

# QUESTIONNAIRE

## LATVIA

Professor, Dr. iur. Uldis KINIS

Riga Stradins University, Faculty of Law

### 1. Introduction

#### Please read carefully before answering the questionnaire

The RAYUELA project is aimed at protecting children in their online interactions. For this purpose, the project will develop a “game”, which will present the children with realistic scenarios relating to the following cybercrimes/cyber-facilitated crimes:

- **Online grooming** (further: OG) is the crime where the perpetrator (usually an adult) uses electronic communication services, including social media, to contact a minor and build rapport with the aim of eventually meeting in person for the purposes of sexual activity. The perpetrator may employ various strategies (deception, romantic/emotional attachment, promise of material or other benefits, blackmail, coercion, etc.) to lower a child's inhibitions, heighten their curiosity about sexual experiences, or otherwise convince them to meet up.
- **Cyber bullying** (further: CB) is a broad term that includes all types of bullying behaviour online. This includes cyber stalking and cyber harassment, and any other type of behaviour online aimed at hurting the victim. Cyber bullying may also have a sexual component.
- **Misinformation and deception** (further: MD) is a behaviour that may or may not be punishable by law depending on the context. It involves all kinds of information sharing that is fake, or deceptive. For a criminal qualification to apply, typically the behaviour will need to be intentional and there will need to be material consequences to this intention.
- **Human trafficking with a cyber component** (further: HT) is the online facilitation of human trafficking by grooming and attracting potential victims for human trafficking.

The purpose of the game is to teach children how to remain safe online, while the obtained insights will be used to provide policy recommendations and educational tools.

The game does not focus solely on the threats of potentially falling victim to one of these four crimes. It also aims to raise awareness about the general threats of using IT, such as the Internet and connected devices, and minors' capacity to make responsible choices in this regard.

A particular point of interest is understanding whether minors are aware of when they, or someone else, is crossing the line in becoming offenders themselves, as this is an important aspect of protecting children online. Due to the nature of online communication, inhibitions may be lowered, and certain actions may feel more innocent or less “real” than in real life. In addition, a perception may exist that what happens on the Internet has little or no impact beyond the digital world. This creates situations where minors engage in what they perceive to be relatively innocent behaviour (“everyone does this on the internet”), that may however have serious legal consequences.

One of the goals in RAYUELA is to ensure that minors realize when their behaviour may turn into actions that are punishable by law.

The present study and questionnaire are set up in the context of the RAYUELA project in order to provide an overview of the **legislative framework and relevant policies** in a number of countries, both in the EU and beyond, in relation to:

- How the main crimes of OG, CB, MD and HT are dealt with by the legal system i.e., which behaviours are punishable and under which conditions?
- How cybercrime and cyber-facilitated crime perpetrated by minors is dealt with in the legal system (both in general and specifically in relation to the crimes in focus)?
- What international instruments and cooperation mechanisms are available in dealing with cybercrime perpetrated by minors?

Importantly, we want to know both the legal rules and policies which are implemented in practice, and their effect on the **real enforcement situation**. If you have knowledge about the effects of current policies on crime rates by minors and on the crime rates for OG, CB, MD and HT, this would be of interest.

We are specifically interested in **case law** that illustrates the “why and how” of certain legal rules, principles and policies in practice. Case law will help us illustrate the similarities and differences between jurisdictions and is therefore *essential*. Please ensure to have a good amount of case law processed in your answers.

In addition, we want input on **international legal instruments and international cooperation** relevant for cybercrime, and in particular for cybercrime perpetrated by minors. What happens when cybercrimes is perpetrated in a cross-border context? What are the legal rules in place for cooperation with authorities from other countries, and how does this work out in practice (issues, problems, etc.)?

Lastly, we are interested in some **statistical information on cybercrime** in your country and cybercrime by minors specifically.

The purpose of this questionnaire is to help you provide this information for your jurisdiction.

## **I. General rules applicable for prosecution of minors in Latvia**

1. To achieve the Project goals and answer to the following questions, practitioners working with incidents mentioned in the questionnaire, were directly involved in the preparation of this project. Among them, experts from the State Inspectorate for the Protection of Children's Rights of the Republic of Latvia, various experts from different structures of the State police, including cybercrime unit, crime prevention, the prosecutor's office, the judiciary, the State probation service, and the non-governmental organization esidross.lv, who keep records of these incidents, maintain a hotline for children to report the sexual abuse incidents related with Internet. The purpose of such involvement is directly related to the goal of the project, to obtain information that would reflect the real situation as objectively as possible.

2. As far as almost every question in Part II and III of the questionnaires contains questions on jurisdiction, classification of criminal offenses, persons who may be prosecuted and penalties applicable to juvenile offenders, it is important to clarify these definitions provided in the General Part of the Criminal Law. Because the principles and procedures by which juveniles are prosecuted and sentenced for committing the offenses mentioned in the questionnaire do not differ from other criminal offenses.

3. *Basis for criminal liability and jurisdiction.* The General part of the Latvian Criminal Law regulates basis of criminal liability, basic principles, jurisdiction (subjective territorial and applicable jurisdiction outside of Territory of Latvia, including applicability of Criminal law to aircrafts, sea, vessels, flag principle and objective and subjective personal jurisdiction principle. Therefore, the answers to the specific questions will not contain evaluation of jurisdiction included in the General Part, as Latvia does not have other instruments than those defined in the Council of Europe Convention on Cybercrime and the cooperation mechanisms in criminal matters established in the legal order of the European Union.

3.1. The Part C of the Criminal Procedure Law "International Co-operation in the Criminal Legal Field" Section 674 defines the following types of international cooperation: 1) extradition of a person for criminal prosecution; 2) transfer of criminal proceedings; 3) execution of a security measure; 4) recognition and execution of a judgment; 5a) other measures provided for in international treaties.

3.2 The legal basis for such co-operation is determined: 1) by the international conventions to which Latvia has ratified. Particularly, measures provided by European Convention on mutual assistance in Criminal matters and European Convention on Cybercrimes and their protocols; 2) by legal acts of the European Union regulating mutual assistance in criminal matters and in particular combat child sexual abuse on the Internet; 3) by the bilateral agreements on co-operation in criminal matters ratified by the State of Latvia. Such agreements have been signed with all republics in the territory of the former USSR, currently independent countries, including the Federal Republic of Russia, Belarus, Georgia, etc. and many other countries in the world, including China, Israel, the United States, Canada, Britain, Sweden and more.

