federal Criminal Code, or the relevant provisions of the state or Federal District criminal laws. <http://www.diputados.gob.mx/LeyesBiblio/pdf/101.pdf>.

- ¹³¹ The existence is affirmative as one expressly contemplates in the law the use of this figure in the crime of child sexual exploitation and pornography, but only in the cases where the involvement of organized crime has been demonstrated. Law on Prevention, Investigation and Prosecution of Organized Crime and Management of Seized, Confiscated and Abandoned Assets, Law No. 735. Art. 2 Definitions....Undercover Agent: The specialist officer of the National Police or the Nicaraguan Army who, with authorization from the highest authority of the organization to which they belong, hides their official identity and enters into criminal organizations pretending to be a member of those organizations or to be interested in the commission of the crime being investigated, with the aim of identifying the offenders or participants, the criminal activities undertaken, method of operating, organizational structure, plans of action, contacts, means, and the outcomes of the criminal activity, as well as identifying proof that can be used in a penal process... Organized crime: An organized criminal group or a structured international or national gang, of two or more persons, which has existed for a certain period and which acts methodically with the objective of directly or indirectly seeking a gain, financial or any other, with the intention of committing one or more serious crimes as set out by Law. Art. 3 Offenses of Organized Crime. 18) Sexual exploitation, pornography and sex with adolescents against payment, categorized in paragraphs one, two and four of Article 175 of the Criminal Code. https://www.oas.org/juridico/MLA/sp/nic/sp_nic_ley735.pdf.

- ¹³² Law 787 of Nicaragua, General Law of Personal Data. It aims to protect individuals and companies in face of treatment, automation or not, of their personal data files of public and private data, in order to guarantee the right to personal and family privacy and the right of informational self-determination. <http://www.oas.org/es/sla/ddi/docs/N3%20Ley%20de%20Proteccion%20de%20Datos%20Personales.pdf>.

- ¹³³ Law Number 641, Nicaragua Penal Code. Article 175.- Sexual exploitation, pornography and paid for sexual acts with adolescents. Anyone who induces, enables, promotes, or makes use of persons who are under the age of 16 or handicapped for sexual or erotic purposes, forcing them to attend or take part in public or private shows or performances, regardless of the victim consenting to attend or take part in the performance, shall be sentenced to five to seven years in prison, and four to six years of prison shall be imposed when the victim is above 16 years of age and younger than 18. Anyone who promotes, finances, manufactures, reproduces, publishes, commercializes, imports, exports, disseminates or distributes for purposes of sexual exploitation, through any medium, whether that medium is direct, mechanical, digital, audio-visual, or in a computerized, electronic or other form, the image or voice of a person below the age of 18 involved in sexual or erotic activity, whether it is real or simulated, explicit or implicit, or the depiction of their genitals for sexual purposes, shall be sentenced to five to seven years in prison and 150 to 500 days' fine. Anyone in possession of pornographic or erotic material in line with the terms outlined in the previous paragraph for purposes of sexual exploitation shall be sentenced to one to two years in prison. Anyone who commits a sexual act with a person, of either sex, above the age of 15 and below the age of 18, and who pays, promises to pay or give in return an economic or other advantage, shall be sentenced to five to seven years in prison. http://www.cicad.oas.org/fortalecimiento_institucional/legislations/PDF/Ni/ley_641_codigo_penal.pdf.

- ¹³⁴ Law n° 16, which states provisions for prevention and classification of crimes against integrity and sexual freedom, modifies and adds articles to the Criminal and Judicial Codes. Article 16.- The Public Prosecutor's Office may carry out undercover operations in the course of its investigations, with the intention of investigating its offenders, accomplices or accessories, or in order to establish the facts concerning the crimes outlined in Titles VI of Book II of the Penal Code. It is equally within the nation's general representative's power, when serious incidents occur where such crimes are committed, to order, with the objective of gaining evidence pertaining to such crimes, the interception and the recording of telephone communications, e-mails or online message boards in which the persons under investigation participate. The transcripts of the recordings will be kept in a file, to which only material relevant to the investigated case will be added. The file and its contents need to be approved by an entrusted civil servant and his superior. http://www.unodc.org/res/cld/document/pan/2008/ley-16-2004.html/Ley_16_2004.pdf. The crimes related to Title VI of book II include all kinds of child pornography in every existing form.

