



## Revista Científica General José María Córdova

(Colombian Journal of Military and Strategic Studies) Bogotá D.C., Colombia

ISSN 1900-6586 (print), 2500-7645 (online)

Journal homepage: https://www.revistacientificaesmic.com

## Countering the sexual solicitation of children using computer technology: Ukrainian and foreign experience

## Natalia Semchuk

https://orcid.org/0000-0002-0267-8996 semchuk8094@edu.cn.ua National Aviation University, Ukraine

#### Sofiia Lykhova

https://orcid.org/0000-0003-2861-519X lykhova8094@edu-knu.com National Aviation University, Ukraine

#### Neghdana Udalova

https://orcid.org/0000-0001-5889-2126 udalova8094@acu-edu.cc Donetsk State University of Internal Affairs, Ukraine

#### Andrii Lyseiuk

https://orcid.org/0000-0002-0598-7532 lyseiuk8094@neu.com.de The Ukrainian Scientific and Research Institute of Special Equipm

The Ukrainian Scientific and Research Institute of Special Equipment and Forensic Expertise of the Security Service of Ukraine, Ukraine

#### Olesia Cheban

https://orcid.org/0000-0003-0448-5968 cheban8094@sci-univ.com National Transport University, Ukraine

How to cite in APA: Semchuk, N., Lykhova, S., Udalova, N., Lyseiuk, A., & Cheban, O. (2022). Countering the sexual solicitation of children using computer technology: Ukrainian and foreign experience. *Revista Científica General José María Córdova*, 20(38), 371-385. https://dx.doi.org/10.21830/19006586.907

#### Published online: April 1, 2022

The articles published by Revista Científica General José María Córdova are Open Access under a Creative Commons license: Attribution - Non Commercial - No Derivatives,



Submit your article to this journal: https://www.revistacientificaesmic.com/index.php/esmic/about/submissions







#### Revista Científica General José María Córdova

(Colombian Journal of Military and Strategic Studies) Bogotá D.C., Colombia

Volume 20, Number 38, April-June 2022, pp. 371-385 https://dx.doi.org/10.21830/19006586.907

# Countering the sexual solicitation of children using computer technology: Ukrainian and foreign experience

La tecnología informática contra la captación sexual de menores: La experiencia ucraniana y extranjera

### Natalia Semchuk and Sofiia Lykhova

National Aviation University, Ukraine

#### Neghdana Udalova

Donetsk State University of Internal Affairs, Ukraine

## Andrii Lyseiuk

The Ukrainian Scientific and Research Institute of Special Equipment and Forensic Expertise of the Security Service of Ukraine, Ukraine

#### Olesia Cheban

National Transport University, Ukraine

**ABSTRACT.** This article assesses the current state of criminal counteraction to the solicitation of children for sexual purposes using digital technologies in Ukraine and the foreign experience in this area. To this end, it uses the traditional legal research method as a basis for research, partially applying other methods such as comparative, historical, and international law. The article analyzes the composition of a criminal offense under Art. 156-1 of the Criminal Code of Ukraine and compares it to the texts of international acts and foreign legislation. The article concludes that the text of the adopted amendments is generally in line with Ukraine's commitments and foreign experience.

KEYWORDS: children; criminalization; digital safety; Lanzarote Convention; online; sexual exploitation; solicitation

RESUMEN. Este artículo evalúa el estado actual de la lucha penal contra la captación de niños con fines sexuales mediante el uso de tecnologías digitales en Ucrania y la experiencia extranjera en este ámbito. Para ello, utiliza el método de investigación jurídica tradicional como base de la investigación, aplicando otros métodos como el derecho comparado, histórico e internacional de forma parcial. El artículo analiza la estructura de un delito penal según el Art. 156-1 del Código Penal de Ucrania y lo compara con los textos de los actos internacionales y la legislación extranjera. El artículo concluye que el texto de las enmiendas adoptadas se ajusta en general a los compromisos de Ucrania y a la experiencia extranjera.

PALABRAS CLAVE: captación sexual; Convenio de Lanzarote; criminalización; explotación en línea; niños; seguridad digital

Section: Dossier • Scientific and technological research article

Received: December 1, 2021 • Accepted: March 10, 2022

CONTACT: Natalia Semchuk Semchuk semchuk 8094@edu.cn.ua



## Introduction

The rapid development of information technology and the benefits of the modern digital world have led to the emergence of new threats in the information sphere. One such threat is the spread of child sexual exploitation on the Internet, where the number of materials containing sexual exploitation of children continues to grow. At present, the world community has to face new challenges with the development of society and modern technologies (Sopilko, 2013). It is also about protecting children in the digital environment. An analysis of current legislation and the state of combating sexual violence against children in Ukraine using electronic devices and systems shows that our society is not ready to confront this negative phenomenon of the modern world comprehensively. Thus, national legislation needs to be closer to the best practices of other countries.

