



Legal questionnaire completed by Ojam Bullrich Flanzbaum • November 2024

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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 country):

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

The term "minor" is defined in Section 25 of the Argentine Civil and Commercial Code. Section 26 of the same legal body regulates the exercise of rights by minors:

SECTION 25.- Minor and adolescent. Minor is the person who has not reached eighteen years of age. This Code defines an adolescent as a minor who has reached the age of thirteen.

SECTION 26.- Exercise of the rights by the minor person. The minor person exercises his rights through his legal representatives.

Nevertheless, minors with sufficient age and degree of maturity can exercise by themselves the acts that are allowed by the legal system. In situations of conflict of interest with their legal representatives, they may intervene with legal assistance.

The minor has the right to be heard in all legal proceedings concerning him/her as well as to participate in decisions concerning him/her.

Adolescents between thirteen and sixteen years of age are presumed to have capacity to decide for themselves regarding those treatments that are not invasive, nor compromise their state of health or cause a serious risk to their life or physical integrity.

In the case of invasive treatments that compromise their state of health, or that endanger their integrity or life, the adolescent must give their consent with the assistance of their parents; the conflict between the two is resolved by taking into account their best interests, on the basis of the medical opinion regarding the consequences of performing or not performing the medical act.

From the age of sixteen, the adolescent is considered an adult for decisions concerning the care of his or her own body.



<https://servicios.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235975/norma.htm#6>

- 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>)**

The Argentine Criminal Code punishes anyone who promotes or facilitates the corruption of minors, even with the consent of the victim (Section 125) or the prostitution of a person of any age, even with the consent of the victim (Sections 125 bis and Section 126). Anyone who economically exploits the exercise of prostitution of another person, even with the consent of the victim, is also punished (Section 127):

SECTION 125.- Anyone who promotes or facilitates the corruption of minors under eighteen years of age, even with the consent of the victim shall be punished with confinement or imprisonment from three to ten years.

The sentence shall be six to fifteen years of confinement or imprisonment when the victim is under thirteen years of age.

Whatever the age of the victim, the sentence shall be confinement or imprisonment for ten to fifteen years, when there is deception, violence, threat, abuse of authority or any other means of intimidation or coercion, as well as if the perpetrator is an ascendant, spouse, sibling, guardian or person living with or responsible for their education or guardianship.

SECTION 125 bis.- Anyone who promotes or facilitates the prostitution of a person will be punished with imprisonment from four (4) to six (6) years, even with the consent of the victim.

SECTION 126.- In the case of the preceding section, the sentence shall be five (5) to ten (10) years of imprisonment, if any of the following circumstances concur:

1. There is deception, fraud, violence, threat or any other means of intimidation or coercion, abuse of authority or a situation of vulnerability, or granting or receiving payments or benefits to obtain the consent of a person who has authority over the victim.
2. The perpetrator is an ascendant, descendant, spouse, related in a straight line, collateral or partner, guardian, curator, authority or minister of any recognized or unrecognized cult, or person in charge of the education or guardianship of the victim.
3. The perpetrator is a public official or member of a security, police or penitentiary force.

When the victim is under eighteen (18) years old, the sentence shall be ten (10) to fifteen (15) years of imprisonment.

SECTION 127.- Anyone who economically exploits the exercise of prostitution of a person, even with the consent of the victim, shall be punished with imprisonment of four (4) to six (6) years.



The sentence shall be five (5) to ten (10) years of imprisonment, if any of the following circumstances concur:

1. There is deception, fraud, violence, threat or any other means of intimidation or coercion, abuse of authority or a situation of vulnerability, or granting or receiving payments or benefits to obtain the consent of a person who has authority over the victim.
2. The perpetrator is an ascendant, descendant, spouse, related in a straight line, collateral or partner, guardian, curator, authority or minister of any recognized or unrecognized cult, or person in charge of the education or guardianship of the victim.
3. The perpetrator is a public official or member of a security, police or penitentiary force.

When the victim is under eighteen (18) years old, the sentence shall be ten (10) to fifteen (15) years of imprisonment.”

The dissemination of images and performances of sexual exploitation of children and adolescents is punishable under Section 128 of the same Code, as detailed in 1c below.

