

Legal questionnaire completed by Da Silva Teixeira & Associados (DTA) • October 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>)

Some laws in Timor-Leste define the legal definition of a child or minor, with differing nuances depending on the specific context. Here are some main ones:

- The Law No. 6/2023 on the Protection of Children and Youth in Danger was approved by the National Parliament in mid-February 2023 and promulgated by the President of the Republic.
 - This law defines a child in Article 4(1)(b) saying that ““child or young person” means a person under the age of 17 years.”
 - It might be interesting to include Article 3 which says “This law applies to young people until they reach the age of 21, when they require the continuation of intervention for promotion and protection that began before they reached the age of 17.”
- The Constitution of the Democratic Republic of Timor-Leste on article 18(1)(2)(3) uses the term “children” without providing a specific age definition. Instead, it focuses on safeguarding them from various forms of harm and exploitation. It does mention this term many times, however, does not define the concept “child” or “minor”.
- The Civil Code of Timor-Leste, defines a minor as “any person who has not yet completed 17 years of age”.
- The Penal Code of Timor-Leste, refers to the terms “child” and “minor” in most of its content, however, does not define specifically these concepts.
- The National Parliament Resolution No. 17/2003, of 17 September, on the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography - refers to the terms “child” in most of its content, however, does not define specifically these concepts.

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 Penal Code of Timor-Leste, which defines child exploitation as “the use of a child for the purpose of obtaining an economic or other advantage, by means of coercion, deception, abuse of authority, or abuse of a situation of vulnerability” in Article 162. The article also lists the types and penalties of child exploitation, such as forced labor, slavery, servitude, sexual exploitation, organ removal, begging, and others.
- The Law on Preventing and Combating Trafficking in Persons, which defines trafficking in persons as “the recruitment, transportation, transfer, housing, or harbouring of persons for the purpose of exploitation” in Article 2 of Chapter I. The law also states that trafficking in persons is aggravated when the victim is a child, and that the consent of the child or the parents is irrelevant for the determination of the crime on articles 11, 18 and 23.
- The Protection Law for Children and Youth in Danger, which defines a situation of danger as “any situation that seriously affects or threatens the rights, interests, or development of the child or youth” in Article 6 of Chapter II. The law also states that a situation of danger includes any form of violence, abuse, neglect, or exploitation and that the child or youth in danger has the right to protection and assistance.

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

- The Penal Code of Timor-Leste in Article 172 and 173 defines sexually explicit conduct as “any act of a sexual nature performed in the presence of a minor or with the use of a minor, for the purpose of obtaining sexual gratification or economic advantage, by means of coercion, deception, abuse of authority, or abuse of a situation of vulnerability”. These articles also lists the types and penalties of sexually explicit conduct, such as the exhibition of pornographic material, the production of child pornography, the possession of child pornography, and others.

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

The Penal Code includes this provision regarding child sexual abuse:

- Article 177 Sexual abuse of a minor
 1. Any person who practices vaginal, anal or oral coitus with a minor aged less than 14 years is punishable with 5 to 20 years imprisonment.
 2. Any person who practices any act of sexual relief with a minor aged less than 14 years is punishable with 5 to 15 years imprisonment.

The Penal Code also provides other definitions of child sexual abuse offences:

- Article 181 (Sexual exhibitionism)
 1. Any person who publicly disturbs another person by committing acts of a sexual nature is punishable with up to 3 years imprisonment or a fine.
 2. Any person who, in the presence of others, practices vaginal, anal or oral coitus, against the will of the latter, even if this occurs in private, incurs the same penalty.



3. The attempt is punishable.
 4. Prosecution depends on the filing of a complaint.
- Article 175 (Child prostitution)
 1. Any person who, even with consent of the victim, practices any of the acts of sexual exploitation referred to in the preceding article against a minor aged less than 17 years, is punishable with 4 to 12 years imprisonment in the case of subarticle 1 and 5 to 15 years imprisonment in cases where any of the circumstances described in subarticle 2 occur.
 - Article 155 Mistreatment of minors
 1. Anyone who provides guardianship or custody of a minor under the age of 17, is responsible for their upbringing or has them as a subordinate in a labour activity, and:
 - (...)
 - d) Using, recruiting or offering them for the purposes of prostitution, the production of pornographic material or pornographic performances; or
 - e) Using, recruiting or offering them for the practice of illicit acts or activities, in particular for the production and trafficking of narcotics as defined by international conventions; shall be punished with imprisonment from 2 to 6 years, if a more serious penalty does not apply by virtue of another legal provision.
 2. Anyone who, in the same situation, uses a minor to beg, shall be punished with a prison sentence of up to 3 years, if a more serious penalty is not imposed by virtue of another legal provision.
 3. If the victim is a descendant, collateral, family member or relative up to the second degree, adopted by the perpetrator or a person who lives with them under similar conditions, the penalties referred to in the previous paragraphs shall be increased by one third.
- e. **child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)**