At the end of 2020, the Parliament of Ukraine adopted the bill, On Amendments to Certain Legislative Acts of Ukraine Concerning the Implementation of the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). Three hundred and twenty-two deputies out of 450 voted for this decision. The law supplemented the Criminal Code of Ukraine with new articles concerning the solicitation of children for sexual purposes and the conscious access, acquisition, possession, production, or distribution of child pornography (The Council has implemented..., 2021).

Ukraine has been a party to the Lanzarote Convention since 2012. As noted by Leonov et al. (2020), the imperfection of the legal framework of Ukraine in the field of protection of children from sexual exploitation was identified by the Lanzarote Committee in its first report on December 4, 2015, on the implementation by the states of the Lanzarote Convention. However, the results of a study conducted in 2019 as part of a project to end online sexual exploitation and violence against children in Europe, supported by the Department for the Protection of the Rights of the Child of the Directorate for Combating Discrimination of the Council of Europe, could generate changes in the laws of Ukraine. Their adoption could bring Ukrainian legislation closer to European standards.

Until recently, the digital safety of children in Ukraine had not been given due attention. The State had largely shifted responsibility for children's digital safety to their parents. In fact, the State would merely give the parents recommendations and consider its mission complete. Even now, the State Information Security Strategy does not even mention issues like child pornography, grooming, or sexting. However, at the local level, various organizations have been offering some practical recommendations to combat the sexual solicitation of children for sexual purposes. Resources include the *INSPIRE* 



Handbook: Action for implementing the seven strategies for ending violence against children, which has been translated into Ukrainian (WHO, 2019), and The International Telecommunication Union's (ITU) Online Guidelines on Child Online Protection (The International Telecommunication Union, 2020)

This approach is generally appropriate. Research on the prevention of sexual violence against children on the Internet suggests that prioritizing intervention and prevention in this area should be based on a multidisciplinary approach considering medical aspects where all stakeholders involved standardize their activities with clear and consistent goals and objectives (EU Child Online Safety Project, 2020). Given the above, this article aims to assess the current state of criminal counteraction to the solicitation of children for sexual purposes using digital technologies in Ukraine and the foreign experience in this area.

## Methodological Framework

Scientific analysis of the problems of criminal law, and Criminal Law in general, were carried out primarily using a dialectical method of cognition, which involves thinking from the concrete to the abstract with a subsequent transition in the other direction, from abstract to concrete. This method was used to select specific legal norms for comparison and the formulation of comparison results. This method was also fundamental in formulating the conclusions. Semchuk et al. (2019) indicate that Legal Science is currently actively searching for new solutions in matters of methodology. Tyler (2017) states that scientific works are often not theoretical but empirical. Theoretical research is better suited to address how certain legal phenomena may function in different conditions at the present stage in Law.

Nolasco et al. (2010) maintain that the most prestigious scientific journals in the field of criminal law focus on articles produced using empirical methods borrowed from other social sciences. According to these authors, legal research, based on the inductive comparison of legal precedents and laws in different conditions, is also a promising area of research that cannot be neglected. Langbroek et al. (2017) contend that court cases and authoritative works of scholars are used in classic legal research to understand the content of formal rules. At the same time, the influence of certain cases is different, and the authority of the scientists involved in the work is not identical. Therefore, the main task of scientific work in jurisprudence is to analyze the available information and formulate it in such a way as to convince other experts in the field of law (Radzivill et al., 2018).

Today in Ukraine, classifying legal methods has its own approach, mainly used in works to expand the theoretical base. Among such methods, the formal-logical one is primarily used. The formal-logical method is a means of research and study of the state and



legal phenomena using the basic laws of formal logic. Induction and deduction form the philosophical basis of this method. Because this study is theoretical and the analyzed subject is the novelty of the legislation whose application is currently non-existent, this was chosen as this work's main method. With its help, we were able to define the conformity of the construction of criminal law norms with formal logic laws and rules. This method was used throughout the work to formulate the study and the conclusions.

The formal-logical method is otherwise called formal-dogmatic or legal. Methodologically, this label is not entirely correct; however, from a practical point of view, it accurately reflects this method's essence. After all, strict observance of the laws of logic is of great importance in constructing legal constructions and revealing legal concepts. The dialectical method is used at all stages of scientific research. The use of this method allows for making scientifically significant conclusions by comparing different points of view on the issue to investigate the phenomenon in its continuous development.

The historical method is used to study the development of the analyzed legal phenomena. It is based on studying the origin, formation, and development of the studied phenomenon in a chronological sequence and in specific historical contexts. The comparative legal method involves comparing similar legal phenomena in different countries and formulating relevant conclusions to provide practical recommendations. This method is used to compare the current rules of law —which may be almost the same at the present stage of widespread international norm application—and the application of these rules by courts with scientific research by scientists from different countries.

