

Legal questionnaire completed by Pérez-Llorca Abogados, S.L.P. • December 2025

This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

Is this jurisdiction a European Union (EU) Member State or otherwise subject to EU laws/regulations (such as an overseas territory or department of an EU Member State)?

Yes

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your jurisdiction):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

According to the Spanish Constitution of 1978, a Spanish person obtains legal age at age 18 (Article 12).

<https://www.boe.es/buscar/pdf/1978/BOE-A-1978-40001-consolidado.pdf>

According to the Spanish Organic Law 1/1996, of 15 January 1996, on the Legal Protection of Minors (the “**Organic Law 1/1996**”), a “minor” is someone under the age of 18 (Article 1).

<https://www.boe.es/buscar/act.php?id=BOE-A-1996-1069>

The Spanish Criminal Code has adopted and based its 2015 reform on Article 2(a) of Directive 2011/92 of the European Parliament and of the Council of 13 December 2011 and Article 3(a) of the Lanzarote Convention, to amend the definition of ‘child’ to any person below the age of 18 (Article 19).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

b. child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

Organic Law 10/1995, of 23 November 1995, on the Criminal Code (the “**Spanish Criminal Code**”) refers to “child sexual exploitation” as a category which encompasses: (i) child prostitution; (ii) child pornographic performances; and (iii) child pornography distribution (Articles 187 et seq.), as well as child pornography *per se* (Article 189). When referring to



prostitution in general, “exploitation” is considered to concur when (a) the victim of prostitution is in a situation of personal or economic vulnerability; or (b) that burdensome, disproportionate or abusive conditions are imposed for its exercise. If any of the mentioned activities from (i) to (iii) are carried out on minors with the purpose of exploitation, it will also be considered human trafficking (Article 177.2 bis).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

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c. **sexually explicit conduct (18 U.S.C. 2256(2),** <https://www.law.cornell.edu/uscode/text/18/2256>)

The Spanish Criminal Code refers to “sexually explicit conduct” when defining the offense of child pornography. In particular, “child pornography” is considered to be such when: (a) any material that visually depicts a minor engaging in real or simulated **sexually explicit conduct**; (b) any depiction of the sexual organs of a minor for primarily sexual purposes; (c) any material that visually depicts a person appearing to be a minor engaged in real or simulated **sexually explicit conduct**, or any depiction of the sexual organs of a person appearing to be a minor, for primarily sexual purposes, unless the person appearing to be a minor is in fact eighteen years of age or older at the time the images were obtained; and (d) realistic images of a minor engaged in **sexually explicit conduct** or realistic images of the sexual organs of a minor for primarily sexual purposes (Article 189.1). This definition of “child pornography”, is similar to Directive 2011/92/EU's definition of “child pornography”. Refer to responses to the questionnaire for the European Union for additional regulations/directions that also apply to Spain.

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

d. **child sexual abuse (18 U.S.C. 2243(a),** <https://www.law.cornell.edu/uscode/text/18/2243>)

In Spain, the term “child sexual abuse” is not specifically defined or expressly used in national legislation. Following a 2022 legislative reform (Organic Law 10/2022 of 6 September 2022 on the comprehensive guarantee of sexual freedom), the term “sexual abuse” and the behaviours it entails have mostly been replaced in the Spanish Criminal Code under the category of “sexual assault”.

<https://www.boe.es/buscar/act.php?id=BOE-A-2022-14630>

“Sexual assault” is punishable in Spain by one to four years imprisonment and is defined as the performance of an act that infringes on the sexual freedom of another person without his or her consent. Consent shall only be understood to exist when it has been freely expressed through acts that, in view of the circumstances of the case, clearly express the will of the person. Various aggravating circumstances may result in a higher imprisonment of up to fifteen years. One of these circumstances is committing the act committed against a person who is in a situation of special vulnerability due to age (Articles 178, 179, 180 of the Spanish Criminal Code).