In turn, the Integral Protection Act (Law No. 26.061) establishes the System for the Comprehensive Protection of the Rights of Children and Adolescents, made up of agencies, entities and services that design, plan, coordinate, guide and supervise public policies of state or private management, aimed at the promotion, prevention, assistance and restoration of the rights of children and adolescents at the territorial level:

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

The sexually explicit conduct is also regulated in Section 128 of the Argentine Criminal Code:

SECTION 128.- It shall be punished with imprisonment from three (3) to six (6) years whoever produces, finances, offers, trades, publishes, facilitates, divulges or distributes, by any means, any representation of a minor under eighteen (18) years of age engaged in sexually explicit activities or any representation of his/her genital parts with predominantly sexual purposes, as well as whoever organizes live shows of sexually explicit representations in which such minors participate.

It shall be punished with imprisonment from four (4) months to one (1) year the one who knowingly has in his possession representations of those described in the previous paragraph.

It shall be punished with imprisonment from six (6) months to two (2) years the one who has in his possession representations of those described in the first paragraph with unequivocal purposes of distribution or commercialization.

It shall be punished with imprisonment from one (1) month to three (3) years the one who



facilitates access to pornographic shows or supplies pornographic material to minors under fourteen (14) years of age.

All the criminal scales foreseen in this section shall be increased by one third in their minimum and maximum when the victim is under thirteen (13) years of age.

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm#17>

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

Child sexual abuse is regulated in Sections 119 and 120 of the Argentine Criminal Code:

SECTION 119.- It shall be punished with confinement or imprisonment from six (6) months to four (4) years whoever sexually abuses a person when the latter is under thirteen (13) years of age or when there is violence, threat, coercive or intimidating abuse of a relationship of dependence, authority or power, or taking advantage of the fact that the victim for any reason has not been able to freely consent to the action.

The sentence shall be from four (4) to ten (10) years of confinement or imprisonment when the abuse by its duration or circumstances of its realization, has configured a sexual submission seriously outrageous for the victim.

The sentence shall be from six (6) to fifteen (15) years of confinement or imprisonment when the circumstances of the first paragraph mediate carnal access by anal, vaginal or oral means or when other analogous acts are performed by introducing objects or parts of the body by any of the first two means.

In the cases of the two preceding paragraphs, the sentence shall be from eight (8) to twenty (20) years of confinement or imprisonment if:

- a) Serious damage to the physical or mental health of the victim occurs;
- b) The act was perpetrated by an ascendant, descendant, relative in straight line, sibling, guardian, curator, minister of a recognized cult or not, in charge of education or guardianship;
- c) The perpetrator was aware of being a carrier of a serious sexually transmitted disease, and there was a danger of contagion;
- d) The act was perpetrated by two or more people, or with weapons;
- e) The act was perpetrated by personnel belonging to the police or security forces, on their duties;
- f) The act was perpetrated against a minor under eighteen (18) years of age, taking advantage of the pre-existing situation of cohabitation with the minor.

In the case of the first paragraph, the sentence shall be from three (3) to ten (10) years of confinement or imprisonment if the circumstances of paragraphs a), b), d), e) or f) concur.

SECTION 120.- It shall be punished with imprisonment or confinement from three to six years whoever performs any of the acts stated in the second or third paragraph of Section 119 with a person under sixteen years of age, taking advantage of his/her sexual immaturity, due to the legal age of the perpetrator, his preeminent relationship with the victim, or any other equivalent circumstance, provided that a more severely punishable



offense does not occur.

Argentina has made commitments under international conventions and agreements on the care of children and adolescents in situations of sexual violence. In this regard, the Convention on the Rights of the Child (Section 34), urges countries to prevent “the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitation of a child in prostitution or other unlawful sexual practices and the exploitation of a child in pornographic performances and materials”. Section 19 of such Convention sets forth that: “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

We list below the international treaties ratified by Argentina that are linked to this matter:

1. Optional Protocol to the Convention on the Children Rights on the Sale of Children, Child Prostitution and Child Pornography
2. Convention on Cybercrime
3. Council of Europe Convention for the Protection of Children against Sexual Exploitation and Abuse
4. Convention on the Prohibition of the Worst Forms of Child Labor and Immediate Action for its Elimination
5. Convention on the Rights of the Child

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

In Argentina, it is a punishable offense to finance, offer, trade, publish, facilitate, disseminate or distribute by any means images of children and adolescents in sexually explicit activities or depicting their genitals for sexual purposes. The possession of such material for commercialization is also a punishable offense.