3.1.1 In addition, in connection with the investigation of cybercrime, Latvia applies the instruments of international cooperation provided for in Chapter III of the Cybercrime Convention, such as preservation of data, expedited disclosure of preserved traffic data, mutual assistance regarding accessing of stored data, transborder access to publicly available data, obtaining stored computer data located in another Party with lawful and voluntary consent of a person who owns data or has authority to disclose it.

3.1.2 The Latvian Police has set up a 24/7 network point where, if necessary, authorities can expeditiously process information necessary for conducting criminal proceedings. Likewise, to say, there is constant expeditious co-operation with law enforcement officials of Europol, Interpol, EUROJUST and other law enforcement authorities representing Memberstates of Cybercrime Convention.

4. *Classification of criminal offences.* The General Part of the Criminal Law also determines the classification of criminal offenses. According to Article 7, offenses are divided into: (2) criminal violations - deprivation of liberty shall not exceed three months (temporary deprivation of liberty); (3) less serious crime - deprivation of liberty from three months but not exceeding three years; (4) serious crime – deprivation of liberty for a period exceeding three years, but not exceeding eight years; (5) an especially serious crime - deprivation of liberty exceeding eight years or life imprisonment. All offenses covered by the questionnaire, except cyberbullying, are determined as serious or especially serious crimes, but cyberbullying has been determined as a criminal violation.

5. *Age.* According to Section 11 of Criminal law A natural person who, on the day of the commission of a criminal offence, has attained fourteen years of age may be held criminally liable. An underaged person, that is, a person who has not attained fourteen years of age, may not be held criminally liable. If a juvenile has committed an offense for which criminal liability is provided for in the Special Part of the Criminal Law, the police must initiate the proceedings and the case must be referred to the prosecutor for prosecution upon inquiry. It is the sole competence of the prosecutor to decide, whether refer the case to the court, or to apply the penalties imposed by the prosecutor without a trial or terminate a case and release person from criminal liability.

6. *Mental state.* A person who is in the state of mental incapacity at the time of the crime, namely, who is completely unable to manage and control his or her behaviour due to a mental illness, shall not be held criminally liable. In addition, the state of limited incapacity is important in relation to juvenile justice. This is a situation in which a person has not been able to fully understand or manage his or her activities at the time of the commission of the offense due to mental disorder or mental retardation. In such situation the court may reduce the punishment to be adjudged or release such person from punishment, according to the actual circumstances of the offence. Experts admitted that one of the groups of CG, CB, victims, and perpetrators is precisely related by mentally retarded children who, due to their mental retardation, do not realize that they have either been the victims of an attack or are themselves perpetrators. For a person who has reached the age of 14, this condition is determined by forensic psychiatric and psychological examination.

8. *Forms of punishment:* 1) basic punishment (deprivation of liberty, community service, probationary supervision, fine). 2) In cases when sexual offenders have been sentenced in addition to basic punishment almost in all cases court apply also additional punishment – probationary supervision. Experts from state probation service explained that can oblige convicted person to held special trainings, set special behaviour restrictions for purpose of restorative justice etc.

9. Section 47 “Mitigating circumstances” provides list of such circumstances, i.e. the criminal offence was committed by a person in a state of diminished mental capacity; the criminal offence was committed as a result of unlawful or immoral behaviour of the victim etc. It should be noted that the list of mitigating circumstances is not exhaustive. This means that when making a judgment, the court has the right to recognize other circumstances not mentioned by law, but which have appeared in the court proceedings, when determining the sentence as mitigating circumstances. Although the law on such a circumstance does not recognize the defendant's minor age, in most cases, the court recognizes it as a mitigating circumstance.

10. *Criminal liability limitation period.* According to Section 56 of Criminal law person may not be held liable if from the day when he/she committed the criminal offence, the following time elapsed: 1) two years of the day of coming criminal violation; 2) five years after the day of committing a less serious crime; 3) ten years after day of committing serious crime; fifteen years after the day of committing an especially serious crime, except a crime for which, in accordance with law, life imprisonment may be adjudged.

11. *Peculiarities of Liability of a minor.* It refers to all persons who has not attained 18 years of age. According to Section 65 all forms of punishment mentioned above shall be applicable. However law put some restrictions related with application of deprivation of liberty: 1) Deprivation of liberty shall not be applied for criminal violations and less serious crimes; 2) Deprivation of liberty may not exceed 10 years. According to the harmfulness of the criminal offence, the court may determine probationary supervision as a basic punishment for a minor for a period of three years and up to six years also for committing such serious offence for which deprivation of liberty for a period exceeding five years is provided for in this Law and for committing an especially serious crime.

## 2. Questions relating to OG, CB, HT and MD with minors as victims

In this section, we will ask questions to understand how to main 4 crimes in focus in RAYUELA are regulated in your jurisdiction. In this section, the focus is on adult perpetrators with victims that are minors. We are interested in both the general rules, and whether the fact that the victim is a minor has an influence on the application of the law. We are also in particular interested in your thoughts on whether the scope of the law affects the number of cases that are brought before the courts, in other words, are the current provisions sufficient to prosecute the diverse forms of crime present in reality? And are cases effectively prosecuted in practice or are there obstacles (e.g., lack of resources)?

### Question 1: Is online grooming punishable by law in your country?

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

#### Answer:

Yes, it is punishable. Applicable criminal law.

#### 1. Section 162.1 Encouraging to Involve in Sexual Acts

*(1) For a person who encourages a person who has not attained the age of sixteen years to involve in sexual acts or encourages such person to meet with the purpose to commit sexual acts or enter into a sexual relationship using information or communication technologies or other means of communication, if such act has been committed by a person who has attained the age of majority,*

*the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision.*

*(2) For a person who commits the criminal offence provided for in Paragraph one of this Section, if it has been committed against an underaged person,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision. [15 May 2014; 12 November 2015; 17 December 2020]*

When commenting on this article, attention should be paid to two circumstances: 1) the subject of this offense is an adult. Accordingly, this Article shall not apply to minors who have committed the acts provided for in this Article against persons under the age of 16 or minors. (2) The application of this article is closely linked to the disclosure of information containing child pornography. Therefore, in practice, a person is often prosecuted for an aggregation of crimes, both for grooming and for distributing child pornography. Although the questionnaire does not address the distribution of child pornography, in practice more people are held responsible for the distribution of child pornography, because it is more severe crime. Therefore, this article will also be analysed below.

