



**Input on the solutions to promote
digital education for young people
and to ensure their protection from online threats**

February 2024

The European Centre for Law and Justice (ECLJ) welcomes the High Commissioner for Human Rights' plan to prepare a study on the solutions to promote digital education for young people and to ensure their protection from online threats. The ECLJ has been working for several years on the issue of pornography.¹ With these observations, which it has the honor to submit, it wishes to contribute to the important and necessary work of the High Commissioner, whose planned study should address the subject of exposure to online pornography as it is a threat to young people (I). It is therefore necessary to recommend that solutions be implemented to protect them (II).

The recent ECLJ report entitled “Combating pornography – Regulating access to pornography” (September 2023) is appended to this contribution, which it will supplement with more detailed background information, extensive references to scientific articles, studies and surveys, and numerous examples of solutions and good practice from comparative law.

¹ ECLJ, [Pornography and human rights](#), Report ; [Third party intervention](#) at the European Court of Human Rights in the case of Roman Chocholáč v. Slovakia (nr 81292/17) ; ECLJ, [Combating pornography – Regulating access to pornography](#), Report, September 2023.

I. Exposure to online pornography, a threat to young people

The entrance in the Internet era put pornography to the click of a button, for the adults as for the young public, turning the society into a true “pornographic consumer society.” Indeed, it is now massively consumed and the Covid 19 pandemic increased such global phenomenon. Exposure to pornography has serious consequences, particularly for young people (1), whose fundamental rights are violated (2).

1. A massive and global phenomenon with serious consequences

Towards children and adolescents, pornography is part of their sexualisation and appears as an extreme form of it. Unfortunately, it has even become a source of information about sexuality. In 2022, the Parliamentary Assembly of the Council of Europe (PACE) indicated being “*alarmed by the unprecedented exposure of children to pornographic imagery, which is detrimental to their psychological and physical development.*”² Studies evidence that children are massively exposed to it: ever more numerous, ever younger, and highly frequently. In France, in 2022, 2.3 million minors are visiting each month “adults” websites, i.e., an increase of +36% in 5 years; this represents more than 51% of the boys from 12 to 17 years old.³ In addition, 9% of minors visit these sites daily.⁴ Another study performed in 2023 reveals that more than a quarter of the questioned 18-24 years (27%) viewed pornography for the first time between 8 and 12 years, such figure more than doubled in 10 years (11% in 2013).⁵ The same observations have been made in many countries (see attached report, p. 12-14). This is a global scourge, which can be partly explained by the increasing use of smartphones among minors: it is the main gateway to pornography for young people.

Pornography is harmful to everyone, but young people are particularly vulnerable. While their brains are still developing, the consequences of exposure to online pornography are devastating (see attached report, p. 14-16) : development of unrealistic and distorted expectations with regard to sexuality, harmful and risky sexual behaviour (early sexual activity, sexting, multiple sexual partners, use of psychoactive substances and vulnerability to STIs), reduced levels of social integration, lower school results, appearance of complexes and depressive symptoms, significant increase in sexual violence between minors, etc. The risk of addiction to pornography is also significant: pornography acts on the reward system and neurosciences evidence that the brain’s reaction to pornography is alike to the one induced by hard drug. Contrary to some other addictions, this one is hard to arrest as the free contents’ quantity is illimited.

2. A violation of the rights of the child⁶

By its scale, scope and the seriousness of its consequences, exposure to online pornography violates children’s rights. It constitutes sexual violence committed on a large scale against young people. Thus, the French Criminal Code (art. 227-24) makes it a criminal offence to leave

² PACE, For an assessment of the means and provisions to combat children’s exposure to pornographic content, Resolution 2429 (2022), § 2.

³ ARCOM, [La fréquentation des sites « adultes » par les mineurs](#), May 2023, p. 26.

⁴ Ibid., p. 10.

⁵ 01net, « [Exclusif \(IFOP\) – 8 Français sur 10 doutent de l’efficacité du blocage des sites X](#) », July 2023.

⁶ “Child” means “every human being below the age of eighteen years” under the meaning of the International Convention on the Rights of the Child (1989).

pornography within the reach of minors in a paragraph relating to “*sexual offences committed against minors*”, which itself belongs to a section dealing with “*endangering minors*” in a title concerning “*offences against the human person*”. Research shows that in young children, such exposure can “*lead to psychological and behavioural disturbances similar to those of sexual abuse.*”⁷

Under European Union law, the “Audiovisual Media Services” Directive revised in 2018 requires Member States to ensure that audiovisual media services “*which may impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them [...] The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures*” (new article 6a).