A definition of "child pornography" can be found in Article 176 of the Penal Code (Decree Law No. 19/2009, of 7 June, on Approving the Penal Code

<https://ihl-databases.icrc.org/en/national-practice/decree-law-approving-criminal-code-2009>

- Article 176 (Child pornography)
 1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;
 2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of communication, instrument, document or record for the purposes referred to in the previous subarticle or with the aim of disseminating such acts.



Timor-Leste is a party to the United Nations Convention on the Rights of the Child and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which requires parties to prohibit these acts. The Protocol defines child pornography as "any representation of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes". The Convention also defines a child as "every human being below the age of 18 years unless under the law applicable to the child, the majority is attained earlier". Therefore, these definitions could be used as a legal basis for prosecuting child pornography or child sexual abuse material in Timor-Leste. However, the implementation and enforcement of the Protocol may vary depending on the national legislation and judicial system of each country.

- 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>)**

There seems to be no specific legislation in Timor-Leste that defines computer-generated images or videos of child pornography or CSAM. However, computer-generated images or videos of child pornography or CSAM could be considered as a form of virtual child pornography, which is punished with up to a third of the sanctions for real-life child pornography. Virtual images include images, or parts of images, produced and modified with software from actual photos of minors, where the quality makes it so that fake situations are manipulated to appear realistic. Therefore, computer-generated images or videos of child pornography or CSAM could be prosecuted under the existing laws in Timor-Leste, depending on the circumstances and evidence of each case.

- 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>)**

There seems to be no specific legislation in Timor-Leste that defines enticement or grooming. However, Timor-Leste is a party to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which requires parties to prohibit these acts. The Protocol also obliges parties to adopt appropriate measures to protect the rights and interests of child victims of these offences. Therefore, enticement or grooming could be considered a violation of the Protocol and the rights of the child in Timor-Leste.

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

There seems to be no specific legislation in Timor-Leste that defines the legal age of consent for sexual activity. However, it is important to be aware that, according to the Penal Code, engaging in sexual activity with a minor is illegal, regardless of whether the minor consents.

- 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>)**

There seems to be no specific legislation in Timor-Leste that defines sextortion. However, sextortion could be considered as a form of sexual violence, coercion, blackmail, or corruption, which are criminal offences under the Timorese Penal Code. The Penal Code also provides protection for the privacy and dignity of victims of sexual crimes. Therefore, sextortion could be prosecuted under the existing laws in Timor-Leste, depending on the circumstances and evidence of each case.

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

Timor-Leste is still a young country with a relatively new public administration and judiciary, which is under-resourced and has little experience in dealing with some of the complex legal issues underlying the regulation of online platforms. Currently, there is no specific legislation regulating the management of online material.

The VIII Constitutional Government of Timor-Leste has released a 10-year strategic plan for digital development and ICT ('Timor Digital 2032'): <https://www.flipsnack.com/8AABB9DD75E/timor-digital-2032.html>.

The strategic plan envisages the Government working closely with the Private sector. While there are general aspirations in the strategic plan to develop a digital and ICT sector that benefits society there is no reference to the protection of children nor the regulation of media on private platforms. The Strategic plan also seeks to work with other regional actors, PACIFIC, ASEAN, and CPLP countries in developing legislation. Timor-Leste has also sought accession into ASEAN in the past and may become a member in the near future. Any future legislation relating to the regulation of online platforms and their content will likely be adapted from Portuguese or ASEAN legal frameworks.

It is therefore notable that ASEAN has released a Regional Plan of Action for the Protection of Children from All Forms of Online Abuse and Exploitation ('RPA'): https://asean.org/wp-content/uploads/2021/11/4.-ASEAN-RPA-on-COEA_Final.pdf.

Focus Area 7 of the RPA calls for ASEAN countries to: 'Mobilise and enhance engagement with the private sector and other relevant stakeholders to actively involve them in monitoring prevention and response measures through regulations, corporate social responsibility, and collaboration for the development of effective measures to detect, take down and report illegal content related to child sexual abuse and exploitation.' Future Timorese legislation will likely follow the precedent set down by other countries following the RPA.