## **Section 166. Violation of Provisions Regarding the Demonstration of a Pornographic Performance, Restriction of Entertainment of Intimate Nature, and Handling of a Material of Pornographic Nature**

(1) For a person who commits violation of the provisions regarding demonstration of a pornographic performance or other provisions regarding the restriction of entertainment of intimate nature, or provisions regarding the handling of a material of pornographic nature, if it has been committed on a significant scale or substantial harm has been caused by committing it,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

*(2) For a person who commits visiting or demonstration of such pornographic performance or handling of such materials of pornographic nature which contain child pornography, sexual activities of people with animals, necrophilia, or sexual gratification in a violent way,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

*(3) For a person who commits encouraging, involvement, forced participation or utilisation of minors in a pornographic performance or the production of a material of pornographic nature,*

*the applicable punishment is the deprivation of liberty for a period of up to six years, with or without confiscation of property and with probationary supervision for a period of up to three years.*

*(4) For a person who commits encouraging, involvement, forced participation or utilisation of persons who have not attained the age of sixteen years in a pornographic performance or the production of a material of pornographic nature,*

*the applicable punishment is the deprivation of liberty for a period of three years and up to twelve years, with or without confiscation of property and with probationary supervision for a period of up to three years.*

*(5) For a person who commits the acts provided for in Paragraph three or four of this Section, if they have been committed by an organised group or if they have been committed by means of violence,*

the applicable punishment is the deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with probationary supervision for a period of up to three years.

[15 May 2014; 29 October 2015; 17 December 2020]

Article 166 of the Criminal Law is constructed as a blanket norm, as the article itself does not provide a definition of pornography, child pornography or pornographic performances. These definitions are set out in the Law on pornography restrictions. The law does not provide for a complete ban on the circulation of pornography but regulates its circulation subject to certain restrictions. This has also been recognized by the Supreme Court of Latvia in case no. SKA-8012016, noting that the intention of the legislator is not to completely prohibit the distribution of pornographic materials at all, but to restrict it. Therefore, when the state and local government impose additional restrictions on its circulation, proportionality must be observed.

### **Law on Pornography Restrictions**

#### **Section 1. Terms used in this Law**

The following terms are used in this Law:

1) **material of a pornographic nature** - composition, printed matter, image, computer programme, film, video or sound recording, television programme, or radio programme, other material in any form or type, that does not have publicly educational or informative, scientific or artistic value and in which directly, specifically and openly naturalistically:

a) genitals are completely or partially depicted, sexual acts of gratification by masturbation are depicted or described, as well as sexual acts or sexual acts of gratification in an unnatural way are described, including imitation of the specified activities,

b) sexual acts or sexual acts of gratification in an unnatural way are depicted, as well as imitation of the specified activities; or,

c) sexual acts of gratification in a violent manner, brutality in sexual activities (sadistic and masochistic activities), sexual acts of gratification with animals or necrophilia are depicted or described.

2) **child pornography** - material of a pornographic nature, in which a child is depicted or described, or any other material in which:

a) a child who is involved in sexual activities, a child completely or partially without clothing in a sexual pose or in clothing of an obscene nature is depicted or described, children's genitals or pubic region are depicted in a stimulating way,

b) a person having the appearance of a child who is involved in the activities specified in Sub-clause "a" of this Clause is depicted or described or presented in a manner specified in Sub-clause "a",

c) there are realistic images with an actually non-existent child who is involved in the activities specified in Sub-clause "a" of this Clause or presented in a manner specified in Sub-clause "a";

3) **circulation of material of pornographic nature** - material of a pornographic nature or child pornography:

a) purchasing (acquiring into ownership, possession or use),

b) manufacture (creation, production, reproduction in any way with any technical resources),

c) importation (physical movement in any way across the borders of Latvia from foreign countries),

d) distribution (trade, the putting into service for a fee or without a fee, demonstration in a public place or ensuring of access in a different manner),

e) dissemination in an electronic environment (the trade of material of a pornographic nature prepared in an electronic way, the transmission of the material itself or information prepared thereof, including downloading, communicating to the public, also uploading, utilising electronic communication networks or automated data processing systems or making material accessible in a different manner in any information circulation phase),

f) advertising (any form or any type of communication or event with an aim to promote the popularity of material of a pornographic nature or demand thereof, associated with economic activities performed with the purpose of acquiring profit),

g) propagation, distributing information regarding these materials (forwarding, transmission or offer of information independent of the type of device for the transmission of information or the ensuring of accessibility to information in any other way); or,

h) storage;

4) **public place** - within the meaning of this Law: any location that, independent of the actual utilisation or type of ownership thereof, serves the common requirements of the community and ensuring of

interests thereof and that is accessible for a fee or without a fee to any natural person who is not the owner, possessor or holder of the relevant location, salaried employee or other person whose presence in the relevant location is associated with the fulfilment of work duties.

N.B. It should be noted that it is generally accepted in case law that social networks, means of communication that are not protected by special means of protection, are a public environment.

#### **Section 4. General Restrictions**

(1) **Child pornography shall be prohibited** in the circulation of material of a pornographic nature, as well as the circulation of material of such pornographic nature, in which sexual activities of people with animals, necrophilia or the sexual acts of gratification in a violent way are described or depicted.

(2) **It shall be prohibited to involve a child in the circulation of** material of a pornographic nature, including the ensuring of access to material of a pornographic nature or child pornography to a child, as well as to allow the specified material to be accessible to a child.

(3) The circulation of material of a pornographic nature acquired against the will of a person shall be

#### **Comment.**

Regarding the CG, I would like to draw attention to Article 166 (4) and (5), where liability is also provided for the acts previously analysed in Article 162-1 of the Criminal Code. but with the difference that here the responsibility for the actions rests with the subject if **he/she has reached the age of 14**. In addition, as can be seen from the applicable penalties, these crimes are especially serious crimes.

The definitions in the law were designed so that anyone with a secondary education could understand whether a particular depiction or performance was pornographic in nature. However, to be held liable for the distribution of child pornography, it is necessary to establish whether the depiction corresponds to the features of material of a pornographic nature, because in the absence of these features, there is no reason to talk about child pornography. paying particular attention to it or the depiction is not of educational, scientific, or artistic value.

This is the most controversial issue in practice, as there are cases where the police have initiated criminal proceedings against a painter about naked minor depicted in a theatre poster, for a mural created as a custom work. Of course, in both cases the proceedings were terminated because the acts were not part of the offense. However, it still shows that there are cases where law enforcement officers, when finding one of the characteristics referred to in Article 1 (2) of that law, do not pay attention to the fact that the definition of child pornography requires to proof that the depiction or performance first must comply with Article 1 (1). and 1-1. features.

*Please provide case law to illustrate the application of the rules in practice.*

In 2021, experts from the Latvian non-governmental organization Drossinternets.lv, in cooperation with State Police experts, developed an application that helps young people understand whether they have become victims of sexual abuse. This mobile application Drossinternets.lv is available in both Latvian and Russian and is designed to test children's online behaviour, Internet safety, and advice for parents on controlling children's online behaviour.