Children’s exposure to pornography is a direct violation of the Declaration of the Rights of the Child (1959) and the International Convention on the Rights of the Child (CRC - 1989). These texts both stipulate that “*the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth*”. Their ancestor, the Declaration of Geneva (26 September 1924), also states that “*men and women of all nations, [recognize] that mankind owes to the Child the best that it has to give*” (Preamble) and that “*The child must be given the means requisite for its normal development, both materially and spiritually*” (Art. 1). However, it is obvious that pornography is far from being the model of the best that mankind has to give the Child. In terms of media access, article 17.e of the CRC also stipulates that “*States Parties shall encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being [...]*”, which obviously includes online pornography. The States Parties must therefore comply with the obligations they have undertaken, in particular the obligation to protect young people from online pornography.

II. Protecting young people from exposure to online pornography: which solutions?

Minors are not authorised to access pornography in the real world, it is then logical that the same should apply online: what is illegal offline shall be illegal online. Protecting young people from exposure to online pornography requires effective prevention and awareness-raising policies (1), as well as measures to prevent young people from accessing pornography (2).

1. Implementing effective prevention and awareness-raising policies

Preventive measures are essential and include understanding exposure to pornography as a public health issue (a) and providing quality education, particularly digital education, on the issue (b).

a. Understanding exposure to pornography as a public health issue requires express recognition of its harmfulness, through non-binding resolutions (seventeen US states), as is done for smoking or alcoholism. Furthermore, the consequences of young people’s exposure to pornography, particularly for psychological health, should be considered in national health programs (Poland, National Health Program for 2016-2020, VII, 2.8-2.11). It is also necessary to

⁷ « [L’environnement médiatique des jeunes de 0 à 18 ans : Que transmettons-nous à nos enfants ?](#) » Rapport en réponse à la mission confiée par Ségolène Royal, Ministre déléguée à la Famille, à l’Enfance et aux Personnes handicapées au Collectif Interassociatif Enfance Médias (CIEM), May 2002, p. 39.

develop effective treatment for addictive behaviour linked to the consumption of pornography by developing and making accessible therapies in this field,⁸ as for other types of addictions.

b. Providing quality education on the issue of pornography is essential.⁹ To raise public awareness of the seriousness of young people's exposure to pornography, information campaigns should be organised (France - 2021).¹⁰ Educating young people in the proper use of information and communication technologies (ICTs) must address the dangers of exposure to pornography and the widespread practice of sexting or textpornography:¹¹ on this subject, it is worth referring to the Lanzarote (2007 - art. 6) and Istanbul (2011 - art. 17) Conventions, the PACE resolutions¹² and the new European Strategy for a better internet for kids. In addition, broad information for parents, who are their children's first educators, is essential because few are truly aware of the extent of pornography consumption among young people.¹³ Parental responsibility should be strengthened on these issues,¹⁴ both in terms of ICTs use and sexuality education, to get ahead of the pornographic vision of sexuality thanks to a healthy, authentic, and coherent discourse by parents, providing a positive vision of sexuality to which children can refer if necessary. In any case, the vision given cannot be limited to simple pleasure-seeking techniques.¹⁵

2. Implementing measures to prevent young people from accessing pornography

The following measures¹⁶ have been introduced by some countries to better regulate access to pornography. None of them is perfect, given the possibilities for circumvention, but combined they could at least reduce unintentional access to pornography.

a. Imposing the affixation of a warning on the harmful effects of pornography in the form of a message on digital pornographic material and on the home page of pornographic websites or of an instant message during research. For such purpose, Utah (United States) passed the *Porn Warning Label Law*. Another measure is to **implement a rating system for audiovisual contents**, to filter online violence and pornography.

b. Creating a national body in charge of the issue of children's protection in such matter. It may allow the coordination of the national effort, and even act as the point of contact within the frame of an international cooperation. In 2015, Australia created *eSafety*, governmental agency in charge

⁸ See for example [Association Décliac](#) (France) offers, among others, support for pornographic addiction and training for health professionals, under the auspices of a clinical psychologist who heads a hospital department specializing in sexual and pornographic addictions.

⁹ See PACE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), § 10.2.1.

¹⁰ [#JeProtègeMonEnfant - Campagne de lutte contre l'exposition des mineurs à la pornographie \(youtube.com\)](#)

¹¹ See Smahel, D., Machackova, H., Mascheroni, G., Dedkova, L., Staksrud, E., Olafsson, K., Livingstone, S., and Hasebrink, U. (2020), *EU Kids Online 2020: Survey results from 19 countries*, EU Kids Online, p. 82-88; Lanzarote Committee, [Opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children](#), 6.06.2019.