Sexual assaults on minors under sixteen years of age is specifically punishable with



imprisonment from two to six years. Various aggravating circumstances may result in a higher imprisonment (i.e., the joint action of two or more persons, extremely serious violence, taking advantage of a previous situation of superiority and using weapons among others) (Article 181).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)

The Spanish Criminal Code punishes from one to five years imprisonment behaviours which entail producing, selling, distributing, exhibiting, offering or facilitating the production, sale, dissemination or exhibition by any means of child pornography, or possession of such material for these purposes, even if the material originates abroad or is unknown. When defining “child pornography”, the Spanish Criminal Code specifically refers to: (a) any material that visually depicts a minor engaging in sexually explicit conduct, real or simulated; (b) any representation of the sexual organs of a minor for primarily sexual purposes; (c) any material that visually depicts a person appearing to be a minor engaged in real or simulated sexually explicit conduct, or any depiction of the sexual organs of a person appearing to be a minor, for primarily sexual purposes, unless the person appearing to be a minor is found to be actually eighteen years of age or older at the time the images were obtained; or (d) realistic images of a minor engaged in sexually explicit conduct or realistic images of the sexual organs of a minor for primarily sexual purposes (Article 189.1).

Imprisonment rises to five to nine years when the previous behaviours entail: (a) the participation of minors under sixteen years old; (b) minors who are in a situation of special vulnerability due to illness, disability or any other circumstance; (c) when the person responsible is an ascendant, guardian, tutor, teacher or any other person in charge, *de facto*, even temporarily, or *de jure*, of the minor, or is any person who lives with him or her or any other person who has acted abusing his or her recognized position of trust or authority; or (d) the behaviour was been carried out previously (repeated infringement) (Article 189.2). Also, whoever acquires or possesses child pornography for his own use, shall be punished with three months to one year of imprisonment or with a fine of six months to two years. The same penalty shall be imposed on anyone who knowingly accesses child pornography, by means of information and communication technologies (Article 189.5).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

f. computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)

This term is not specifically defined; however, we consider the following legislation to be



relevant: the Spanish Criminal Code, as mentioned, specifically targets material that visually depicts a person appearing to be a minor engaged in actual or simulated sexually explicit conduct, or any depiction of the sexual organs of a person appearing to be a minor, for primarily sexual purposes (Article 189.1.c), or realistic images of a minor engaging in sexually explicit conduct or realistic images of a minor's sexual organs, primarily for sexual purposes (Article 189.1.d).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

- g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b),**
<https://www.law.cornell.edu/uscode/text/18/2422>)

The terms 'enticement' and 'grooming' are not specifically defined; however, we consider the following legislation to be relevant:

The Spanish Criminal Code states that forcing a minor under sixteen years of age to witness acts of a sexual nature, even if the perpetrator does not participate in them, shall be punished by imprisonment for a term of six months to two years (Article 182). The following behaviours are also punished:

- a) Anyone who, through the Internet, telephone or any other information and communication technology, contacts a minor under sixteen years of age and proposes to arrange a meeting with him or her in order to commit a sexual assault or create or distribute child pornography, provided that such proposal is accompanied by material acts aimed at approaching, shall be punished with one to three years' imprisonment or a fine of twelve to twenty-four months, without prejudice to the penalties for the offenses committed. Also, whoever, through the Internet, telephone or any other information and communication technology, contacts a minor under sixteen years of age and performs acts aimed at duping him to provide him with pornographic material or shows him pornographic images in which a minor is represented or appears, shall be punished with a prison sentence of six months to two years (Article 183).
- b) Whoever performs or causes another person to perform acts of obscene exhibition before minors or disabled persons in need of special protection, shall be punished with imprisonment of six months to one year or a fine of twelve to twenty-four months, and whoever, by any direct means, sells, disseminates or exhibits pornographic material among minors or disabled persons in need of special protection, shall be punished with imprisonment of six months to one year or a fine of twelve to twenty-four months (Article 185).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

- h. legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?**



According to the Spanish Criminal Code, the age of sexual consent in Spain is 16, although criminal liability is excluded when the perpetrator is a person close to the minor in age and degree of physical and psychological development or maturity (Article 183 bis).

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

In Spain, the term “sextortion” is well known and used to describe a certain type of crime. However, the word is not specifically defined or expressly used in Spanish legislation. This conduct, on the other hand, may be included and has been included through Spanish court judgements in other offences contained in the Spanish Criminal Code, such as threats, extortion, sexual exploitation, crimes against honour and privacy, or child pornography, among others.