- ¹³⁵ Law 51 of September 8th, 2009, which sets out regulations for the conservation, prevention and supply of the information of telecommunication services users, and adopts other provisions. The objective of the law is to regulate matters concerning data

recording, protection measures for data recording, the supply of information records, and additional provisions. <http://www.oas.org/es/sla/ddi/docs/N3%20Ley%20de%20Proteccion%20de%20Datos%20Personales.pdf>.

- ¹³⁶ Law n° 16, which states provisions for prevention and classification of crimes against integrity and sexual freedom, modifies and adds articles to the Criminal and Judicial Codes. Article 231-D. Anyone who manufactures, prepares or produces pornographic material, or offers, trades, exhibits, publishes, publicizes, disseminates or distributes such material via the internet or any other mass media or national or international information, virtually presenting or representing minors involved in activities of a sexual nature, whether they are real or simulated, shall be sentenced to four to six years in prison and 150 to 200 days' fine. Anyone who possesses, transports or brings this material into the country shall receive the same punishment. Article 231-E. Anyone who uses a minor in acts of indecent exposure or pornography, whether or not it is photographed, filmed or recorded through any medium, before a third party or alone, with one or more other minors or adults, of the same or different sex, or with animals, shall be sentenced to four to six years and 150 to 200 days' fine. The same punishment shall be applied to anyone who uses email, global information networks or any other individual or mass communication medium, in order to incite or promote the online sex of minors, or in order to offer their sexual services or force them to simulate such conduct by telephone or in person. Article 231-F. Anyone who shows pornographic material, or gives access to pornographic performances, to minors, handicapped or disables persons shall be sentenced to four to six years in prison and 150 to 200 days' fine. If the person initiating the conduct outlined in the paragraph above is the father, mother, guardian, carer or anyone else with any form of custody for the victim, shall lose the right to parental authority or the right to which they have been allowed, as appropriate, to have them under their care up until the date on which the crime occurred. http://www.unodc.org/res/cld/document/pan/2008/ley-16-2004.html/Ley_16_2004.pdf.
- ¹³⁷ Even though this figure exists, it may only be used on cases about crimes related to narcotics and dangerous drugs. LAW N° 1.881/02. That modifies Law No. 1340 of November 22nd, 1998, "Which prohibits the illegal trafficking of narcotics and dangerous drugs and other related offenses, and establishes addiction prevention and recuperation methods." Article 82.- Undercover operations shall be defined as those which allow the individuals involved to maintain confidentiality of operations, use deception and trickery, omit the duty to prevent a crime from being committed and the encounters between undercover agents, who may temporarily assume fictional identities and roles. This shall be done with the purpose of seizing narcotics and other dangerous drugs, collecting proving evidence of the commission of acts punishable by this law, identifying the organizers, carriers, buyers and other parties of illegal trafficking, whether within the country or abroad, apprehending them and presenting them before justice. http://www.senad.gov.py/archivos/documentos/LEY%20N%C2%B0201.881%20Que%20modifica%20la%20Ley%20N%C2%B0201.340_11ax10k6.pdf.
- ¹³⁸ It is allowed regarding the crime of child pornography, as long as the active subjects are related to organized crime. Legislative Decree No. 957, Criminal Procedure Code. Article 341. Undercover Agent.- 1. When dealing with Preliminary Proceedings which affect activities related to organized crime and, as far as there is evidence of said activities, the prosecutor may issue a legal provision, taking into account the need for said provision for the purposes of the investigation, so as to authorize members of the National Police to act undercover in order to acquire and transport objects, elements and instruments of crime, and arrange for their seizure. The undercover identity shall be granted by the Directorate-General of the National Police for a period of six months, which can be extended by the prosecutor for periods of the same length as long as the conditions for the task remain the same. The individuals are legally empowered to act in all matters related to the investigation and to participate in legal and social affairs under said identity. Pertinent identity documents may be created, modified and used as long as it is essential for the purposes of the investigation. 