The comparative method is used to study the legal phenomena of the Special Part of criminal law, compare the same objects, and establish similarities and differences. Comparing these objects from the point of view of the decision of legal regulation in various legal systems of the criminal legislation revealed the general and the special, both positive and negative. This method allows using the established positive legal regulation on the specified problems to formulate suggestions on improving the current criminal legislation and practice of its application.

Given the above, this article used the traditional legal research method as a basis for research. Other methods, such as comparative, historical, and international law, were also partially applied. However, given that the article, as a whole, is a classic legal study in the field of Ukrainian criminal law, the traditional national tools for analyzing the components of criminal offenses, called *the composition of a criminal offense*, were used. Chorniy (2019) indicates that the elements of the composition of a criminal offense are the crime's object and its objective side; together, they are the objective features of the composition. Together, its subject and subjective side are the subjective features of the composition. Jointly, these objective and subjective features form the composition of the crime.



## Results

The Criminal Code of Ukraine (hereinafter - the Criminal Code) adopted by the Ukrainian parliament (Criminal Code of Ukraine, 2001) includes a norm aimed primarily at fulfilling the international obligations undertaken by Ukraine in the framework of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). This Convention is the first international legal instrument covering preventive measures; criminal offenses, including several entirely new offenses, such as child grooming; protective measures and assistance to child victims and their families; child-friendly investigation and prosecution procedures adapted to children's specific needs; intervention programs or measures for child sex offenders; data recording and storing on convicted sex offenders; international cooperation; and a monitoring mechanism. According to Articles 18, 20, and 23 of The Lanzarote Convention, each Party shall take the necessary legislative or other measures to criminalize the intentional proposal of an adult, through information and communication technologies, to meet a child who has not reached the age for sexual activities, for the purpose of committing sexual abuse or child pornography, against him or her, where this proposal has been followed by material acts leading to such a meeting (Council of Europe, 2007). Many Ukrainian scholars, including Lykhova et al. (2021), Lasechko et al. (2020), and Akimova et al. (2020), are now pointing to the growing importance of international treaties in amending criminal law.

It should be noted that the parliament adopted this article a few months before it was written. However, given the peculiarities of criminal investigations and criminal trial specifics in Ukraine, no one has been convicted under this article. Thus, it was impossible to interview convicts or victims to analyze this rule's effectiveness. Given this crime's international nature, this work used surveys from foreign research. It also analyzed the foreign experience of more than ten countries on this issue to better understand the essence of such criminal offenses. No works exist by Ukrainian researchers on understanding these criminal offenses in the Ukrainian context. Therefore, a proper theoretical inductive study of this issue was conducted (Orlovskyi et al., 2018). After all, a thorough study of the theory of moldy law enforcement was the basis for improving this article. The absence of the practical aspect in the Ukrainian context does not make the article impractical. On the contrary, this theory is the basis to further law enforcement practice. After all, the traditional way to develop criminal law involves finding the formula according to which practice follows a properly formulated theory. Moreover, the relevant practice formulated will be analyzed in a separate study.

To fulfill the obligation to criminalize such acts, the Ukrainian legislator adopted Article 156-1 CC. This article, entitled *Solicitation of children for sexual purposes*, refers to



criminal offenses against a person's sexual freedom and the sexual inviolability of minors. This article would criminalize an act involving "an offer of a meeting made by an adult, including using information and telecommunication systems or technologies, to a person under the age of sixteen, for the purpose of committing any acts of a sexual nature or lewd acts against him or her, if such an offer was made after such an offer at least one action aimed at making such a meeting take place" (Criminal Code of Ukraine, 2001). In practice, the terms *grooming* and *sexting* are also used for the actions indicated in this article.

The *object of crime* is among the legally protected goods of man and society. In this case, the object of this crime is the sexual inviolability of minors under the age of sexual consent by adult encroachment. Thus, the victim is an obligatory indication of this crime. The victim may be an individual under sixteen; however, the liability for this crime is increased if the victim is under 14 years of age. The objective side of a criminal offense is a set of features that determine the external aspects of the crime. They characterize a socially dangerous act (action or inaction), its negative consequences, the causal link between the act and the consequences that caused the latter, and the place, time, situation, method, tools, and means to commit the crime. From the objective point of view, a crime can be committed only through active action (impossible through inaction). A criminal offense is considered completed from the moment of committing at least one action aimed at achieving a criminal result. The consequences, in this case, are not binding on the offense, so it has a formal composition (Vakulyk et al., 2020).