Child pornography is also regulated in Section 128 of the Argentine Criminal Code:

SECTION 128.- It shall be punished with imprisonment from three (3) to six (6) years whoever produces, finances, offers, trades, publishes, facilitates, divulges or distributes, by any means, any representation of a minor under eighteen (18) years of age engaged in sexually explicit activities or any representation of his/her genital parts with predominantly sexual purposes, as well as whoever organizes live shows of sexually explicit representations in which such minors participate.

It shall be punished with imprisonment from four (4) months to one (1) year the one who knowingly has in his possession representations of those described in the previous paragraph.

It shall be punished with imprisonment from six (6) months to two (2) years the one who has in his possession representations of those described in the first paragraph with unequivocal purposes of distribution or commercialization.

It shall be punished with imprisonment from one (1) month to three (3) years the one who



facilitates access to pornographic shows or supplies pornographic material to minors under fourteen (14) years of age.

All the criminal scales foreseen in this section shall be increased by one third in their minimum and maximum when the victim is under thirteen (13) years of age.

By the end of 2017, Argentina joined the Budapest Cybercrime Convention, which establishes a catalog of cybercrimes such as those largely covered by local legislation in our country, and allows cooperation between the member countries on digital evidence, with procedural measures for any crime that possesses digital evidence, to expedite investigations.

Regarding child pornography, this Convention proposes, in Section 9.1.d and 9.1.e, to penalize the mere possession of material (as now punished in Argentina), as well as the acquisition of material, which would imply the consumption without possession such as the one made via streaming. Thus, the Argentine Republic made a reservation in order not to apply Section 9.1.d, which punishes such consumption or acquisition without possession, because it was not compatible with the Argentine Criminal Code. This reservation should be maintained at least until future reforms include such acquisition.

Finally, regarding the need to punish the mere possession of child pornography material, the Explanatory Report on the Budapest Convention states firstly that the Convention's rules on child pornography are intended to strengthen measures for the protection of minors, including their protection against sexual exploitation, by modernizing criminal law provisions (point 91 of the Report). In point 93, it is stated that it is essential to establish specific provisions to combat this new form of sexual exploitation that represents a danger to minors. The general opinion is that online materials and practices such as the exchange (...) between pedophiles, play a role in supporting, encouraging or facilitating crimes of a sexual nature against minors.

Regarding criminalization of mere possession, the Explanatory Report to the Convention expressly states in point 97 that possession of child pornography stimulates the demand for such materials. An effective way to reduce the production of child pornography is to impose criminal consequences for the conduct of each participant in the chain from production to possession.

- 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>)**

The computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) are also regulated in Section 128 of the Argentine Criminal Code:

SECTION 128.- It shall be punished with imprisonment from three (3) to six (6) years whoever produces, finances, offers, trades, publishes, facilitates, divulges or distributes, by any means, any representation of a minor under eighteen (18) years of age engaged in sexually explicit activities or any representation of his/her genital parts with predominantly sexual purposes, as well as whoever organizes live shows of sexually



explicit representations in which such minors participate...

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm#17>

The Optional Protocol to the United Nations Convention on the Rights of the Child on the sale, prostitution and child pornography in force in Argentina as of July 23, 2003 through Law No. 25,763 plays a very important role, and was especially taken into account by our country to make amendments to the text of this criminal offense, and states: "Child pornography means any representation, by any means, of a child engaged in real or simulated explicit sexual activities, or any representation of his/her genital parts with predominantly sexual purposes".

<https://www.argentina.gob.ar/normativa/nacional/ley-25763-87860/texto>

Also, the Budapest Cybercrime Convention was relevant, because it clarifies: "...child pornography includes any pornographic material that visually represents: ... realistic images depicting a minor engaging in sexually explicit behavior...".

<https://rm.coe.int/1680081561>

Although, unlike Spain, the Argentine Criminal Code did not include the words "real or simulated", this deepfake could also eventually be punished in Argentina.

- 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>)

Grooming is regulated in Section 131 of the Argentine Criminal Code:

SECTION 131.- It shall be punished with imprisonment from six (6) months to four (4) years whoever, by means of electronic communications, telecommunications or any other data transmission technology, contacts a minor with the purpose of committing any crime against his/her sexual integrity.