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

- a. **review, screen, moderate, or detect content to identify child pornography or CSAM content**

Online platforms in Spain are mostly subject to European Union regulations and recommendations regarding the protection of children online from sexual exploitation. Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

- b. **review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child**

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

- c. **report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization**

Spanish Criminal Procedure Law (Article 259) (“**LECrim**”), states that anyone who witnesses a criminal offence has the duty to report it. Platforms, as legal persons, are included.

<https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036>



Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

Also refer to question 2.d below regarding the Law on Audiovisual Communication.

d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about

Yes, Spanish Law 13/2022 of 7 July, General Law on Audiovisual Communication (the “**Law on Audiovisual Communication**”) demands all platforms that support audiovisual communications – through electronic communications systems or commercial communications – that said audiovisual communications do not contain or entail the commission of a child pornography offence (Articles 2.1 and 4.4). If child pornography is found in said materials, service provider must protect the general public from receiving said materials through different systems (Article 88), such as terms of service, notification systems, content rating, age verification systems, parental control systems, alternative consumer dispute resolution procedure, or the possibility for users to access judicial action (Article 89).

<https://www.boe.es/buscar/act.php?id=BOE-A-2022-11311>.

In this regard, a code of conduct regarding age verification systems has been published by the Spanish Protection Data Agency (“**AEPD**”), reviewing ten principles proven to be useful in protecting minors from accessing inadequate content (the Decalogue of Principles Age Verification and Protection of Minors from Inappropriate Content (December 2023)), as well as indications to online platforms of a technical nature.

<https://www.aepd.es/guias/decalogo-principios-verificacion-edad-proteccion-menores.pdf>.

Also, Spanish courts can order removal/blocking of CSAM under the Law 1/2000 of 7 January 2000 on Civil Proceedings (“**LEC**”) and LECrim.

<https://www.boe.es/buscar/act.php?id=BOE-A-2000-323>

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

e. review content by human moderators to screen or moderate for child pornography or CSAM

No legislation regarding the review CSAM specifically assigned to human moderators has been enacted in Spain.

f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency

Yes, all of the above may be able to request the removal of CSAM from platforms and Online Platforms are mandated to do so. Please refer to section 2.d above.

g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:



- i. “Hashing technology” (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
- ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?

Spain has directly implemented the DSA, with the **Comisión Nacional de los Mercados y la Competencia** (CNMC) designated as the Digital Services Coordinator under Royal Decree 444/2024.

https://www.boe.es/diario_boe/txt.php?id=BOE-A-2024-8716

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?

Spanish legislation contemplates methods to verify the age of a user before allowing access to an online platform in certain situations (e.g., alcohol-related websites).

Children safeguarding in regard to pornography has mostly come through the adoption of regulations which restrict the access of children to pornography and to potential grooming or sexual extortion. In this regard, the DSA established a procedure to act against illegal content, the definition of which will be subject to national law. See responses to question 1 and 2.d (regarding the law on Audiovisual Communication) above.

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

a. The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?

Yes. The Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents against violence (“**Organic Law 8/2021**”), strengthens these safeguards by explicitly recognizing the right of minors to protection against sexual violence in digital environments.

<https://www.boe.es/buscar/act.php?id=BOE-A-2021-9347&p=20210605&tn=1#ti>

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?

Refer to responses to the questionnaire for the European Union for applicable regulations and directives that also apply to Spain.

c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?

Yes. If necessary, the national authorities would request the court or administrative authority to issue a removal order. They would also have to request the competent judicial or independent administrative authority to issue an order obliging a provider of relevant information society services to block access to specific CSAM items that could not reasonably be removed at source. Spanish criminal procedure allows victims or prosecutors to request interim measures (*medidas cautelares*) from courts, including injunctions requiring platforms to remove or block access to CSAM. The LEC also permits injunctions in civil cases to prevent continued dissemination of content harmful to a minor’s rights.