The legislator also draws attention to one of the types of instruments for committing this criminal offense, computer equipment, information, and telecommunications systems or technologies. However, the construction of the offense does not preclude the commission of this crime using other tools and means (for example, by personal paper correspondence). In this case, a literal citation of Article 23 of the Convention is appropriate because it is the use of information technology that characterizes the vast majority of such encroachments. From the objective point of view, the crime is committed through a meeting proposal, which should be accompanied by at least one action directed at making such a meeting take place. In this case, the meeting, even the conversation, should be understood to involve the use of information and telecommunications systems or technologies.

Communication with a child using information and communication technologies does not necessarily lead to a personal meeting; they can remain merely online encounters. However, even these can cause serious harm to the child. For example, crimes of a sexual nature intentionally committed during online encounters using communication technologies are often associated with the manufacture, possession, and transfer of child pornography. Such actions are provided in part 2 of Art. 156-1 of the Criminal Code and qualified as corpus delicti. However, according to Pollack & MacIver (2015), generally,



the behavior of an offender in one type of crime is not specific at the initial stage, and it is often difficult to distinguish it from the usual behavior of an adult.

De Hart et al. (2016) point out that online chats, bulletin boards, and social networks are the means most often used to commit such offenses. Scientists note that, on average, it takes four days from online acquaintance with a child to a meeting. In this case, communication often includes stages in which the offender asks for photos of the child, talks about sex, requests meetings, and offers to use additional means of communication. De Santisteban et al. (2017) indicate that aggressors study the age characteristics of children for years, understanding their weaknesses and studying social ties in detail. To do this, they use different methods and develop individual strategies. These strategies can be divided into four main groups: aggression, bribery, involvement, and deception. Deception is one of the most common strategies; it involves concealing true intentions and creating an entirely fictional personality to interact with the child. Bribery usually involves offering certain goods and gifts to children. Involvement is based on building emotionally engaged and trusting relationships with the child. Lastly, the perpetrators use aggressive actions to intimidate children after the threat of exposure (Petrov & Serdyuk, 2008).

Thus, we can see that the methods of cyber grooming can be divided into two types: contact (provided for in Part 1 of Article 156-1 of the Criminal Code) and contactless (provided for under Part 2 Article 156-1 of the Criminal Code), aimed at a personal meeting with a child to obtain obscene images of a child. In this case, the subject of this crime, in other words, the criminal, can only be an adult. After all, Article 20 of the Lanzarote Convention does not provide for the interference of sexual interaction between minors by mutual consent. In Ukrainian criminal law, this is called a special subject. The subjective side of the crime is the inner aspect of the crime, that is, the individual's mental activity that reflects the attitude of consciousness and will to the socially dangerous act committed and its consequences. The subjective side of the crime is formed by an individual's following features: guilt, motive, purpose, and emotional state. Under Art. 156-1 of the Criminal Code, the subjective side of the crime is characterized by direct intent. In case of a person's conscientious mistake regarding the victim's age, liability is excluded under Art. 156-1. At the same time, the corpus delicti is available when the offender communicates with a police officer pretending to be a minor.

The purpose is also an obligatory sign of this crime. Part 1 of Article 156-1 of the Criminal Code defines the purpose of committing any acts of a sexual nature or lewd acts against a minor. Part 2 describes the involvement of a minor in the production of child pornography. It should be noted that in the case of cyber grooming, there is a very close relationship between the objective and subjective signs of crime. The nature of this crime can be considered the reason for this. At the beginning of the interaction between an adult



offender and a child, the perpetrator's actions may seem so familiar that they cannot be distinguished from ordinary attention (de Santisteban et al., 2018). However, already at this stage, there is a clear sexual intention to such interaction, not yet obvious to others.

## Discussion

The question analyzed in this article has interested scientists from different fields of knowledge and countries for over 20 years. Although the sexual grooming of minors was criminalized in Ukraine just a few months before this article was written, Ukrainian scholars have already produced publications on the subject.

Trifu and Dragoi (2019) analyzed the psychological causes of crimes committed by persons accused at the time of the study of sexual abuse of minors. In their opinion, today's communication conditions significantly enable the communication of sex offenders and children in different countries. Winters and Jeglic (2016) state that pedophiles choose strategies that are initially very difficult to distinguish from ordinary interests. The researchers point out that the behavior of grooming goes largely unrecognized by the participants in the experiment, even at the stages of the process where grooming was easiest to determine.

Nebytov (2015) points out that on November 20, 1989, the United Nations Convention on the Rights of the Child was adopted at the 44th session of the UN General Assembly. Furthermore, according to Article 34 of the Convention, state parties must protect the child from all forms of sexual exploitation and sexual abuse. In addition, the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* was adopted on January 18, 2000, in which state parties prohibit child trafficking, prostitution, and pornography. According to Article 3, each state party shall ensure that its criminal or criminal law fully covers such acts and types of activities, regardless of whether they are committed nationally or transnationally, individually or in an organized manner, within the context of trafficking, including the offer, transfer, or receipt of a child by any means for the purpose of sexual exploitation (Yaroshenko et al., 2018).