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm#17>

Additionally, in 2020, Law No. 27,590, also known as "Mica Ortega Act", was passed. Micaela Ortega was 12 years old when Jonathan Luna, an adult man who pretended to be a child, met her through Facebook, deceived her and then murdered her. He was finally sentenced to life imprisonment and is presently in prison for such reason.

This Law and its Regulatory Decree No. 407/2022 created the National Program for the Prevention and Awareness of Grooming or Cyberbullying against Children and Adolescents. Its objectives are to protect children and adolescents from grooming, to teach them to use the Internet responsibly, to train people working in schools, to provide information about this crime in the media and to explain how and where to report cases.

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/345000-349999/345231/norma.htm>
<https://www.argentina.gob.ar/normativa/nacional/decreto-407-2022-368049/texto>



Furthermore, a non-governmental organization called GROOMING ARGENTINA was created in 2014, after the incorporation and classification of the crime of Grooming in the Argentine Criminal Code, that ensures the promotion, protection and defense of the rights of children and adolescents in the Internet Ecosystem. They are entirely dedicated to executing promotion and prevention measures related to avoiding the violation of the rights of children and adolescents through different technological platforms.

The policies of its Institution are directed and oriented to protect the group of children and adolescents as well as to energize and promote actions aimed at the training and training of different actors in the system belonging to the adult world.

These policies are executed in a federal manner throughout the territory of the Republic. At the same time, they are executing these policies in countries in the region.

Grooming Argentina is part of “think and connect,” a campaign directed by the nation's Ministry of Security. Their work is funded by the support of private sector companies and some public sector bodies. They are governed by a Board of Directors made up of a President, a Vice President, a Treasurer, a Secretary and an Accounts Review Commission and regular and alternate members.

Grooming Argentina will evaluate the report in accordance with the legislation of the country and, if it is illegal, the location of the reported material will be transmitted to the police and, if it is abroad, they will forward it to the corresponding INHOPE reporting line.

The reports provided through this form are referred to the Argentine police authorities and the INHOPE network, in order to eliminate the availability of online content. In no case do these reports have the character of complaints. If you wish to file a complaint, you must do so with the competent Argentine police authorities.

<https://www.groomingarg.org/>
<https://www.groomingarg.org/denunciarcсам/>

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

The legal age of consent in Argentina is 13 years old, as provided by Section 119 of the Argentine Criminal Code:

SECTION 119.- It shall be punished with confinement or imprisonment from six (6) months to four (4) years whoever sexually abuses a person when the latter is under thirteen (13) years of age or when there is violence, threat, coercive or intimidating abuse of a relationship of dependence, authority or power, or taking advantage of the fact that the victim for any reason has not been able to freely consent to the action.

The sentence shall be from four (4) to ten (10) years of confinement or imprisonment when the abuse by its duration or circumstances of its realization, has configured a sexual submission seriously outrageous for the victim.



The sentence shall be from six (6) to fifteen (15) years of confinement or imprisonment when the circumstances of the first paragraph mediate carnal access by anal, vaginal or oral means or when other analogous acts are performed by introducing objects or parts of the body by any of the first two means.

In the cases of the two preceding paragraphs, the sentence shall be from eight (8) to twenty (20) years of confinement or imprisonment if:

- g) Serious damage to the physical or mental health of the victim occurs;
- h) The act was perpetrated by an ascendant, descendant, relative in straight line, sibling, guardian, curator, minister of a recognized cult or not, in charge of education or guardianship;
- i) The perpetrator was aware of being a carrier of a serious sexually transmitted disease, and there was a danger of contagion;
- j) The act was perpetrated by two or more people, or with weapons;
- k) The act was perpetrated by personnel belonging to the police or security forces, on their duties;
- l) The act was perpetrated against a minor under eighteen (18) years of age, taking advantage of the pre-existing situation of cohabitation with the minor.

In the case of the first paragraph, the sentence shall be from three (3) to ten (10) years of confinement or imprisonment if the circumstances of paragraphs a), b), d), e) or f) concur.