The application has been developed with the financial support of the European Commission and in cooperation with INHOPE and other institutions. It uses a variety of methods, including a survey, animation, and game elements. When processing the information, the experts found that about 800 respondents answered that they had been exposed to any element of CG or CB in about a month. About 200 hundred respondents admitted to being asked to send a nude photo to an unknown person, and it was surprising that despite the child realizing it was bad, 80% of the time the photo was sent.

It should also be noted that hotlines play an important role in the fight against child sexual abusers, as do the police and the Children's Rights Inspectorate, as well as the Drošinternets.lv For example Drošinternets.lv hotline in 2020, a total of 1,000 calls were received, among them about grooming 500 calls were received. In 2021, in total 827 calls were received, of which 32 were related to grooming.

A state police expert gave as example of a specific case where the accused 17-year-old had anonymously persuaded a young boy to take pictures and live stream video online and then coerced and blackmailed the boy into sexual intercourse with him. The person was sentenced to eight years' imprisonment and probation supervision after serving his sentence.

*Please provide details on known issues of application.*

Several experts pointed to the problem that, in practice, teenagers often send their nude photos to each other in friendship and then, under certain circumstances, one of them posts such a pictures or videos on social networks to take revenge or humiliate the other. So, by performing such activities, minors who have reached the age of 14 might become subject to criminal liability for distribution of child pornography.

In addition, experts note another feature of the Latvian situation, namely that a large proportion of children speak both English and Russian, so communication is often done through social networks and media located outside Latvia. Experts of the State Police and Drošinternets.lv admitted that communication with global service providers using the trusted flagger reporting system has recently improved. The problem is with service providers in the Russian Federation, which do not always provide an aid.

**Question 2: Is cyberbullying punishable by law in your country? Please take into account a broad understanding of cyberbullying (cyber/online stalking, harassment, sexual harassment)?**

**Answer:**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

Yes, it is. Law provides two types of liability for CB - criminal and administrative. It includes all above mentioned modus operandi, which can be considered as an emotional violence.

1. Applicable criminal law. Criminal law Section 132.<sup>1</sup> Persecution

For repeated or lasting tracking and surveillance of another person, expressing threats to such person, or unsolicited communication with such person, if such person has had reasonable grounds to fear for his or her safety or the safety of his or her relatives,

the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.

According to classification it shall be considered as a criminal violation, where deprivation of liberty shall not exceed three months. Restriction of time limits for criminal liability –two years after the day of committing a criminal violation. Entered into force from December 2020.

2. Applicable law for administrative liability.

CB committed by juveniles or underage shall be regarded as administrative liability determined according to *Law on protection on children rights*. Section 1 defines: (9<sup>1</sup>) abuse - physical or emotional cruelty of any kind, sexual abuse, or another treatment which endangers or may endanger

the health, life, development, or self-respect of a child; 12) emotional abuse - the infringement of the self-respect of a child or psychological coercion (threatening him or her, swearing, humiliating him or her, abusing a relative of the child in his or her presence or otherwise harming the emotional development thereof).

2. Law on protection on children rights Section 81. Physical and Emotional Violence Against a Child”: *For physical or emotional violence against a child, a warning or a fine of up to one hundred and forty units (one unit 5 EUR) of fine shall be imposed*”. [12 December 2019 / Section shall come into force on 1 July 2020. According to Section 6 of Law on administrative liability, subject of liability is any natural person, who has reached 14 years of age by the moment of committing an administrative offence.

*Please provide case law to illustrate the application of the rules in practice.*

According to police statistics on Article 132-1 of the Criminal Code. A total of 54 proceedings have been initiated in 2021. However, the police could not give an example of a minor being prosecuted for such an offense.

Unfortunately, I was not able to gather information about the persons called to administrative responsibility in accordance with Article 81 of the Law on the Protection of the Rights of the Children. This is because, according to Article 88 of the Law on the Protection of the Rights of the Child, the penalty for emotional abuse of a child may be imposed by each municipal administrative commission and centralized statistics is not available.

*Please provide details on known issues of application.*

As far as I understand from the discussions with the experts, CG is the basis for sexual threats on the Internet, so many believe that the CB features contain the features provided for in Articles 162-1 and 166 of the Criminal Code. In turn, Article 132-1 of the Criminal Law. Article was included in the Criminal Law from 2019, therefore insufficient practice has been accumulated in its application, especially in cases when persecution is related to activities in cyberspace. However, it is my view that liability in that article applies regardless of the environment and the methods in which the offense has been committed.

**Question 3: When would misinformation and deception online constitute a criminal offence in your country? In other words, what potential qualifications could apply to wilful misinformation and deception on the internet?**

**Answer:**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

**Applicable Criminal law:**

*Latvia does not have a special regulation on the dissemination of false news or misinformation on the Internet. However, this does not mean that the dissemination of false information which could cause significant harm to society or endanger public safety is not penalized. In these cases, it is important to establish the intent with which the person disseminated this information, if it is related to the unlawful processing of personal data, the person may be held liable under Article 145 of the Criminal Law, if it is related to defamation. will intervene under Article 150 of the Criminal Law, but if this information is disseminated without special intent, such conduct may be qualified as hooliganism under Article 231 of the Criminal Law. In addition, it should be noted that Article 157 of the Criminal Law provides for*

liability for insults to honour and dignity by electronic means or dissemination misinformation about state banking system, false reporting about placing or locating explosives etc.

#### Section 74.1 Acquittal of Genocide, Crime against Humanity, Crime against Peace and War Crime

For a person who commits public glorification of genocide, crime against humanity, crime against peace or war crime or who commits public glorification, denial, acquittal or gross trivialisation of committed genocide, crime against humanity, crime against peace or war crime, including genocide, crime against humanity, crime against peace or war crime against the Republic of Latvia and its inhabitants committed by the U.S.S.R. or Nazi Germany,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

#### Section 78. Triggering of National, Ethnic and Racial Hatred

(1) For a person who commits acts directed towards triggering national, ethnic, racial or religious hatred or enmity,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For a person who commits the same acts, if they have been committed by a group of persons or a public official, or a responsible employee of an undertaking (company) or organisation, or if they have been committed using an automated data processing system,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For committing the act provided for in Paragraph one of this Section, if it is related to violence or threats or if it is committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without probationary supervision for a period of up to three years. [25 September 2014; 17 December 2020]