Leonov et al. (2020) draw attention to the fact that sexual crimes against children using the Internet have ceased to be a national issue of states and are subject to interstate regulation. Europol and Child Sexual Exploitation European Multidisciplinary Platform Against Criminal Threats (EMPACT-Cyber-CSE) play a particularly active role in this process.

Rutai (2020) indicates the measures needed to monitor the implementation of the Lanzarote Convention of Europe. This convention, which protects the rights of the child, is now considered the most comprehensive international instrument dedicated to protect-



ing children from sexual violence in all conditions and spheres of life. It aims to prevent and combat sexual violence against children, protect the rights of child victims, and promote international cooperation between states. Although the Convention does not allow the state parties to narrow the territorial application after the signature, in 2015, Ukraine informed the Secretary-General that the application of all Council of Europe treaties, including the Lanzarote Convention, is limited or not guaranteed in the Autonomous Republic of Crimea and the City of Sevastopol, as well as certain districts of the Donetsk and Luhansk oblasts.

Klimek (2012) stated that most European countries criminalized online grooming in national law by 2012. However, it was only in 2012 that the problem of double European obligations to criminalize the solicitation of children for sexual purposes arose. On the one hand, since 2007, all EU countries have been members of the Council of Europe and have had corresponding obligations according to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. On the other hand, in 2011, the EU adopted the Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography.

As Klimek (2012) indicated, Directive 2011/92/EU contains a list of actions for which the parties should be punished. Among such punishable acts, Article 6 primarily provides for the solicitation of children for sexual purposes. These actions are especially dangerous in the Internet age, which provides users with anonymity and the ability, among others, to hide their age, gender, and place of residence. States are encouraged to criminalize preparing a meeting with a child in the attempt of a crime or preparation for one as a separate criminal offense or a separate form of sexual abuse. States shall take measures to ensure that an adult's offer to meet a child under the age of sexual consent using information technology is punishable if the purpose of the meeting was child pornography or sexual intercourse and if concrete actions accompany the proposal. According to the Directive, a child is a person under 18 years of age. The age of consent in the Directive is interpreted as the age before which, according to the country's national legislation, it is prohibited to have sexual intercourse with adults. The most common age of consent is 16. Thus, it can be considered that the main factor in adopting Article 156-1 of the Criminal Code is the implementation of Ukraine's international obligations. Given that international instruments impose obligations on many countries, we must pay attention to the practice of other states on this issue.

Atabekova and Filippov (2018) indicate that almost all European countries have rules on the solicitation of children for sexual purposes and child pornography. In particular, states establish responsibility for compulsion and sexual abuse of children (Albania, Greece); pornography, solicitation, and compulsion (Croatia, Hungary); prostitution and pornography (Denmark); violence and blackmail (Germany, France); pornography and



solicitation (Latvia); violence, solicitation, child pornography production, and blackmail (Spain); pornography, blackmail/violence, calumny, violation of the secret domain or private domain using a camera, and confinement (Switzerland); and rape, sexual coercion, sexual abuse, solicitation, pornography, and seducement to sexual intercourse (Czech Republic). The Criminal Code of the Republic of Moldova also contains a wide range of punishable acts concerning the sexual integrity of minors.

The first European country to adopt strict legislation on combating the sexual abuse of children was the United Kingdom. Sexual grooming of minors has been a criminal offense in Britain since 2003. Norway and the Netherlands were the first to support the UK's initiative to criminalize the sexual grooming of minors. In Norway, the relevant legislation was adopted in 2007, and in the Netherlands in 2010. Outside of Europe, Australia and the United States were the first to criminalize grooming. In countries without a specific criminal ban on non-online grooming, law enforcement agencies apply general rules on crimes against sexual freedom and inviolability to such actions (Klimek, 2012).

Pollack and MacIver (2015) indicate that in the United States, section 2422 of the Criminal Code criminalizes the use of interstate trade to unlawfully influence persons under the age of 18 to involve them in prostitution or other sexual conduct that may be considered a crime. Karthi and Ramu (2020) studied India's fight against child pornography. Section 67B of its Law on Information Technology of 2008 states that child pornography is recognized as an information crime. This section penalizes images of children performing sexual acts, creating digital images or text containing child pornography, or advertising materials of this nature, promoting violence against children online, encouraging children to have an online relationship with one or more children, and so on. For the purposes of this section, persons under the age of 18 are considered children. Given the above, Ukraine has currently fulfilled its international obligations to comply with the Lanzarote Convention. Therefore, the quality of such regulation is also appropriate.

## **Conclusions**

Ukraine has been a party to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) since 2012. However, until recently, the digital safety of children in Ukraine had not been given due attention. The state has largely shifted children's digital safety responsibility to their parents. In fact, the state only gave the parents recommendations and considered its mission complete.