Similarly, Section 120 of the Argentine Criminal Code refers to the “exploitation of the sexual Immaturity” of a minor of up to 16 years of age:

SECTION 120.- It shall be punished with imprisonment or confinement from three to six years whoever performs any of the acts stated in the second or third paragraph of Section 119 with a person under sixteen years of age, taking advantage of his/her sexual immaturity, due to the legal age of the perpetrator, his preeminent relationship with the victim, or any other equivalent circumstance, provided that a more severely punishable offense does not occur.

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm#17>

- 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>)**

The action itself (Sextortion), regardless of the term used, is not yet typified in the Argentine Criminal Code. Nevertheless, it is worth mentioning that a bill called ‘Belén Act’ is currently under consideration by the Criminal Legislation Committee, which aims to amend the Criminal Code in order to introduce into our legislation offenses related to the non-consensual obtaining and dissemination of intimate and/or nude material, content created through Deepfake technology, as well as extortion offenses related to such content. In addition, the bill includes aggravating factors of specific circumstances and modifications of penalties for extortion offenses and the non-consensual dissemination of intimate, nude, and/or sexually violent material.



Furthermore, on October 23, 2023, Law No. 27,736, known as “Olimpia Act”, came into force, which incorporates violence against women in digital environments as a modality of gender-based violence into Law No. 26,485 on Integral Protection of Women. The law refers to offenses that violate individuals’ sexual privacy through digital means and the non-consensual dissemination of private content. It also includes hate speech, sexist content, harassment and espionage, among others. In this regard, the law protects digital rights, as well as access, permanence and development in the digital environment.

Additionally, this law establishes precautionary protection measures that may be ordered by the courts, including ordering digital platforms to remove content that generates violence.

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

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content.

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation. The paramount case is “Rodriguez Maria Belen vs. Google Inc. for damages and losses”, where the plaintiff sued Google Inc. and later extended the lawsuit to Yahoo de Argentina S.R.L for the unauthorized commercial use of her image, linking her to pornographic sites. The plaintiff claimed compensation for damages and losses and requested the cease of use and removal of the links to such sites.

This ruling is of great importance because the Supreme Court of Justice established a definitive criterion regarding the role of search engines in relation to information uploaded to the web.

Initially, the plaintiff had obtained a favorable ruling, ordering the “permanent removal of links to the plaintiff's name, image, and photographs from websites and activities with sexual, erotic, and/or pornographic content through search engines”. Later in the Civil Court, the compensation was reduced, only with respect to Google, as it was considered that search engines are responsible “having become aware—initially, through user communication—of the existence of harmful content and failing to promptly block it.”

However, in October 2014, the Supreme Court held that search engines are not legally obligated to monitor or supervise the content posted on the web, as such content is provided by third parties. It was decided that search engines will be held responsible if they fail to take



the necessary measures to remove web pages with flagrant harmful and unlawful content after being duly notified, or if competent authority orders such measures, and due diligence is not exercised.

Regarding the misuse of the image, the Supreme Court stated that image search engines are responsible if they fail to act diligently to prevent or mitigate damages by not removing the website after being notified of the infringement. The ruling in the case of “Maria Belen Rodriguez” set a precedent, and the decisions made in subsequent similar case law affirmed the initial decision, such as “Gimbutas, Carolina Valeria vs. Google Inc. for damages and losses” and “Gimbutas, Carolina Valeria vs. Google Inc. for habeas data” (2017) - CSJN, as well as “Mazza, Valeria Raquel vs. Yahoo SRL Argentina and another for damages and losses” (2021).

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

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.

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

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.

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



There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.

Hence, they will be responsible for the removal of any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about.

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

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.

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

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.



Hence, they will be responsible for the removal of any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about.

- 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.**

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, we should also consider that there are case law precedents that established that online service providers (such as Google) are mere intermediaries that display foreign content (displayed on other web pages) and thus their responsibility arises—in exceptional cases—when they do not act diligently based on effective knowledge of the illegality of said content. See answer 2(a).

In this sense, their behavior is illegal only when they become aware of the individualized damage and do not act diligently to delete or disable the corresponding link, putting an end to the harmful situation.

- 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.?**

There is no legal or regulatory requirement or recommendation for Online Platforms in Argentina in this regard.

However, it would be useful to view the guidelines set out in the project presented in 2022 to modify Law No. 26,522 on Audiovisual Communication Services, which extends the obligations of audiovisual communication services to digital audiovisual services distributed through platforms, and videos or audios generated by users.