#### Section 145. Illegal Activities Involving Personal Data of Natural Persons

(1) For illegal activities involving personal data of a natural person, if substantial harm has been caused thereby, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For illegal activities involving personal data of a natural person, if they have been performed by a personal data processing administrator or operator for the purpose of vengeance, acquisition of property or blackmail,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For influencing a personal data processing administrator or operator or the data subject, using violence or threats or using trust in bad faith, or using deceit in order to perform illegal activities involving personal data of a natural person,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[10 September 2009; 13 December 2012; 17 December 2020]

#### Section 150. Incitement of Social Hatred and Enmity

(1) For a person who commits an act oriented towards inciting hatred or enmity depending on the gender, age, disability of a person or any other characteristics, if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For the criminal offence provided for in Paragraph one of this Section, if it has been committed by a public official, or a responsible employee of an undertaking (company) or organisation, or a group of persons, or if it is committed using an automated data processing system, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For the act provided for in Paragraph one of this Section, if it is related to violence or threats, or the criminal offence provided for in Paragraph one of this Section, if it has been committed by an organised group, the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[25 September 2014; 8 June 2017; 17 December 2020]

#### Section 157. Defamation

(1) For a person who knowingly commits intentional distribution of fictions, knowing them to be untrue and defamatory of another person, in printed or otherwise reproduced material, as well as orally, if such has been committed publicly (defamation), the applicable punishment is the probationary supervision or community service, or fine.

(2) For defamation in mass media, the applicable punishment is the probationary supervision or community service.

[12 June 2003; 12 February 2004; 19 November 2009; 13 December 2012; 17 December 2020]

#### Section 194.1 Dissemination of False Data or Information Regarding the Condition of the Finance System of the Republic of Latvia

(1) For a person who knowingly commits dissemination of false data or information orally, written or in other ways regarding the condition of the finance system of the Republic of Latvia,

the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.

(2) For the commission of the same acts, if they have been committed by a group of persons according to a prior agreement, or if substantial harm to the State or to the interests and rights of persons protected by law has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For a person who commits the acts provided for in Paragraph one of this Section, if they have been committed for the purpose of acquiring property,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property. [13 December 2007; 13 December 2012; 17 December 2020]

#### Section 231. Hooliganism

(1) For a person who commits a gross disturbance of the public order, which is manifested in obvious disrespect for the public or in insolence, ignoring generally accepted standards of behaviour and disturbing the peace of persons or the work of institutions, undertakings (companies) or organisations (hooliganism),

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For a person who commits hooliganism, if it has been committed by a group of persons, or if it is related to bodily injuries to the victim, damage to or destruction of property, or resistance to representatives of public authority or to a person who is acting to prevent the violation of public order, or if it has been committed by using weapons or other objects which can be used to inflict bodily injuries,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[8 July 2011; 13 December 2012; 15 May 2014; 25 September 2014; 17 December 2020]

#### Section 231.1 Knowingly Making a False Report on Placing or Locating of Explosive, Poisonous, Radioactive or Bacteriological Substances or Materials or Explosive Devices

(1) For a person who knowingly commits making a false report on placing of explosive, poisonous, radioactive or bacteriological substances or materials or explosive devices in an institution, undertaking or other object, or locating outside of an institution, undertaking or other object,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For the commission of the same acts, if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For a person who commits the acts provided for in Paragraph one of this Section, if serious consequences have been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[25 April 2002; 12 February 2004; 13 December 2012; 10 March 2016; 11 June 2020; 17 December 2020]

*Please provide details on known issues of application.*

An example is a case in which a person was convicted of disseminating false COVID 19 news, which caused public concern, was found guilty under section 231 (2) of the Criminal Code and sentenced to three years.

The Latvia's neighbour is the Russian Federation, which is currently invading Ukraine. Consequently, the dissemination of false and fraudulent news on the Internet is, in fact, also a hybrid attack on our country. Therefore, Latvia shut down 18 Russian television channels that are directly owned by the Russian state and are carrying out a psychological-informative attack, especially targeting the Russian-speaking community in Latvia, which is a large enough audience. Therefore, several cases have already been initiated under Article 74-1 of the Criminal Law. on the glorifying of war and crimes against humanity, which are classified as crimes against peace. In all the above cases, a person can be prosecuted if he or she has reached the age of 14.ee years' imprisonment.

**Question 4: What constitutes human trafficking and how is human trafficking facilitated by electronic means punished in your country? Are online grooming activities to find victims (e.g. lover boys) before the actual human trafficking punishable in itself? In addition, are these activities punishable as a separate crime if human trafficking does take place afterward?**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

**Answer:**

Applicable criminal law. Section 154.<sup>2</sup> Meaning of Human Trafficking

(1) Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the use of any of the means referred to in the Paragraph one of this Section.

(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs.

(4) Within the meaning of this Section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.

Section 154.1 Human Trafficking

(1) For a person who commits human trafficking,

the applicable punishment is the deprivation of liberty for a period of up to eight years, with or without confiscation of property. (serious crime)

(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons according to a prior agreement,

the applicable punishment is the deprivation of liberty for a period of three and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.

(3) For a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underaged person, or it has been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period of up to three years. (especially serious crime)

#### Section 165.<sup>1</sup> Sending a Person for Sexual Exploitation

(1) For a person who commits sending a person with his or her consent for sexual exploitation, that is, for any act which facilitate legal or illegal movement, transit or residence of a person for such purpose within the territory of one country or several countries,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For the commission of the same acts, if they have been committed for the purpose of enrichment or if they have been committed by a group of persons according to a prior agreement,

the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.

(3) For a person who commits the acts provided for in Paragraph one or two of this Section, if they have been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with probationary supervision for a period of up to three years.

*Please provide case law to illustrate the application of the rules in practice.*

Even though in Latvia prosecutes persons for trafficking in human beings every year, the experts could not cite any examples where minors were involved, or minors were punished for such an offense.

*Please provide details on known issues of application.*

Nothing to say.

### **3. Questions regarding cybercrime or cyber-facilitated crime committed by minors**

This section is aimed at understanding how cybercrime or cyber-facilitated crime committed by minors is dealt with in your jurisdiction. In particular, we are trying to assess to what extent the rules and policies in place create leeway for minors who may not always be aware of when their behaviour is crossing a line. We are also interested to know the real enforcement situation. In addition to the general rules on the juvenile justice system and the punishment of minors, the 4 crimes of focus of RAYUELA are addressed, as well as two particularly relevant crimes committed by minors online: online piracy and hacking.