In 2021, the Timorese Parliament considered a Draft Cybercrime Law. The Draft Law introduced a legal procedure for authorities to access, search and seize computer data. However, the then Minister for Justice, Manuel Carceres da Costa, decided in his term that he did not want to develop the Draft Law further due to backlash against its provisions that threatened to inhibit criticism of the government. <https://www.laohamutuk.org/Justice/defamation/cybercrime/ICNL%20Comments%20on%20>



[Draft%20Law%20Cybercrime%20Law_Timor-Leste_March2021.pdf](#)

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

Again, there is no specific legislation concerning the duties of online platforms. However, see the next question for relevant laws.

- 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**

The prohibition against the distribution of child pornography is provided in Article 176 of the Penal Code (Decree Law No. 19/2009, of 7 June, on Approving the Penal Code <https://ihl-databases.icrc.org/en/national-practice/decre-law-approving-criminal-code-2009>):

1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;
2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of communication, instrument, document or record for the purposes referred to in the previous subarticle or with the aim of disseminating such acts.

Further, Law No. 6/2023, of 1 March, Law for the Protection of Children and Young People in Danger (https://mj.gov.tl/jornal/public/docs/2023/serie_1/SERIE_I_NO_8.pdf (PT)) applies to promote the rights and protection of children (up to 17) and young people (aged 17-21) who reside within Timor's national territory:

Article 4(2)(c) provides that a child is in danger if they are "a victim, directly or indirectly, of physical or psychological, abuse, sexual abuse, child pornography, domestic violence or any other crime provided for in criminal legislation."

Article 48 establishes reporting obligations, namely:

1. Any person who is aware of the situations referred to in paragraph 2 of article 4 may communicate them to the entities with competence in matters of children and youth, police entities, child and youth protection services or judicial authorities.
2. Communication is mandatory for anyone who is aware of situations that put the life, physical or mental integrity or freedom of a child or young person at risk.
3. When communications are addressed to the entities referred to in paragraph 1, they carry out a summary study of the situation and provide protection compatible with their duties, informing the situation of the child and youth protection services whenever they understand that the intervention is not adequate or sufficient.

Article 70 sets restrictions around the publication of content relating to a young person or child in danger set out in Article 70:

1. The media, whenever they publicize situations involving children or young people

in danger, cannot identify or transmit elements, sounds or images that allow their identification, under penalty of their agents committing the crime of disobedience.

2. Without prejudice to the provisions of the previous paragraph, the media may report the content of public acts of the judicial process of promotion and protection [of the rights of children and young people] However, if the material arises out of a human trafficking context the restrictions around handling such content are higher (continued in (d)).

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

Law No. 3/2017, of 25 January, on the Prevention and Fight Against Trafficking Law of Persons and Fourth Amendment to the Criminal Code

https://mj.gov.tl/jornal/public/docs/2017/serie_1/SERIE_L_NO_4.pdf (PT) provides higher restrictions around disseminating content arising from human trafficking:

Article 2 defines human trafficking as: “the recruitment, transport, transfer, delivery, acceptance, harboring or reception of persons, through the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of authority or a position of vulnerability, or the giving or accepting of payments or benefits to obtain the consent of a person who has authority over another, for the purposes of exploitation, including, at a minimum, exploitation of prostitution or other forms of sexual exploitation, forced marriage, exploitation of that person's labor or services, forced labor or debt bondage, begging, slavery, organ removal or exploitation other criminal activities or use in armed conflicts or civil insurrections.”

Article 12 provides that a “victim's privacy is always protected, and under penalty of simple disobedience, disclosure through the media, nor publication, by any means, of their identity, image, address or any information that allows your identification, as well as that of your family or people in a similar situation.”

If an online platform propagates content that relates to any CSAM that arises through human trafficking will be in violation of article 244(1) of the Penal Code and are punishable with up to 3 years imprisonment or a fine if:

- a) Any legal provision so determines; or
- b) If said person has been warned that his or her conduct is criminally liable and the authority or government official has duly communicated the same.

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

No specific legislation, please see the responses above for related provisions.

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

No specific legislation, please see the responses above for related provisions.

- 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.

Timor-Leste’s legal framework provides no specific technologies to detect or take down CSAM. Besides government bodies and the police, there is the Institute for the Defense of Children’s Rights which has a duty to monitor children’s rights established by Decree-Law 4/2021, 27 January, on Creating the Institute for the Defense of Children’s Rights, IP and approves the respective statutes https://mj.gov.tl/jornal/public/docs/2021/serie_1/SERIE_I_NO_5.pdf (PT).

- 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.?

As discussed above, no laws or regulations apply to online platforms directly, let alone specific online platforms.