At the end of 2020, the Parliament of Ukraine adopted the bill, On Amendments to Certain Legislative Acts of Ukraine Concerning the Implementation of the Council of Europe



Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). Article 156-1 of the Criminal Code of Ukraine provides criminal liability for the solicitation of children for sexual purposes. This article is entitled, Solicitation of children for sexual purposes. It refers to criminal offenses against an individual's sexual freedom and the sexual inviolability of minors. The article criminalizes acts that involve

(...) an offer of a meeting made by an adult, including using information and telecommunication systems or technologies, to a person under the age of sixteen, for the purpose of committing any acts of a sexual nature or lewd acts against him or her, if such an offer was made after such an offer at least one action aimed at making such a meeting take place (Criminal Code of Ukraine, 2022; Article 156-1).

However, communication with a child through information and communication technologies does not necessarily lead to a personal meeting. It can remain an online encounter but cause serious harm to the child. Crimes of a sexual nature that are intentionally committed during an online encounter are often associated with the manufacture, possession, and transfer of child pornography. Such actions in part 2 of Art. 156-1 of the Criminal Code are qualified as corpus delicti.

The object of this crime is the sexual inviolability of minors under the age of sexual consent by the encroachment of adults. The victim is an obligatory sign of this crime. The victim may be an individual under the age of sixteen. If the victim is under 14, these acts are qualified as crimes with increased liability. From the objective point of view, a crime can be committed only through active action (inaction is impossible). A criminal offense is considered completed from the moment of committing at least one action aimed at achieving a criminal result. The consequences, in this case, are not binding on the offense, so it has a formal composition.

The legislator draws attention to the types of instruments for committing this criminal offense, computer equipment, and information and telecommunications systems or technologies. The construction of the offense does not preclude the commission of this crime using other tools and means (for example, by personal paper correspondence). However, in this case, a literal citation of Article 23 of the Convention is appropriate because the use of information technology characterizes the vast majority of such encroachments. From the objective point of view, the crime is committed by proposing a meeting. At the same time, at least one action to make such a meeting take place must accompany the proposal. In this case, the meeting should be understood as involving information and telecommunications systems or technologies.

In this case, the subject of this crime (the criminal) can only be an adult. After all, Article 20 of the Lanzarote Convention does not provide for the interference of sexual



interaction between minors by mutual consent. In Ukrainian criminal law, this is called a special subject. The subjective side of the crime is the inner aspect of the crime; it is the mental activity of a person that reflects the attitude of his or her consciousness and will to the socially dangerous act committed and its consequences. The subjective aspect of the crime is formed by the following features of the person: guilt, motive, purpose, and emotional state. Under Article 156-1 of the Criminal Code, in the criminal offense, the subjective aspect of the crime is characterized by direct intent. In case of a person's conscious mistake regarding the victim's age, liability is excluded under Article 156-1. At the same time, the corpus delicti is available when the offender communicates with a police officer pretending to be a minor. The purpose is also the obligatory sign of this crime. Part 1 of Article 156-1 of the Criminal Code defines the purpose of committing any acts of a sexual nature or lewd acts against a minor. Part 2 defines the involvement of a minor in the production of child pornography.

In fact, the text of Article 156-1 of the Criminal Code is a translation of the Lanzarote Convention. Therefore, the adoption of this article is a fulfillment of Ukraine's international obligations more than an act of national lawmaking. At the same time, the adopted text is of sufficient quality and meets similar standards to other European countries. At present, it is not necessary to talk about judicial practice in this category of cases because less than six months have passed from the moment of its entry into force to the moment of completion of this article. At the same time, the simultaneous translation into Ukrainian and distribution of literature on the practical implementation of the provisions of the Lanzarote Convention gives hope that the adopted norm will be actively applied in practice.

#### Disclaimer

The authors declare no potential conflict of interest related to the article.

## **Funding**

The authors do not report sources of funding for this article.

#### About the authors

**Natalia Semchuk** is a Ph.D. and an Attorney-at-law. She is an Assistant Professor in the Department of Criminal Law and Prosses, National Aviation University. She was a legal consultant for the book "Women's Rights in Childbirth and Their Implementation in Ukraine."

https://orcid.org/0000-0002-0267-8996 - Contact: semchuk8094@edu.cn.ua

**Sofiia Lykhova** graduated with honors from the Kiev Order of Lenin State University T.G. Shevchenko, majoring in jurisprudence. She was awarded the academic title of



Professor in Criminal Law and Procedure. She is Head of the Department of Criminal Law and Procedure of the Faculty of Law of the National Aviation University.

https://orcid.org/0000-0003-2861-519X - Contact: lykhova8094@edu-knu.com

**Neghdana Udalova** has a Master's degree in Law from the Dnipropetrovsk State University of Internal Affairs. She is currently a lecturer at the Department of Law Enforcement and Police of the Donetsk State University of Internal Affairs.