2. The Provision approving the designation of undercover agents shall specify the real name of the Police officer and the false identity under which he or she shall act specifically. This decision shall be private and must be kept safely away from undercover work. A copy of said decision shall be sent to the Attorney General's office which shall include it in a private record under the same security measures. 3. The information gathered by the undercover agent shall be promptly made available to the prosecutor and his superiors. Said information shall be wholly included in the process and analyzed properly by the competent jurisdiction. Similarly, this information can be only be used in other processes, insofar as their use entail the necessary information for clarification of an offense. 4. The identity of the undercover agent can be hidden at the end of the investigation in which he or she intervened. The identify concealment is also possible in a process, provided one so agrees through a motivated judgment and there be reasonable grounds that bring fear that disclosure thereof shall expose to life danger, integrity or freedom of the undercover agent or another person, or to justify the possibility of continuing to use the police officer. 5. If in these cases the investigation actions may affect fundamental rights, in this regard one must petition the Judge of the Preparatory Investigation to lay down the Constitution and the law as well as enforce the other applicable legal provisions. The procedure will be especially reserved. 6. The undercover agent shall not be criminally liable for actions which are a necessary consequence of the development of the investigation, as long as they are proportional to its purpose and do not constitute an express provocation to commit crimes. https://www.unodc.org/res/cld/document/per/1939/codigo_de_procedimientos_penales.html/Codigo_procesal_penal.pdf.
- Law Number 30070, Law Against Organized Crime. Article 1.- Purpose of the Act. The purpose of the present Act is to set the rules and proceedings related to research, judgement and punishment of crimes committed by criminal organizations. Article 3.- Offenses covered. This Act is applicable to the following offenses: 6. Child pornography, typified in Article 183- A of the Penal Code. http://perso.unifr.ch/derechopenal/assets/files/legislacion/I_20140708_01.pdf.
- ¹³⁹ Legislative Decree No. 1182, which regulates the use of information derived from telecommunications for the identification, localization and geo-localization of communication devices in the fight against organized crime. This Decree aims to strengthen the actions of prevention, investigation and combating organized crime through the use of information technologies and communication by the Police of Peru. <http://www.leyes.congreso.gob.pe/Documentos/DecretosLegislativos/01182.pdf>.
- ¹⁴⁰ Article 183-A.- Child pornography. Whoever has, promotes, manufactures, distributes, exhibits, offers, sells or publishes, imports or exports by any means, including over the Internet, objects, books, printed matter, visual images or audios, or performs live pornographic shows, using people of fourteen and less than eighteen years of age, shall be punished with deprivation of liberty for not less than four and not more than six years and from one hundred twenty to three hundred sixty days of fine. If the child is less than fourteen years of age, the penalty shall be no less than six nor longer than eight years and one hundred fifty to three hundred sixty-five days of fine. If the victim is in any of the conditions provided for in the last paragraph of Article 173, or if the agent acts as a member of an organization devoted to child pornography the imprisonment verdict shall not be less than eight nor longer than twelve years. If so, the agent shall be disqualified in accordance with article 36, paragraphs 1, 2, 4 and 5." https://www.oas.org/juridico/mla/sp/per/sp_per_cod_pen.pdf.

