



Online Solicitation of Children for Sexual Purposes (Cyber Grooming) From the Turkish Legal Perspective

Türk Hukuku Perspektifinden Çocukların Siber Alanda Cinsel Amaçlar İçin Teşviki (Siber Uşaklık)

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ABSTRACT

As the age at which children use technological devices and the internet decreases, they become easy targets for cybercrimes. Their vulnerability and innocence on the one hand and the accessibility and anonymity of the internet on the other create opportunities for the commitment of sexual offences against children in cyber space. One such offence is cyber grooming, which is very dangerous because of the gravity of its possible consequences on a child's life, but also because of the significantly vague scope of application arising from the difficulties in detecting the real intent of the groomer. International legislation has influenced some national legal systems to criminalize child grooming as a separate offence. Among these, France, Belgium and Italy are of note, as they are also members of the European Union, which has a specific regulation on the subject. Turkish law has not initiated such a reaction yet. However, there exist other courses of action to criminalize cyber grooming in order to prevent such threats to a child's physical and moral well-being. This study aims to examine the offence of cyber grooming of children for sexual purposes in comparative law and its reflection in Turkish law.

Keywords: Cyber grooming, solicitation, sexual abuse, sexual harassment, Lanzarote Convention.

Submitted: 05.05.2022 • **Revision Requested:** 18.05.2022 • **Last Revision Received:** 30.05.2022 • **Accepted:** 03.06.2022 • **Published Online:** 20.06.2022

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Citation: Aksoy Retornaz, EE, 'Online Solicitation of Children for Sexual Purposes (Cyber Grooming) From the Turkish Legal Perspective' (2022) 10(1) Ceza Hukuku ve Kriminoloji Dergisi-Journal of Penal Law and Criminology, 211. <https://doi.org/10.26650/JPLC2022-1112665>



Introduction

Developing technologies are transforming interpersonal communication methods and moving them into cyber space. Video calls and instant messaging via smart phones, tablets and computers have become an important part of this transformed way of communication.

According to the Turkish Statistical Institute's 2021 "Survey on Information and Communication Technology Usage by Children," while 50.8% of children between the ages of 6 and 15 used the internet in 2013, this rate increased to 82.7% in 2021. 31.3% of the children who regularly used the internet claimed to use it for social media. Of the children between the ages of 6 to 15 who were social media users, 77.7% used social media every day, 16.5% used social media at least once a week and 5.8% used social media less than once a week.¹

As communication moves into cyber space, it has also brought up certain behavioral patterns and cyber violence.² Children are increasingly exposed to sexual exploitation and sexual abuse in cyber space.³ The internet enables pedophiles to entice multiple victims at once.⁴ Most social media platforms allow their users to create fake online profiles. Children growing up with access to the internet can easily become a target for potential groomers.⁵

In this study, first, the concept of online solicitation of children for sexual purposes (grooming) will be explained (I). Then, international conventions and national regulations about the fight against solicitation of children in cyber space for sexual purposes will be evaluated (II). Accordingly, French, Belgian and Italian legal systems will be examined. I chose these countries because of the significant influence of Italian

1 Turkish Statistical Institute (Türk İstatistikleri Enstitüsü), "Survey on Information and Communication Technology Usage by Children" (2021) <<https://data.tuik.gov.tr/Bulten/Index?p=Cocuklarda-Bilisim-Teknolojileri-Kullanim-Arastirmasi-2021-41132>> accessed on April 14, 2022.

2 Comité de la Convention sur la cybercriminalité (T-CY), (2018) Étude cartographique sur la cyberviolence, Groupe de travail sur la cyberintimidation et les autres formes de violence en ligne, en particulier contre les femmes et les enfants <<https://rm.coe.int/t-cy-2017-10-cbg-study-fr-v2/1680993e65>> accessed on January 19, 2022.

3 Ibidem.

4 Sylvia Kierkegaard, 'Online Child Protection Cybering, Online Grooming and Ageplay' (2008) 24 Computer Law & Security Report 42.

5 Libor Klimek, 'European Responses Criminalising Online Solicitation of Children For Sexual Purposes' (December 2020) 16 Balkan Social Science Review 8; See for some cases, Mustafa Çalışkan, 'Toplum ve Suç Araştırmalarında Sınırları Aşan Bir Suç: 'Çevrimiçi Çocuk İstismarı' ve Bu Suça Karşı Alınabilecek Önlemler' (2019) 61 Dumlupınar Üniversitesi Sosyal Bilimler Dergisi 122-131.

legislation and doctrine on Turkish law as well as the noteworthy legislative procedures in these countries. After evaluating the regulations of these countries, the approach of Turkish criminal law to this subject will be examined (III).