In particular, Section 71 of Law No. 26,522 should be contemplated, which states that these services must comply with specific regulations: “Those who produce, distribute, broadcast or in any way obtain benefits from the transmission of programs and/or advertising will ensure compliance with the provisions of Laws No. 23,344, on tobacco advertising, No. 24,788 — National Law to combat tobacco. Alcoholism—, No. 25,280, which approves the Inter-American Convention for the elimination of all forms of discrimination against people with disabilities, No. 25,926, on guidelines for the dissemination of topics related to health, No. 26,485 — Comprehensive protection law to prevent, sanction, and eradicate violence against women in the areas in which they develop their interpersonal relationships—and No. 26,061, on comprehensive protection of the rights of girls, boys and adolescents as well as their complementary and/or



modifying regulations and the regulations that are issued for the protection of health and protection against discriminatory conduct”.

Section 71 bis of the project states the following:

Providers of on-demand or on-demand audiovisual services must establish a rating system for audiovisual content based on the ages of the audiences, according to predictable and generalizable development parameters, in a system that allows the audiovisual offer to be covered in all its modalities in view of providing operational tools for parental control.

(...) For those contents or advertisements that, according to their classification, the Enforcement Authority considers that they should not be accessible or recommended for children and adolescents; video on demand or on demand service providers must establish efficient systems for the verification of the age of the audience, user or consumer that have efficient and simple mechanisms for periodically updating and restricting access by children and adolescents, as well as audiences in general.

Providers of digital services for the distribution and exchange of audiovisual and/or sound content through a platform must: have mechanisms to protect children and adolescents from content or advertising potentially harmful to their physical, mental or moral development, and protect the general public from criminal content and material that may incite violence or hatred; mechanisms for notification by users to the providers, and operational parental control tools.

The providers included in this section must implement progressive accessibility measures for the people listed in Section 66 of this Law, in accordance with the regulations established by the Enforcement Authority. The supervision of compliance with the obligations arising from the procedures indicated in this section will be the responsibility of the Enforcement Authority, who may require providers to adapt the procedures to the regulations issued on the matter.

<https://www4.hcdn.gob.ar/dependencias/dsecretaria/Periodo2022/PDF2022/TP2022/3951-D-2022.pdf>

In addition, the owners of Online Platforms must also comply with international regulatory guidelines, such as that of UNESCO, which states that digital platform companies “must commit to aligning their design processes, as well as policies and content moderation and curation practices, with international human rights standards”. This guide for digital platforms states that they must comply with five fundamental principles.

<https://www.unesco.org/es/internet-trust/guidelines>

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?

The regulations in force in Argentina do not establish specific requirements to be met by Online Platforms regarding any method to verify the age of a user before allowing access.

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?

The regulations in force in Argentina do not establish specific requirements to be met by Online Platforms regarding parental consent before the child uses the services and has access to its contents, nor specific and adequate controls in relation to whether or not the child meets the age requirement.

In Argentina, online service providers are only required to implement parental consent before collecting, managing or using the personal data of children under 13 years of age. The protection of children's personal data online is regulated by the Personal Data Protection Law (Law No. 25,326)

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/64790/texact.htm>

However, a project was presented in 2022 to modify Law No. 26,522 on Audiovisual Communication Services, to wit:

Section 5.- Incorporate as Section 71 bis of Law No. 26,522 on Audiovisual Communication Services, the following:

Section 71 bis. Providers of on-demand or on-demand audiovisual services must establish a rating system for audiovisual content based on the ages of the audiences, according to predictable and generalizable development parameters, in a system that allows the audiovisual offer to be covered in all its modalities in view of providing operational tools for parental control.

(...) For those contents or advertisements that, according to their classification, the Enforcement Authority considers that they should not be accessible or recommended for children and adolescents; video on demand or on demand service providers must establish efficient systems for the verification of the age of the audience, user or consumer that have efficient and simple mechanisms for periodically updating and restricting access by children and adolescents, as well as audiences in general.

Providers of digital services for the distribution and exchange of audiovisual and/or sound content through a platform must: have mechanisms to protect children and adolescents from content or advertising potentially harmful to their physical, mental or moral development, and protect the general public from criminal content and material that may incite violence or hatred; mechanisms for notification by users to the providers, and operational parental control tools.