- 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?**

At present, Timor-Leste does not regulate access to online platforms. The VIII Constitutional Government of Timor-Leste’s 10-year strategic plan for digital development and ICT (‘Timor Digital 2032’) envisages the establishment of a unique identification system for digital services. However, these are only for e-government services.

- 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?**

At present, Timor-Leste does not regulate access to online platforms.

As discussed in question 2, Timor-Leste does provide definitions for children or young persons.

Law No. 6/2023, of 1 March, Law for the Protection of Children and Young People in Danger https://mj.gov.tl/jornal/public/docs/2023/serie_1/SERIE_I_NO_8.pdf (PT) [provided in question 2c].

This law applies to promote the rights and protection of children (up to 17) and young people (aged 17-21) who reside within Timor’s national territory.

- 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:

NO

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

There is no specific legislation that defines legal remedies such as the ability to stop publication of the pornography or CSAM imagery by the Online Platform, available for children who have been victimized by online child sexual exploitation in Timor-Leste.

However, there are some remedies established in the law that may vary depending on the specific circumstances of each case.

- The 'Protection Law for Children and Youth in Danger' in mid-February 2023 provides the broad framework under which children will be legally eligible for protection from any forms of violence, abuse, neglect, and exploitation. The law also establishes a National Commission for the Protection of Children and Youth in Danger, which will be responsible for coordinating and monitoring the implementation of the law, as well as providing technical and financial support to the relevant institutions and organizations. However, there seems to be no specific information on the types and availability of victim compensation/recovery/services provided for under the law and/or by a government-funded source.

SERIE_I_NO_8.pdf (mj.gov.tl) – Original/Portuguese version

- The Penal Code of Timor-Leste criminalizes various forms of child sexual abuse and exploitation, including:
 - Articles 155 and 156: Production, possession, and distribution of child pornography (imprisonment from 3 to 10 years)
 - Article 177: Sexual abuse of a minor (imprisonment from 5 to 20 years)

General remedies:

- Reporting and Investigation: Children and their guardians can report online child sexual exploitation to the police or CAVV. Authorities are obligated to investigate these reports and take appropriate action.
- Protection Orders: Courts can issue protection orders to prevent further harm to the child, such as restraining orders against abusers or blocking access to certain websites.
- Compensation: Children who have suffered physical or psychological harm may be entitled to compensation from the perpetrator.
- Medical and Psychological Support: Victims can access medical and psychological support services through CAVV or other government and NGO-run programs.

KÓDIGU PENÁL (mj.gov.tl) – Original/Portuguese version

National Practice - Decree-Law approving the Criminal Code, 2009 (icrc.org) – English version

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

There is no specific legislation that defines legal remedies such as an obligation to take active steps to remove the pornography content from the online platform from their services, available for children who have been victimized by online child sexual exploitation in Timor-Leste.

However, there are some remedies established in the law that may vary depending on the specific circumstances of each case. Please see the above information.

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

There is no specific legislation that defines legal remedies such as an ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery, available for children who have been victimized by online child sexual exploitation in Timor-Leste.

However, there are some remedies established in the law that may vary depending on the specific circumstances of each case. Please see the above information.

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?

There is no specific legislation that defines legal remedies such as 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, available for children who have been victimized by online child sexual exploitation in Timor-Leste.

However, there are some remedies established in the law that may vary depending on the specific circumstances of each case. Please see the above information.

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?

Please see the response in paragraph a, above.

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?

Please see the response in paragraph a, above.

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

Please see the response in paragraph a, above.

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 seems to be no specific legislation in Timor-Leste that requires for online platforms to incorporate Safety by Design into their systems in Timor-Leste.

However, there are some laws and policies that may be related to online safety and child protection in the country. For example:

- The Law on Preventing and Combating Trafficking in Persons criminalizes all forms of sex and labor trafficking, including the exploitation of children online.

SERIE_L_NO_4.pdf (mj.gov.tl) – Original/Portuguese version [provided in question 2c]

- The Protection Law for Children and Youth in Danger provides a legal framework for the protection of children from any forms of violence, abuse, neglect, and exploitation, and establishes a National Commission for the Protection of Children and Youth in Danger.

SERIE_L_NO_8.pdf (mj.gov.tl) – Original/Portuguese version [provided in question 2c]

- The National Cybersecurity Strategy In 2021, the Timorese Parliament considered a Draft Cybercrime Law. The Draft In 2021, the Timorese Parliament considered a Draft Cybercrime Law. The Draft Law introduced a legal procedure for authorities to access, search and seize computer data. [provided in question 2a]

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

Nothing to add.

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

Nothing to add.

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

Nothing to add.

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 seems to be no 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" in Timor-Leste.