I. General Overview of Online Solicitation of Children for Sexual Purposes (Grooming)

Child grooming for sexual purposes is a pattern of behavior often seen in pedophiles who intend to prepare a child for sexual abuse, and it may take several days or even years.⁶ Studies show that sexual abuse of a child is more likely to occur following the act of “grooming”.⁷

There is still no consensus in the doctrine on the definition of child grooming. While some writers define grooming as the process of befriending a child with the intention of sexual abuse,⁸ others view it as an act of “predation” to facilitate sexual abuse.⁹ One writer describes “grooming” as the first step towards the sexual abuse of a child, with the objective of gaining his/her trust through friendly and supportive acts.¹⁰ According to this view, grooming is a method to separate children from the people who can protect them against sexual abuse.

Craven/Brown/Gilchrist offer a comprehensive definition on child grooming for sexual purposes. According to this definition, an act is considered “grooming” when the child, significant adults, and the environment are prepared by a person to abuse the child. Accessing the child, ensuring that the child is compliant and that he or she will maintain secrecy so as to prevent disclosure are considered specific goals of the perpetrator. He/she can use this process to justify or deny his/her actions as it may intensify the offender’s abusive pattern.¹¹

6 Klimek, *supra* note 5 at 8.

7 Suzanne Ost, *Child Pornography and Sexual Grooming, Legal and Societal Responses* (London, Cambridge University Press, 2009) 32.

8 Julia Davidson & Petter Gottschalk, *Internet Child Abuse: Current Research and Policy* (New York, Abingdon, Routledge, 2011) 80; Klimek, *supra* at 8.

9 Ost, *supra* note 7 at 92; Klimek, *supra* at 8.

10 Stephen Dean, *Sexual Predators: How to Recognize Them on the Internet and on the Street: How to Keep Your Kids Away* (Los Angeles, Silver Lake Publishing, 2007) 65; Klimek, *supra* at 8-9; Miljana Mladenović, Vera Ošmjanski & Staša Stanković Vujičić, ‘Cyber-aggression, Cyberbullying, and Cyber-grooming: A Survey and Research Challenges’ (2020) 54/1 ACM Computing Surveys 11.

11 Samantha Craven, Sarah Brown & Elizabeth Gilchrist, ‘Sexual Grooming of Children: Review of Literature and Theoretical Considerations’, (2006) 12/3 Journal of Sexual Aggression 297.

This definition is considered applicable to online grooming acts as well.¹² According to the ECPAT International and *Religions for Peace* (RfP) report titled “Protecting Children from Online Sexual Exploitation,” online grooming for sexual purposes is establishing an online communication with a child in order to form a relationship to enable online or offline sexual contact.¹³

Based on the above-mentioned definitions, online grooming or cyber grooming can be defined as the process of convincing a child to have sexual activities and involving a child in sexual activities by means of internet and information technologies. Cyber grooming is an online behavior, between the perpetrator and the victim, in which the former aims to gain the latter’s trust and to sexually desensitize him/her to sexual abuse.¹⁴

It may be hard to detect cyber grooming due to the nature and content of communications between the parties. The communication between the groomer and the child can be similar to sexual conversations between two adults, or, it may start innocently and go through different stages until it reaches the target.¹⁵ The groomer’s aim would not be only texting in cyber space for sexual purposes; he/she would also want to physically approach the victim.¹⁶

The process of cyber grooming starts with kind and careful conversations and continues with the stage called sexual desensitization, when the groomer (predator) initiates dialogues including sexual content.¹⁷

Various methods can be used for cyber grooming of children for sexual purposes. The predators aiming to ensnare children can create fake profiles by hiding their real ages and sexes. These profiles consist of false names, ages and dates of birth, names and ages of fake siblings and parents, false addresses, false physical descriptions and a photo of a child.¹⁸ For instance, the cyber groomer may have the profile of a teenager,

12 Helen Whittle, Catherine Hamilton-Giachritsis, Anthony Beech & Guy Collings, ‘A review of online grooming: Characteristics and concerns’ (2013) 18 *Aggression and Violent Behavior* 63.