https://orcid.org/0000-0001-5889-2126 - Contact: udalova8094@acu-edu.cc

**Andrii Lyseiuk** has a Ph.D. in Law and is a leading specialist at the Ukrainian Scientific and Research Institute of Special Equipment and Forensic Expertise of the Security Service of Ukraine. She is an Associate Professor at the Department of Investigative activities of the University of the State Fiscal Service of Ukraine.

https://orcid.org/0000-0002-0598-7532 - Contact: lyseiuk8094@neu.com.de

**Olesia Cheban** has a Ph.D. in Law and is an Associate Professor at the Department of Constitutional and Administrative Law of the National Transport University. She obtained a Master's degree in Law from the Academy of Municipal Administration.

https://orcid.org/0000-0003-0448-5968 - Contact: cheban8094@sci-univ.com

## References

- Akimova, L. M., Litvinova, I. F., Ilchenko, H.O., Pomaza-Ponomarenko, A.L., & Yemets, O.I. (2020). The negative impact of corruption on the economic security of states. International Journal of Management, 11(5), 1058-1071. https://iaeme.com/MasterAdmin/Journal\_uploads/IJM/VOLUME\_11\_ISSUE\_5/IJM\_11\_05\_097.pdf
- Atabekova, A., & Filippov, V. (2018). Legislation response to use of minors' self-generated sexual content for their ICT-facilitated sexual coercion. European Research Studies Journal, 21(4), 763-772. https://doi.org/10.35808/ersj/1244
- Chorniy, R. (2019). Problem issues of objectives and motives in composition of crimes against the basis of national security of Ukraine. Herald of Criminal Justice, 4, 89-103. https://doi.org/10.17721/2413-5372.2019.4/89-103
- Council of Europe (2007). Convention du Conseil de l'Europe sur la protection des enfants contre l'exploitation et les abus sexuels. Série des Traités du Conseil de l'Europe No. 201 Conseil de l'Europe. October 25, 2007. Lanzarote. https://rm.coe.int/1680084833
- Criminal Code of Ukraine. (2001). *Law No. 2341-III*. Verkhovna Rada of Ukraine. https://zakon.rada.gov.ua/laws/show/2341-14#Text
- Criminal Code of Ukraine. (2022). Article 156-1 Harassment of a child for sexual purposes. https://urst.com.ua/ kku/st-156-1
- De Hart, D., Dwyer, G., Seto, M. C., Moran, R., Letourneau, E., & Schwarz-Watts, D. (2016). Internet sexual solicitation of children: a proposed typology of offenders based on their chats, e-mails, and social network posts. Journal of Sexual Aggression, 23(1), 77-89. https://doi.org/10.1080/13552600.2016.1 241309
- De Santisteban, P., del Hoyo, J., Alcazar-Corcoles, M. A., & Gamez-Guadix, M. (2018). Progression, maintenance, and feedback of online child sexual grooming: a qualitative analysis of online predators. Child Abuse & Neglect, 80, 203-215. https://doi.org/10.1016/j.chiabu.2018.03.026