¹² PACE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), § 10.2.3; PACE, For an assessment of the means and provisions to combat children's exposure to pornographic content, Resolution 2429 (2022), § 6.9.

¹³ Dr Rafał Lange, et al., [Nastolatki wobec pornografii cyfrowej - Trajektorie użytkowania](#), Thinkstat NASK - Ogólnopolska Sieć Edukacyjna, Warszawa 2022, p. 6: in Poland, 58.5% of the young people questioned said that their parents had not discussed online pornography and its consequences with them.

¹⁴ See European Parliament, *Resolution on pornography*, 17.12.1993, Official Journal of the European Communities n° C 20/546 of 24.01.1994, 15; PACE, Fighting the over-sexualisation of children, Resolution 2119 (2016), § 4.3; PACE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), § 10.2.5.

¹⁵ Collective opinion, [Pornographie : « L'urgence d'une éducation à l'amour »](#), *La Croix*, 22.01.2022.

¹⁶ Details and examples of legislation in the attached report, p. 24 onwards.

of online safety for adults and children. France launched a monitoring Committee for the “Protection of the minors against online pornography.”, as well as a Children Online Protection Lab, “*international initiative [...] to share expertise and best practices and test innovative solutions to protect children online more effectively.*”

c. Repressing the accessibility of a pornographic content to minors. It involves prohibiting and punishing the provision or dissemination of pornographic content to minors, but also the mere fact that a pornographic content may be available to a minor. The Penal Code provides for this in France (art. 227-24) and Poland (art. 200).

d. Imposing the default activation of a parental control or filtering software on connected devices, from leaving the factory, with deactivation being possible on request from the holder of the Internet access provision agreement. Indeed, too few parents install and activate such type of software on the devices to which their children access. Their efficiency is discussed, nevertheless they seem to be useful with the youngest.¹⁷ In any event, this should be installed and activated by default, in a general manner, in schools, libraries and public areas. Several States in the United States, the United Kingdom and Italy experiment such measures.

e. At a time when pornography is making its way into playgrounds, mainly via mobile phones, it is vital to take action to **make educational establishments a safe place**. In addition to the mandatory activation of blocking or filtering software (CIPA Act in the United States), possibly with redirection to educational material or material on the dangers of the Internet (New Zealand), more and more countries are opting to limit or ban the use of connected devices in educational establishments (France, Italy, the Netherlands, some autonomous communities in Spain etc.).

f. Requiring pornographic websites to check users’ age. is a measure widely promoted by the European Commission or the PACE. Several States (Germany, United Kingdom, France, etc.) attempt such implementation, with varying degrees of success. While such a system seems effective in protecting young people from unintentional access to these sites, it does however pose technical, economical, and legal difficulties arising primarily from the choice of the online age verification method, that shall pursue the dual objective of safety and efficiency. In 2023, the French government indicated that it wished to test a verification solution “in double-blind” through an independent trustworthy third party. **Such an obligation could be imposed under penalty of blocking** (Germany, France) pending fulfillment of the regulation.

g. Making online platforms more accountable, in particular by imposing obligations relating to moderation (proactive, by trained individuals and with effective detection tools) and notification (with effective follow-up), to eradicate some of the harmful content that would otherwise be accessible to minors. This is of particular importance for platforms that are not “pornographic” per se but on which such content can be found, including social networks. In this context, it is worth noting that the new “*Digital Services Act*” adopted in October 2022 by the European Union, could help to step up the fight against the exposure of minors to pornography. It also provides for « very large online platforms » to be made more accountable (Google, Facebook etc): additional obligations are imposed on them, including in terms of annual assessment of systemic risks associated with the services offered by the platform, particularly with regard to “*any actual or foreseeable negative effects for the exercise of fundamental rights, in particular [...] respect for*

¹⁷ M. L. Ybarra, et al., “Associations between blocking, monitoring, and filtering software on the home computer and youth-reported unwanted exposure to sexual material online”, *Child Abuse & Neglect* 33 (2009), p. 857–869.

the rights of the child.” In December 2023, The European Commission included three major pornographic websites on the list of “very large online platforms.”

h. In the internet era, updating the *Convention for the Suppression of the Circulation of and Traffic in Obscene Publications*, adopted in 1923 with the League of Nations. Several dozen States undertook to prosecute and punish pornographic trafficking, in very broad terms, both in terms of the types of content and the related acts (production, possession, circulation etc.). The ECLJ therefore calls on the High Commissioner to invite the States Parties to respect the obligations arising from this text which considers pornography as intrinsically evil and contrary to the human dignity of the people staged and those who consume it, particularly young people.