Law Number 30096, Cybercrime Law. Article 5.-Propositions to children and adolescents for sexual purposes through technological media. Whoever, by means of information or communication technologies, contacts a person under fourteen years to ask for or obtain pornographic material, or to make sex with such person, shall be punished with imprisonment of no less than four nor longer than eight years as well as disqualification as per paragraphs 1, 2 and 4 of section 36 of the Criminal Code. When the victim is between fourteen and under eighteen years of age and there is deceit, the penalty shall be not less than three nor more than six years and disqualification under paragraphs 1, 2 and 4 of Article 36 of the Penal Code. http://www.peru.gob.pe/docs/PLANES/10434/PLAN_10434_2013_Ley_N%C2%BO_30096-DELITOS_INFORMATICOS.pdf

- 141 Law Number 30254. Promotion Act for Safe and Responsible Use for Information Technology and Communication for Children and Adolescents. Article 1. Scope of the Act. The purpose of the present Act is to promote the safe and responsible use of information and communication technologies for kids and teenagers, in order to shield them from the dangers of internet access misuse. For this purpose, the State generates complementary rules about the safe and responsible use of information and communication technologies through the work of its three levels of government, specially focusing on technologies used by kids and teenagers. Article 2. Statement of national interest. Declared of national interest the generation and implementation of State policies to inform and educate comprehensively the public about the responsible use of ICT, in the best interests of the child and to give priority to the use of them by children and adolescents. Article 3. Special commission. A special Commission is constituted to propose and set the guidelines to promote the safe and responsible use of ICT in the country, and particular measures that enable children and adolescents to use educational tools related to the use of technology and the Internet, in a safe and responsible manner, as well as to promote smooth communication among the operators, users and the three levels of Government for the planning and implementation of educational campaigns and technological tools that can contribute to the protection of children and adolescents. The special commission coordinates general policies for the creation and promotion of information, prevention, and education campaigns. Said campaigns shall include a webpage that shall be created for that purpose by the Ministry of Education, articles published through radio, television or written press, lectures, and written material for schools and workshops intended for parents and kids. The Commission annually reports to the Commission for Women and Family of the Republic's Congress. <http://www.leyes.congreso.gob.pe/Documentos/Leyes/30254.pdf>.
- 142 It is indeed allowed, but only for crimes related to organized crime. Law N° 18.494. Control and Prevention of asset laundering and financing of terrorism. Article 7°. (Undercover agents).- 7.1. At the request of the Public Prosecutor's Office and with the aim of investigating the crimes admitted under the scope of its competence, the First Instance Courts Specialized in Organized crime may, by a grounded resolution, authorize public servants to act under the so-called identity as well as to acquire and carry objects, goods and instruments of crime and defer the seizure thereof. The so-called identity shall be granted by the Ministry of Internal Affairs for six months, extendable for periods of the same duration, being legitimately authorized to act in everything related to the specific investigation and to participate in the legal and social traffic under such identity. The resolution whereby one agrees to assign the agent's true name and the supposed identity by which one will act in the concrete case. The resolution will be reserved and should be kept out of the proceedings with appropriate security. The information gathered by the undercover agent shall be made available as soon as possible to those who have authorized the investigation. Also, this information should contribute to the process in its entirety and shall be evaluated by the competent judicial body. 7.2. Public servants who have acted in an investigation with false identity, in accordance with the provisions of the preceding paragraph, may maintain such identity if they testify in the process that it might arise from the facts in which they were involved and provided that a grounded judicial decision was made, whereas its application follows the provisions in Articles 8 to 10 of this law. No public servant may be forced to act as an undercover agent. 7.3. If the undercover agent's performance may affect fundamental rights such as privacy, the domicile or the inviolability of communication among private individuals, the undercover agent must petition the competent judicial body for an authorization in such respect to set out the Constitution and the law, as well as to comply with the other applicable legal provisions. 7.4. The undercover agent shall be exempt from criminal liability for those actions that necessarily arise from the investigation development, provided that due proportionality is observed with the purpose thereof and do not constitute an incitement to crime. In order to proceed against the same criminally liable for the actions taken for the purposes of the investigation, the competent court to hear the case as soon as it becomes aware of the action of some concealed undercover agent in the same, will require report regarding such fact who has authorized the alleged identity in attention to which will decide in his opinion. <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18494&Anchor=>.
- 143 Law # 17.815. Commercial or Non-commercial Sexual Violence Committed Against Children, Adolescents or Incapacitated Individuals. Article 1.- Manufacture or production of pornographic material using minors or incapacitated individuals. Anyone who manufactures or produces any form of pornographic material using minors or incapacitated persons of legal age, or uses their image, shall be sentenced to twenty-four months in prison to six years in penitentiary. Article 2.- Trade and dissemination of pornographic material including the image or any other representation of minors or incapacitated persons of legal age. Anyone who trades, disseminates, displays, stores for the purposes of distribution, imports, exports, distributes or offers pornographic material including the image or any other representation of a minor or incapacitated person shall be sentenced from twelve months in prison up to four years in penitentiary. Article 3.- Facilitating the trade and dissemination of pornographic material including the image or another representation of one or more minors or incapacitated individuals. Anyone who facilitates, in any way, for their own benefit or that of others, the trade, dissemination, display, import, export, distribution, supply, storage or acquisition of pornographic material that contains the image or any other form of representation of one or more minors or incapacitated individuals shall receive a sentence from six months in prison up to two years of penitentiary. For the purposes of this and the previous articles, pornographic products or materials are understood as anything which, through any medium, contains the image or any other form of representation of minors or incapacitated individuals engaged in explicit sexual activities, real or simulated, or the image or representation of their genitals for primarily sexual purposes. (Law No. 17.559, of September 27th, 2002, [Optional Protocol](#) to the [Convention](#) on the rights of children concerning the sale of children, child prostitution and child pornography.). <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=17815&Anchor=>.
- 144 Organic Law against Organized Crime and Terrorism Financing. Article 70. Employees belonging to specialized units are the only ones that can, at the request of the Public Prosecutor and by prior authorization from the judge or judicial commission to hide their true identity, infiltrate into the organized crime group that commits offenses of organized crime and funding for terrorism, in order to obtain incriminating information for a preset time. Authorization from the judge or judicial commission to grant the officer or staff member an amended or false personal identity, even if it becomes necessary to keep it, rules out the possibility of altering public records, books or national archives. http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_del_org_finan_terr.pdf.
- 145 Organic Law against Organized Crime and Terrorism Financing. Article 41. Anyone who, as an integral member of an organized crime group, promotes, contributes to, enables, or implements, by way or the recording, transport, transfer, hosting or reception of persons,