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

Spanish courts can issue protective measures prohibiting an offender from contacting the victim or repeating the conduct, including through digital means. These measures may include restraining orders, bans on communication via online platforms, and account suspension, depending on the case. Such orders are generally issued under the LECrim and reinforced by victim protection frameworks.

Additionally, there is a concept called “virtual restraining order” (*orden de alejamiento digital*), which is a judicial measure that prohibits an individual who has posted illegal content, such as pornography or CSAM, from doing so again on the same or other Online Platforms. This order can include a ban on digital contact with the victim, the removal of previously published content, and the suspension of accounts used to disseminate such material. It is part of broader reforms under Organic Law 1/1996 (the Legal Protection of Children and Young People Organic Act 1/1996), designed to prevent online harassment and the spread of



harmful content, and can be requested through formal legal proceedings with supporting evidence. It is pending to enter into force.

https://www.mjusticia.gob.es/es/AreaTematica/Documents/129243061749%20-%20Legal_protection_children_1-1996_january_15.PDF.pdf

- e. **the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?**

Victims may pursue civil liability claims for moral and material damages under the Spanish Civil Code and Organic Law 1/1996, including claims for violation of honour, privacy, and image rights.

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf

https://www.mjusticia.gob.es/es/AreaTematica/Documents/129243061749%20-%20Legal_protection_children_1-1996_january_15.PDF.pdf

- f. **the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?**

Minors who are victims of sexual violence facilitated in digital environments are granted victim status under Organic Law 1/2004, of 28 December, on Integrated Protection Measures against Gender Violence, Organic Law 10/2022, of 6 September, on Comprehensive Guarantee of Sexual Freedom, and Organic Law 8/2021, of 4 June, on the Comprehensive Protection of Children and Adolescents Against Violence. They have the right to access information and guidance services, immediate psychosocial care, legal advice (including free legal aid under Article 14 Organic Law 8/2021), and 24-hour crisis center accessibility online and by telephone every day of the year. Additionally, minors are entitled to reception services, psychological and social assistance, therapeutic care, training support, education, job placement (Article 12 Organic Law 8/2021), healthcare and housing assistance as part of their victim status. All these services are classified as essential services. EU instruments such as the Victims' Rights Directive (2012/29/EU) reinforce these rights at the European level. Refer to responses to the questionnaire for the European Union for applicable regulations/directions that also apply to Spain

Organic Law 1/2004:

https://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/spain/LeyViolenciadeGeneroingles_en.pdf

Organic Law 10/2022: <https://www.boe.es/buscar/pdf/2022/BOE-A-2022-14630-consolidado.pdf>

Organic Law 8/2021:

<https://www.juventudeinfancia.gob.es/sites/default/files/infancia/violencia/legislacion/BOE%20LOPIVI-ENG.pdf>

- g. **notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?**



Under Spanish law, victims have the right to be informed of key procedural developments that may affect their safety or interests, such as the initiation of proceedings, prosecution and in particular release decisions. While Organic Law 4/2015 (Articles 4 and 7) does not expressly require notification of every arrest, in practice, victims may be informed when it is relevant to their protection and procedural rights.

<https://www.boe.es/buscar/act.php?id=BOE-A-2015-4606>.

6. **“Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.**
- a. **Are Online Platforms legally required to incorporate “Safety by Design” into their systems?**
 - i. **If so, must these steps be taken before the launch of an Online Platform?**
 - ii. **If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?**
 - iii. **For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**
 - b. **Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?**

While Spain does not have a stand-alone “Safety by Design” statute, the combination of the Digital Services Act’s risk-based compliance system, the CNMC’s supervisory powers, and the Organic Law 8/2021 establish a regulatory framework that ensures platforms are monitored, required to manage risks proactively, and subject to strict enforcement measures in cases of non-compliance.

<https://www.juventudeinfancia.gob.es/sites/default/files/infancia/violencia/legislacion/BOE%20LOPIVI-ENG.pdf>

Also, the AEPD has issued in a technical notes (“A safe internet by default for children and the role of age verification (October 2024)”) a requirement for digital services to incorporate protection measures by design and by default, especially to protect minors.

<https://www.aepd.es/guides/technical-note-safe-internet-by-default-for-children.pdf>.