**Question 5: How is crime committed by minors dealt with in your country, in general? Is there a specific juvenile justice system? If yes, please explain in detail how this works.**

*Please explain the applicable rules, the conditions for application (general age limit, limits for certain crimes), the range and types of punishment that may be imposed on minors, rules about mitigating/attenuating circumstances, and jurisdictional aspects in cross-border cases) and applicable policy.*

**Answer:**

Even though there is no juvenile court system in Latvia, there are certain preconditions in the country related to the examination of administrative and criminal cases of minors:

1. In accordance with Article 5-1 of the Law on the Protection of the Rights of the Children. All persons, including police officers, prosecutors, lawyers, and judges dealing with juvenile delinquency, have a duty to acquire special knowledge in the protection of the rights of the children. This means that only those, who have obtained a Certificate attesting to their knowledge of the protection of children's rights can participate and adjudicate such cases.

2. Article 57 of the Law on the Protection of the Rights of the Child shall recognize a person who has reached the age of 14 as a subject of criminal and administrative liability.

During the time a child is under arrest for an administrative violation or a criminal offense, in detention, under custodial arrest or is a place of imprisonment, the guarantees of the rights of the child during the safeguarded period shall be as determined by laws providing for administrative liability, and governing criminal procedures or serving of sentence. Every child has the right to apply with a submission to institutions for the protection of the rights of the child. Such communications shall not be censored. The manager of the institution shall ensure that the submission is sent without delay to the addressee.

3. According to Section 39, Paragraph one, Clause 6-2 of the Criminal Procedure Law, the prosecutor is obliged to request an evaluation report for each juvenile. This report is prepared by the State Probation Service at the request of the prosecutor.

4. Such an evaluation report has been prepared in accordance with the Cabinet of Ministers Regulation No. 241 requirements and shall contain comprehensive information about the minor's life, study conditions, emotional stability, risks of deviant behaviour, the victim's interests, and indications of the recommended type of punishment for the minor.

5. When sentencing a juvenile, the court follows the general principles of sentencing, but in addition to these, the court is primarily obliged to assess whether the applied type of punishment will promote and facilitate the re-socialization of the juvenile.

*Please provide case law to illustrate the application of the rules in practice.*

1. Probation service expert provided me with statistical data about prepared reports about minors

<i>Article 166 (3),(4),(5) CHILD PORNOGRAPHY</i>	<i>2019- 3</i>	<i>2020 - 1</i>	<i>2021- 6</i>
<i>Article 162-1 cybergrooming</i>	<i>2019- 17</i>	<i>2020 -13</i>	<i>2021- 13</i>

2. When applying administrative liability to a minor in addition to the above, it is important to emphasize the legal presumption of fact established in Section 88 of the Administrative Liability Law, which, contrary to the presumption of innocence, also obliges a person who is held administratively liable to rebut facts.

*Please provide details on known issues of application.*

For example, if a minor is held administratively liable under section 58 of the Children's Rights Act for emotional abuse that results from sending a nudity, or humiliated a victim on the Internet, resulting in

an emotional disturbance for the minor, he or she or his or her legal representative must refute the facts for the committed administrative violation. Respectively, the burden of proof thus falls on the person brought to justice, but not on the victim.

**Question 6: Are there specific rules or is there a specific policy that deals with cybercrime by minors as a special topic, acknowledging the special characteristics of crime by minors in the cyber environment, and the fact that minors may not knowingly or intentionally break rules (issues with criminal intent)? Even absent a written policy, are minors prosecuted for cybercrime in practice?**

**Answer:**

*Please explain the applicable rules or policies, if any, and their impact in practice.*

The law does not provide for special regulation in this matter. There are no special statistics in Latvia on the number of cybercrimes committed by adults and the number of minors. Such liability is assessed in the circumstances of the case, if there is a legitimate basis to prosecute a cybercrime committed by a minor.

**Question 7: Can minors be punished for online grooming in your country? I.e. the situation of a minor capable of providing sexual consent (e.g. 17 year-old) grooming a minor who has not reached the age of sexual consent (e.g. 13 years old) to meet up with the intent to perform sexual activities? Please focus not only on the specific crime of online grooming (which, if present as a separate crime in your jurisdiction, often requires an adult perpetrator), but also on other crimes that would punish the activities that constitute online grooming (i.e. the use of different strategies to force a meeting with the minor victim with the intent to perform sexual activities). If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

As I mentioned above, a CG juvenile can be prosecuted for distributing child pornography (Sections 166. (2), (3), (4) or subjected to administrative liability for emotional abuse.

All other information is included in the first part of these answers.

*Please provide case law to illustrate the application of the rules in practice.*

I gave the above example, where a minor persuaded to send his nude photos to an unknown addressee for money, but after sending them, he was forced to masturbate in a video stream and blackmailed with the obtained material, and he was forced to have sex with a 17-year-old perpetrator. The perpetrator was convicted of both distributing child pornography and raping the victim with eight years' imprisonment.

**Question 8: Can minors be punished for purely online behaviour with a sexual intent when other minors are the victim? E.g. the situation where a minor perpetrator obtains sexually explicit material from the minor victim in order to sell this or to force the victim to do something. If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

See answer above –

**Question 9: Can minors be punished for cyberbullying behaviour, without there being a physical component to the crime? This includes behaviours such as cyberstalking and cyberharassment. If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

As I said before, from 2019 criminal prosecution is envisaged. This norm is designed to be technologically neutral and can be applied to cyber harassment and cyberbullying. However, so far there have been no cases in which a minor has been prosecuted.

Pursuant to Article 58 of the Law on the Protection of the Rights of the Child, a minor may be held administratively liable for emotional abuse, including cyberbullying, if an application has been received from the victim, or if such facts have been discovered by guardianship authorities, or the police. The penalties for juvenile cyberbullying are applied by the local Orphans' Court and the Administrative Commission. Therefore, centralized statistics on the number of minors convicted could not be obtained.

**Question 10: Can minors be punished for wilful misinformation or deception online (sharing false news, false information, pretending to be someone else, pretending to be an expert, etc.)? Which crimes/qualifications could possibly apply? If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

See answer to Question 3.

*Please provide case law to illustrate the application of the rules in practice.*

Theoretically, the dissemination of such information could be recognized, and minors punished for gross disturbance of public order - hooliganism in accordance with Article 231 of the Criminal Code, depending on the consequences. To qualify such acts as hooliganism, the following criteria must be met: 1) the way information is disseminated - it must be generally available to any Internet user. That is to say, the criterion is not met if the information is disseminated privately to specific groups of people without an invitation to disseminate it further; 2) object of threat or threatened interest of victim or public. For example, what activity or event will be disrupted, threatened in a particular city, place, or is related to an institution, store, etc. that may be disrupted; 3) there must be an institution, a person whose interest is endangered by an application to the police.