13 ECPAT International and *Religions for Peace* (RfP), *Protecting Children from Online Sexual Exploitation* (2016), <<https://www.unicef.org/media/73506/file/FBO-Guide-for-Religious-Leaders-Communities-2016.pdf>>, accessed on 14 April 2022.

14 Mladenović, Ošmjanski, Vujičić, *supra* note 10 at 3.

15 *Id.* at 12.

16 *Id.* at 11.

17 Klimek, *supra* note 5 at 9.

18 Adrian Powell, *Paedophiles, Child Abuse and the Internet: A Practical Guide to Identification, Action and Prevention* (Radcliffe Publishing, Oxford, 2007) 117; Klimek, *supra* note 5 at 10; Renée Kool, ‘Prevention

a smart student, a successful athlete or a newly graduated adult at the beginning of his/her professional career.¹⁹ Most of the time, it is initially not possible to notice that the groomer is using a fake profile. Furthermore, cyber groomers use the expressions and jargon of small children and teenagers to facilitate communication. Most cyber groomers are in contact with more than one child at the same time. Even though cyber groomers are mostly male, studies show that female cyber groomers also use the same methods.²⁰

II. International Conventions and the Combat Against Cyber Grooming of Children for Sexual Purposes in Various Legal Systems

A. Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) was opened for signature on 25 October 2007 in Lanzarote Island of Spain and entered into force on 1 July 2010. The Convention,²¹ which was also ratified by Türkiye, aims to protect children against sexual violence. The Lanzarote Convention is the only international text that addresses the act of “grooming.”

The Lanzarote Committee was established by State parties in order for them to implement the convention in an effective manner.

Article 23 of the Lanzarote Convention,²² titled “Solicitation of children for sexual purposes,”²³ stipulates that State parties shall criminalize material acts leading to a

by All Means? A Legal Comparison of the Criminalization of Online Grooming and its Enforcement’, (October 2011) 7/3 Utrecht Law Review 49.

19 Klimek, *supra* note 5 at 10.

20 Klimek, *supra* note 5 at 10.

21 The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse was signed on behalf of Turkish Government in Lanzarote on 25 October 2007, approved by the parliament through law no. 6084 adopted on 25 November 2010 and ratified by the Committee of Ministers on 18 July 2011 in accordance with the law no. 244 adopted on 31 May 1963 on the proposal of the Ministry of Foreign Affairs. See Official Gazette (OG) no. 28050, 10 September, 2011.

22 See for the text <<https://www.resmigazete.gov.tr/eskiler/2011/09/20110910-4-1.pdf>>, accessed on 19, January 2022.

23 In the English version of the Lanzarote Convention, the title of Article 23 is “Solicitation of children for sexual purposes” when the French version refers to “*Sollicitation d’enfants à des fins sexuelles*”. Turkish translation of the Convention on the web site of Council of Europe mentions “*Çocuklara Cinsel Amaçlarla Belirli Faaliyetlere Katılmalarının Teklif Edilmesi*” which means “Proposing children to engage in certain

meeting with the child for the purpose of committing sexual abuse of children or child pornography, following an intentional proposal made through information and communication technologies.

Due to difficulties regarding effective implementation of Article 23, the Lanzarote Committee adopted an Opinion on 17 June 2005 on solicitation of children for sexual purposes, especially through information and communication technologies.²⁴ The Opinion emphasizes that cyber grooming of children for sexual purposes must be criminalized as a separate offence.

The Opinion has prompted the Lanzarote Committee to form a working group to examine the connections between sexual abuse and exploitation of children and information and communication technologies, and to examine whether such acts are within the scope of the Convention.

In accordance with the reports of the working group, the Lanzarote Committee adopted an “Interpretative Opinion on the Applicability of the Lanzarote Convention to sexual offences against children facilitated through the use of information and communication technologies” at its 18th Plenary Meeting.²⁵ This opinion requires each party to protect children against all kinds of sexual exploitation and abuse, including that facilitated through the use of information and communication technologies, even if the Lanzarote Convention does not explicitly impose such an obligation.²⁶

Under the “Interpretative Opinion on the applicability of the Lanzarote Convention to sexual offences against children facilitated through the use of information and communication technologies”, solicitation of children for sexual purposes is not a new concept and is a ground for criminal liability of an adult who grooms a child for sexual purposes through information and communication technologies pursuant to Article 23. According to the Interpretative Opinion, the meeting proposal should be followed

activities for sexual purposes”. The text published on OG uses the expression of “Solicitation of Children for Sexual Purposes”.