makes use of threat, force, coercion, abduction, deception, abuse of power, situations of vulnerability, concession, reception or other fraudulent means of payment or profit, in order to obtain the victim's consent, directly or through an intermediary, or a person who has authority over the other, to implement begging, work or forced labor, debt bondage, illegal adoption, slavery and slavery-like practices, extraction of organs, any class of sexual exploitation; such as, prostitution of others, forced prostitution, pornography, sex tourism, servile marriage, even with the consent of the victim, shall be sentenced to 20 to 25 years in prison and the writing-off of compensation for the victim's recuperation and social reintegration costs. If the victim is a child or adolescent the prison sentence shall be twenty-five to thirty years. Article 46. Anyone who, as an integral member of an organized crime group, exploits the pornography industry/business to reproduce obscene or indecent material for general purposes of releasing it to the public, shall be sentenced to ten to 15 years in prison. If the pornography was created with children or adolescents the prison sentence shall be 25 to 30 years. Article 47. Anyone who, as an integral member of an organized crime group, sells, disseminates or displays pornographic material, through any means, to children or adolescents, shall be sentenced to 25 to 30 years in prison. Article 48. Anyone who, as an integral member of an organized crime group, makes use of children, adolescents, or their image, for the purposes of exhibitionist and pornographic performances, both public and private, or in order to create any form of pornographic material, irrespective of the medium on which they are stored, or the manner in which they are financed, shall be sentenced to 25 to 30 years in prison. Article 49. Anyone who, as an integral member of an organized crime group, produces, sells, distributes, exhibits or enables the production, sale, dissemination or exhibition, through any medium, of pornographic material which has been created using children or adolescents, irrespective of the material being of overseas or unknown origin, shall be sentenced to 20 to 25 years in prison. http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_del_org_finan_terr.pdf.

Special Law against Cybercrime. Article 23. Distribution or exhibition of pornographic material. Anyone who exhibits, distributes, shares or sells pornographic material or material intended for adults by means of information technology, without previously warning the user about child and teenager restrictions, shall be liable to two to six years' imprisonment and fines ranging from two hundred to six hundred tax units. Article 24. Pornographic display of children or adolescents. Anyone who uses the image or body of a child or teenager for exhibitionist or pornographic purposes by means of information technologies shall be liable to four to eight years' imprisonment and fines ranging from four hundred to eight hundred tax units. http://www.oas.org/juridico/spanish/mesicic3_ven_anexo18.pdf.

¹⁴⁶ The Law for the Protection of Children and Adolescents in Places for Internet, Videogames and other Multimedia (2006) promotes the safe and responsible use of ICT and generated a mandatory policy for companies and establishments responsible for computer games, electronic or multimedia and Internet services. This Act has prohibited "people in general to have access to child pornography, as well as information that promotes or permits their sexual abuse or exploitation" (Art. 8)

¹⁴⁷ On 9 June 2014, Argentina signed the Recommendations of the Ibero-American Cooperation Agreement on Investigation and Collection of Evidence in Matters of Cybercrime.



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