**Problem:**

To prove the subjective side (men's rea) of disseminating disinformation of perpetrator is often a problem. Moreover, neither in theory nor in practice is there a consensus on the degree of harm that must be required for the dissemination of such information to be regarded as a gross disturbance of public order.

**Question 11: Can minors be punished for online actions facilitating human trafficking? Typically, this includes the selection and grooming of victims (e.g. lover boy phenomenon). If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases).*

**Answer:**

So far, there are no such cases in Latvian court practice, but in my opinion, liability for trafficking in human beings or sending persons with their consent for sexual exploitation abroad are norms that apply regardless of the environment and modus operandi used to achieve a criminal purpose. The law does not stipulate that only an adult can be held liable, therefore, in theory, a minor can also be held liable for participation in the commission of such crimes.

**Question 12: Can minors be punished for acts of online piracy in your jurisdiction, i.e. the illegal use and/or distribution of content protected by intellectual property rights? Please focus on the elements of criminal nature. If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/ articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

**Answer:**

Yes. Section 148. Infringement of Copyright and Neighbouring Rights

(1) For a person who commits infringement of copyright or neighbouring right, if such infringement has caused substantial harm to rights and interests protected by law of a person,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For a person who commits the criminal offence provided for in Paragraph one of this Section, if it has been committed by a group of persons according to a prior agreement,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For the infringement of copyright or neighbouring right, if it has been committed on a large scale, or for the criminal offence provided for in Paragraph one of this Section, if it is committed by an organised group, or by compelling, by means of violence, threats or blackmail, the renouncing of authorship, or commits compelling of joint authorship, if it is committed by means of violence, threats or blackmail,

the applicable punishment is the deprivation of liberty for a period of up to six years, with deprivation of the right to engage in specific employment for a period of up to five years and with or without probationary supervision for a period of up to three years.

[21 October 2010; 8 July 2011; 13 December 2012; 8 June 2017; 17 December 2020]

*Please provide case law to illustrate the application of the rules in practice.*

The disposition of the criminal norm does not prescribe a special age of the subject of the crime. Consequently, a minor may be held liable for the commission of such offenses. It should be noted that so far, the police have not initiated any criminal proceedings against a minor for the offense provided for in the article.

**Question 13: Can minors be punished for acts of hacking (i.e., unauthorized access to a computer system)? In particular, would this also apply to various scenarios exploiting vulnerabilities in IoT and connected devices? If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

**Answer:**

Yes. Applicable criminal law.

Section 241. Arbitrary Accessing Automated Data Processing Systems

(1) For a person who commits arbitrary accessing an automated data processing system, if it is related to breaching of system protective means or if it is carried out without the relevant permission or using the rights granted to another person, and if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For a person who commits the criminal offence provided for in Paragraph one of this Section, if it has been committed for the purpose of acquiring property,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.

(3) For a person who commits the acts provided for in Paragraph one of this Section, if they have been committed by an organised group or if they have caused serious consequences, or if they are directed against an automated data processing system that processes information related to State political, economic, military, social or other security,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property. [25 September 2014; 6 July 2021; 17 December 2020]

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Section 243. Interference in the Operation of Automated Data Processing Systems and Illegal Actions with the Information Included in Such Systems

(1) For a person who commits unauthorised modifying, damaging, destroying, impairing or hiding of information stored in an automated data processing system, or knowingly entering false information into an automated data processing system, if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For a person who knowingly commits interference in the operation of an automated data processing system by entering, transferring, damaging, extinguishing, impairing, changing or hiding information, if the protective system is damaged or destroyed thereby and substantial harm is caused,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(3) For the criminal offence provided for in Paragraph one or two of this Section, if it has been committed for the purpose of acquiring property,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.

) For a person who commits the acts provided for in Paragraph one or two of this Section, if they have caused serious consequences, or if they are directed against an automated data processing system that processes information related to the political, economic, military, social or other security of the State, or for the criminal offence provided for in Paragraph one or two of this Section, if it has been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of up to seven years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.

[28 April 2005; 13 December 2007; 8 July 2011; 13 December 2012; 25 September 2014; 8 June 2017; 17 December 2020]

#### Section 244. Illegal Operations with Automated Data Processing System Resource Influencing Devices

(1) For a person who commits the illegal manufacture, adaptation for utilisation, disposal, distribution, obtaining, movement, or storage of such tool (device, software, computer password, access code or similar data), which is intended for the influencing of resources of an automated data processing system or with the aid of which access to an automated data processing system or a part thereof is possible for the purpose of committing a criminal offence,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

(2) For the commission of the same acts, if they have been committed by an organised group or they have caused serious consequences,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[28 April 2005; 13 December 2012; 25 September 2014; 6 July 2021; 17 December 2020]

#### Section 244.1 Acquisition, Development, Alterations, Storage and Distribution of Data, Programs and Equipment for Illegal Activities with Electronic Communications Network Terminal Equipment

For a person who commits altering of the data necessary for identification of electronic communications network terminal equipment in an electronic communications network or acquisition, storage or distribution of data intended for such purposes, as well as acquisition, development, storage or distribution of programs or equipment intended for such purposes without the consent of the manufacturer or its authorised person, if such activities have been committed for the purpose of acquiring property or if it has been committed by a group of persons according to a prior agreement, or if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[21 May 2009; 13 December 2012; 17 December 2020]

*Please provide details on known issues of application.*

All above norms shall be applicable to minors. According to information provided by state police, so far, no criminal proceedings have been instituted against the juvenile for the above-mentioned offenses.

**Question 14: Can minors be punished for acts of using Cybercrime as a Service? If yes, under what qualification? In particular, how would this apply to using such services for exploiting vulnerabilities in IoT and connected devices e.g., the device of a friend or acquaintance? Does it matter if the intent is somewhat innocent (i.e., the minor thinks it's a joke or a prank)? If criminal sanctions could apply, are minors prosecuted in practice?**

*Please explain the applicable rules (all applicable legal qualifications/articles, conditions for application, prescriptive period, and the range and types of punishment that may be imposed and jurisdictional aspects in cross-border cases) and applicable policy.*

**Answer:**

Yes, but no prosecutions so far.

#### **4. General questions regarding cross border cybercrime, international legal instruments applicable to fighting cybercrime and regarding international cooperation**

**Question 15: How does your country deal with the cross-border nature of many cybercrimes? When is jurisdiction established? Can judgements have extra-territorial effect?**

**Answer:**

*Please explain the applicable rules or policies, if any, and their impact in practice.*

I have already explained that Latvia exercises its jurisdiction in accordance with the procedure specified in the Criminal Law, the Criminal Procedure Law, which has been developed in accordance with both the Council of Europe Convention on Cybercrime and the Convention on Co-operation in Criminal Matters. It is also the framework of our jurisdiction.