The providers included in this section must implement progressive accessibility measures for the people listed in Section 66 of this Law, in accordance with the regulations established by the Enforcement Authority. The supervision of compliance with the obligations arising from the procedures indicated in this section will be the responsibility of the Enforcement Authority, who may require providers to adapt the procedures to the regulations issued on the matter.

<https://www4.hcdn.gob.ar/dependencias/dsecretaria/Periodo2022/PDF2022/TP2022/3951-D-2022.pdf>

- 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:**



YES

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

Children who have been victimized by online child sexual exploitation may request the removal of the illicit content by means of the platform's own program for reporting complaints (if applicable), or through an injunction or habeas data action (Section 43 of the Argentine Constitution) aimed at blocking or removing the illicit content published on social media and/or Internet sites.

<http://www.biblioteca.jus.gov.ar/Argentina-Constitution.pdf>

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

This can be achieved through an habeas data action and/or injunction. In the case of service providers or internet intermediaries, there is no obligation in Argentina to monitor or supervise content. Only when they have effective knowledge of the illegality of the contents will they be responsible for the dissemination of pornographic material that includes minors under 18 years of age. The habeas data action is regulated in Section 43 of the Argentine Constitution and Personal Data Protection Law (Law No. 25.326); whereas the injunction is regulated in Title 3 of the Argentine Civil and Commercial Procedural Code). In the case of service providers or internet intermediaries, there is no obligation in Argentina to monitor or supervise content. Only when they have effective knowledge of the illegality of the contents will they be responsible for the dissemination of pornographic material that includes minors under 18 years of age. This obligation derives from the "Rodriguez Maria Belen vs. Google Inc. for damages and losses" case law precedent.

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

An injunction against the Online Platform, as well as against the service providers or internet intermediaries that enable access to said sites, may be filed to seek the removal of the illicit content.

In these cases, the complainant must identify the URL of the site, since service providers do not have the burden of acting preventively. Precautionary measures are legal instruments or technical means that are used in order to ensure or preserve the object of the action. Then the principal action should be brought, where the judicial recognition of the affected right is sought. (Section 195 et seq. of the National Civil and Commercial Code)

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16547/texact.htm>

For the precautionary measure to proceed, the following must be proven:

1. Plausibility of the right invoked: given by the appearance of certainty or credibility thereof;
2. Danger in the delay of the action, which lies in the legal interest of the petitioner in the



possibility of frustration of his right as a consequence of a ruling that, deferred over time, becomes impossible to comply with;

3. Caution: guarantee against possible damage to the counterparty.

- 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?**

A civil action seeking compensation for damages could be initiated in case of the dissemination of a child's image or video through an Online Platform. This civil action may also request a prohibition on publishing images linked to the minor in the future.

- 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?**

Compensation for damages caused by the dissemination of a child's image or video may be sought in both civil and criminal proceedings.

This action may be filed against the Online Platform, the service providers that enable access to the sites through their search engines, as well as any other responsible person or entity.

The compensation for damages is regulated in Title 3 of the Argentine Civil and Commercial Procedural Code and Title 5 of the Argentine Civil and Commercial Code.

- 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?**

In addition to criminal sanctions, legal remedies also include support and assistance to child victims. In Argentina, the Integral Protection Act (Law No. 26.061) guarantees that victims of abuse and exploitation receive comprehensive protection and support services, including medical, psychological and social assistance. This implies a collaborative effort between authorities, the law enforcement agencies and child protection organizations.

<https://servicios.infoleg.gob.ar/infolegInternet/anexos/110000-114999/110778/norma.htm>

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

This is not expressly contemplated in Argentine regulations.

- 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?**

There are currently no policies in our country aimed to incorporate "Safety by Design" tools into the systems of Online Platforms.

- i. If so, must these steps be taken before the launch of an Online Platform?**



N/A

- ii. **If so, if an Online Platform has already been in public use, when must they have incorporated “Safety be Design” measures?**

N/A

- iii. **For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**

N/A

- 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”?**

There is no specific regulation in Argentina in this regard. However, the owners of Online Platforms must comply with international regulatory guidelines, such as that of UNESCO, which states that digital platform companies “must commit to aligning their design processes, as well as policies and content moderation and curation practices, with international human rights standards”.