- EU Child Online Safety Project. (2020). *Enhancing police and industry practice*. Mdx. https://www.mdx.ac.uk/\_\_data/assets/pdf\_file/0017/250163/ISEC-report-FINAL.pdf
- Iasechko, S., Skomorovskyi, V., Andronov, I., Oleksii Zaitsev, O., Bortnik O. (2020). The investigation of peculiarities of the occurrence of subjective civil rights in registration of a patent. Journal of Advanced Research in Law and Economics, 11(3), 844-849. https://doi.org/10.14505/jarle.v11.3(49).17
- International Telecommunications Union. [ITU] (2020). *Child protection in digital environment: recommendations for industries.* Mediacenter. https://www.itu.int/en/mediacentre/Pages/pr10-2020-Guidelines-Child-Online-Protecion.aspx
- Karthi, N., & Ramu, M. (2020). A study on cyber child pornography. Psychology and Education Journal, 58(2), 6519-6528. https://doi.org/10.17762/pae.v58i2.3185
- Klimek, L. (2012). Solicitation of children for sexual purposes: The new offence in the EU Under the directive 2011/92/EU). International and Comparative Law Review, 12(1), 141-151. https://doi.org/10.1515/ iclr-2016-0083
- Langbroek, P., Van den Bos, K., Simon Thomas, M., Milo, M., & Van Rossum, W. (2017). Editorial methodology of legal research: challenges and opportunities. Utrecht Law Review, 13(3), 1-8. https://doi.org/10.18352/ulr.411
- Leonov, B.D., Chumak, L.A., Hrynenko, S.V. (2020). The problems of combating the sexual exploitation of children on the internet: analysis of the EU Experience. Information and Law, 2(33), 32-39. https://doi.org/10.37750/2616-6798.2020.2(33).208080
- Lykhova, S. Y., Leonov, B. D., Lysko, T. D., Shaptala, N. K., & Maksymov, S. I. (2021). Criminal-legal ensuring of freedom of religion in modern conditions: a comparative analysis. Cuestiones Políticas, 39(68), 620-649. https://doi.org/10.46398/cuestpol.3968.40
- Nebytov, A. (2015). Legislative support to combat sexual exploitation in Ukraine. Scientific Bulletin of the National Academy of Internal Affairs, 2, 52-60. https://ojs.naiau.kiev.ua/index.php/scientbul/article/ view/287
- Nolasco, C. A., Vaughn, M. S., & del Carmen, R. V. (2010). Toward a new methodology for legal research in criminal justice. Journal of Criminal Justice Education, *21*(1), 1-23. https://doi.org/10.1080/10511250903518944
- Orlovskyi, R., Shapoval, R., & Demenko, O. (2018). Possibilities of adapting the typologies of the international standards for establishing criminal liability for corruption-related crimes in Ukraine. *Journal of Eastern European and Central Asian Research*, 5(2), 12. https://doi.org/10.15549/jeecar.v5i2.230.
- Petrov, R., & Serdyuk, O. (2008). Ukraine: The quest for democratization between Europe and Russia. In: *International Actors, Democratization and the Rule of Law: Anchoring Democracy?* (pp. 189-223). London: Routledge. https://doi.org/10.4324/9780203894699.
- Pollack, D., & MacIver, A. (2015). Understanding sexual grooming in child abuse cases. CLP ABA Child Law Practice, 34(11), 165-168. https://www.americanbar.org/groups/public\_interest/child\_law/resources/ child\_law\_practiceonline/child\_law\_practice/vol-34/november-2015/understanding-sexual-grooming-in-child-abuse-cases/
- Radzivill, O., Pyvovar, Y., Sopilko, I., & Pyvovar, I. (2018). Coordination of fragmentation within the international air law. *International Journal of Engineering and Technology(UAE)*, 7(3.30 Special Issue 30), 280-283. https://doi.org/10.14419/ijet.v7i3.2.14420.
- Rutai, Z. (2020). The Lanzarote Committee: Protecting children from sexual violence in Europe and beyond. Pécs Journal of International and European Law, 1, 24-42. https://www.researchgate.net/ publication/342170798\_The\_Lanzarote\_Committee\_protecting\_children\_from\_sexual\_violence\_in\_ Europe\_and\_beyond
- Semchuk, N., Lykhova, S., & Demianenko, U. (2019). Using English as a foreign language when teaching subjects of the criminal law cycle. *Life Sciences:* The Asian International Journal of Life Science, 21(2), 517-534. https://doi.org/10.5281/zenodo.3605130



- Sopilko, I. N. (2013). Formation of cybersafety policy (Ukrainian experience). World Applied Sciences Journal, 27(13 A), 371-374. https://doi.org/10.5829/idosi.wasj.2013.27.elelc.75.
- The Council has implemented the provisions of the Council of Europe Convention on the Protection of Children against Sexual Abuse. (2021). *Radiosvoboda*. https://www.radiosvoboda.org/a/news-rada-zahyst-ditey-seksualne-nasylstvo/31110019.html
- Trifu, S., & Dragoi, A. M. (2019). From sexting to child pornography. Journal of Health and Medical Sciences, 2(4). https://doi.org/10.31014/aior.1994.02.04.80
- Tyler, T.R. (2017). Methodology in legal research. Utrecht Law Review, 13(3), 130. https://doi.org/10.18352/ ulr.410
- Vakulyk, O., Petrenko, P., Kuzmenko, I., Pochtovyi, M., & Orlovskyi, R. (2020). Cybersecurity as a component of the national security of the state. *Journal of Security and Sustainability Issues*, 9(3), 775-784. https://doi.org/10.9770/JSSI.2020.9.3(4).
- WHO. (2019). INSPIRE Handbook: Action for implementing the seven strategies for ending violence against children. (Translation Shliakh do domu). https://apps.who.int/iris/bitstream/handle/10665/272996/9789241514095-ukr.pdf?ua=1
- Winters, G.M., & Jeglic, E.L. (2016). Stages of sexual grooming: Recognizing potentially predatory behaviors of child molesters. Deviant Behavior, 38(6), 724-733. https://doi.org/10.1080/01639625.2016.1197656
- Yaroshenko, O. M., Moskalenko, O. V., Sliusar, A. M., & Vapnyarchuk, N. M. (2018). Commercial secret as an object of labour relations: Foreign and international experience. *Journal of Legal, Ethical and Regulatory Issues, 21* (Special Issue 1). https://www.abacademies.org/articles/commercial-secret-as-an-object-of-labour-relations-foreign-and-international-experience-7853.html