*If there is a specific impact on cybercrime committed by minors, please explain this as well.*

According to information I have received from the Prosecutor General's Office and the Cybercrime Unit, law enforcement agencies are actively involved in Europol's EMPACT CSE working group, the Norwegian project "Police -2-pier", whose exchange networks distribute fake child sexual abuse material, alerting users to liability. So far, Latvia has uploaded more than 37 terabytes of such files to the "direct connect ++" network.

Representatives of the Cyber Security Unit are also members of the US FBI VCACITF network, which provides an opportunity to exchange information and best practices on combating sexual exploitation around the world. Such projects are being implemented in conjunction with the Bulgaria "IWOL" project, which provides for the blocking of domain names that distribute prohibited content.

*Please provide details on known issues of application.*

*Please provide case law to illustrate the application of the rules in practice.*

For example, in 2018, within the framework of this group, the United States sent information to Latvia about a possible person from Latvia who used a minor girl online on "chaturbate.com". The suspect was brought to justice and the girl rescued. In turn, in 2020, the US FBI informed that the user of the Latvian website "inbox.lv" is exchanging child sexual abuse material internationally, currently the person has been detained.

Within the framework of the IWOL project, in cooperation with all major Internet service providers in Latvia, a list of banned sites was created, in which more than 11,584 domains were recorded and more than 5,186,429 attempts to access these blocked sites were blocked.

**Question 16: What international legal instruments (bi-lateral, multi-lateral) apply in your country to the fight against (cross-border) cybercrime and how have they been implemented in national law (if implementation is necessary)?**

**Answer:**

*See answer above.*

**Question 17: What forms of international cooperation exist in your country to the fight against cross-border cybercrime? Please describe different routes/options/procedures and the measures that can be requested (e.g., asking for investigative actions, exchange of information/evidence, etc.)?**

**Answer:**

*Please explain the applicable rules or policies, if any, and their impact in practice. E.g. Mutual Legal Assistance (based on a specific bi-lateral treaty, or on the Budapest Convention and national law or purely on the basis of national law), EU instruments, participation in INTERPOL Cybercrime Information Sharing, etc.*

**Question 18: Do the rules (national, international) and policies mentioned in your answers in this section have any particular effect or impact on cybercrime committed by minors?**

**Answer:**

The issue of combating the sexual exploitation of children is a constant focus of the Latvian government, legislators, and the judiciary. Cooperation between the various stakeholders, both between different government bodies and between the state and the non-governmental sector, is also close enough. The problem arises when non-governmental organizations that have formally taken the lead in implementing this policy cannot obtain information from the police about the criminal proceedings that have been initiated, because it is protected by the secrecy of the investigation. However, in general, all the experts I interviewed said that this did not cause any significant problems.

I would like to tell you more about such an organization "Drošinternets.lv", chaired by Mrs. Maija Katkovska. This organization cooperates with related EU organizations and thus implements several projects in cooperation with the European Commission. One such project is the development of a [www.drossinternets.lv/sos](http://www.drossinternets.lv/sos) - self-monitoring test. The organization has developed a website through which children can report threats, use a hotline, and download an application from their website to their children to take control of their habits and assess their skills in identifying risks.

The website drossinternets.lv publish an information that in 2022 Latvia every fifth children aged 8-15 suffer from online seduction. Organization creates self- test for children and parents, where they may check the real situation of the child's activities on the Internet and identify risks in a timely manner. Analysed answers give grounds to conclude that 16% or 800 children have been persuaded or forced to be photographed or filmed naked by an Internet friend. In addition, 59% of children have complied with this request. A "friend" has talked to 24% of underage respondents about intimate parts of the body; 18% of children have received a photo or video of this person that was sexually arousing, containing naked parts of a "friend's" body.

In addition, the organization is in close contact with the Central Security Incident Prevention Institution CERT.lv and immediately reports the information revealed in the questionnaires to the State Police. Children can report a violation to the national single hotline 116111 or seek advice on child sexual abuse online. This telephone is connected to the State Inspectorate for the Protection of the Rights of the Child and the State Police, which enables it to respond promptly by checking the information provided over the telephone.

Police officers who carry out crime prevention have raised a number of problematic issues that the police, but with the involvement of the general public, parents and teachers, are unable to resolve: 1) it has not been possible to convince young people that even if the activity takes place, the consequences of cyberspace will become a reality; 2) It is a very common problem that young people, when they are aware that they are distributing prohibited content, often do so, for example, with the aim of making fun of themselves. That is why he highly appreciates the anonymous questionnaire prepared by the organization Drossinternets.lv, the processing of which gives a certain idea of the real situation in the country, as the level of latency in the category of these offenses is very high.

## 5. Other

**Question 19: Do you have any information on the rates/statistics of cybercrime in your country and their recent evolution? Of particular interest would be statistics related specifically to the crimes covered in this questionnaire and statistics on cybercrime by minors (ideally also specifically for the crimes covered above)? If there were any (relatively) recent legislative or policy changes, please try to find statistical information on how this has impacted the incidence of cybercrime in practice, and in particular cybercrime by minors.**

**Answer:**

**1. Police records in 2021**

<b>Ch. Porn/ 166</b>	<b>(2) -151; (3) - 16</b>	<b>(4) -70</b>
<b>Persecution / 132-1</b>	<b>(1) - 8</b>	<b>(2) -32</b>
<b>CG/ 162-1</b>	<b>51</b>	

**2. Prosecutor office General**

<b>Section</b>	<b>2020</b>	<b>2021</b>	<b>Decided by prosecutor</b>	<b>Forwarded to court</b>
persecution 132-1	<b>3</b>	<b>13</b>	<b>2/7</b>	<b>1/6</b>
Bulling 162-1	<b>5</b>	<b>5</b>	<b>2/3</b>	<b>3/2</b>
Ch/ porn166	<b>55</b>	<b>67</b>	<b>39/53</b>	<b>16/14</b>

**3. Statistic from Court administration about convicted persons**

<b>Section -CL</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
persecution – 132-1		1	1
Ch/P 166 (2,3,4,5,)	35	28	16
CG – 162-1	4	2	1

**Question 20: Do you have any other comments to make that may be relevant to your jurisdiction?**

**Answer:**

Our law enforcement experts stressed the expectations of the New Initiative "Regulation of the European Parliament and of the Council laying down rules for the prevention and control of sexual abuse, published on 11 May 2022, which would oblige the service provider to disclose the content in such cases and delete prohibited information immediately. and create a single European monitor centre for more harmonized regulation in EU Member States in this field.