24 Opinion on Article 23 of the Lanzarote Convention and its explanatory note, Solicitation of children for sexual purposes through information and communication technology (Grooming) (17 June, 2015) <<https://rm.coe.int/168046ebc8>> accessed on 20 January 2022.

25 See <<https://rm.coe.int/t-es-2017-03-en-final-interpretative-opinion/168071cb4f>>, accessed on 20 January 2022.

26 E. Eylem Aksoy Retornaz, Bir Siber Taciz Biçimi: Cinsel İçerikli Görüntüleri Rızaya Aykırı Olarak İfşa Etme, Yayma, Erişilebilir Kılma veya Üretme Suçu (Revenge Porn ve Deep Fake) (On İki Levha Yayıncılık, İstanbul, 2021) 51.

by material acts in order for the adult to commit the offence of solicitation of children for sexual purposes through information and communication technologies. For example, going to the meeting place may be considered a material act.²⁷

B. European Union Legislation

The Directive on combating the sexual abuse and sexual exploitation of children and child pornography was adopted by the European Union in 2011.²⁸ The directive emphasizes that the grooming of children for sexual purposes is a significant threat due to the anonymity of the cyber space.

One of the most important innovations made by the Directive is defining online solicitation of children for sexual purposes as an offence²⁹. The significant threat caused by the listed conducts to physical and mental integrity and especially to sexual freedom justifies the imposition of the punishment by the European Union in member States. The punishment is increased according to the particulars of the perpetrator, to his/her involvement in the actions, to the way in which the actions were performed and to the means used to commit these acts, to the particulars of the victim and the harmful effects caused by the action.³⁰

According to article 6 of the Directive, an adult's act of proposal through information and communication technologies to meet with a child who has not yet reached the age of sexual consent in order to commit sexual actions or to produce child pornography should be punished with at least one year of imprisonment by the member States if the act of proposal is followed by material acts leading to the meeting.

Article 6 of the Directive requires the States to criminalize not only cyber grooming of children for sexual purposes but also offline sexual solicitation.

Differently from the Lanzarote Convention, Article 6 of the Directive determines the minimum punishment for the offence of grooming of children as imprisonment of at least one year.

27 Opinion on Article 23 of the Lanzarote Convention... *supra* note 24.

28 Directive 2011/92/UE of the European Parliament and the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17 December 2011, <<http://eur-lex.europa.eu>>, accessed on 19 January 2022.

29 Amandine Scherrer & Wouter Van Ballegooij, 'Combating Sexual Abuse of Children-Study' <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/598614/EPRS_STU%282017%29598614_EN.pdf> 13> accessed on 23 May 2022.

30 Fabienne Gazin, Catherine Haguenuau – Moizard & Jocelyne Leblois-Happe, *Les fondements du droit pénal européen* (Larcier, Bruxelles, 2016) 91.

At the national level, the legislature has the discretion to decide on the punishment for online grooming. Accordingly, online grooming can be punished as preparatory act, attempt or sexual abuse of a child.³¹

Member States have adopted regulations to implement this obligation in their national laws. However, considering that the measures to implement in national law are highly complicated and diverse, some difficulties have arisen which show that more effort is required to fully apply the Directive. Indeed, only twelve States have made the necessary regulations in their national laws for criminalizing online grooming before the deadline of 18 December 2013.

Article 7 of the Directive requires the member States to prosecute the people who provoke, participate in or are accomplices to the solicitation of children for sexual purposes.

C. National Regulations Criminalizing Cyber Grooming of Children for Sexual Purposes

a. France

Cyber grooming of children for sexual purposes is regulated as an offence in the French Penal Code with the amendment of 2007, which added Article 227-22-1 to the section on sexual offences committed against children.³² According to this article, an adult who makes sexual proposals to a child under the age of fifteen or to a person who introduces himself/herself as being under the age of fifteen by using electronic means of communication will be punished with two years of imprisonment and 30,000 euros of punitive fine.³³ If the proposal is followed by a meeting, the punishment is five years of imprisonment and 75,000 euros of punitive fine.

Pursuant to the French law, children under the age of fifteen are considered incapable of giving consent to sexual activity.³⁴ For this reason, the offence of solicitation of

31 Barbara Herceg Pakšić, 'Grooming Re-Examined The Protection of Children from Sexual Abuse in the Republic of Croatia', *Global Problems in Sexual Offenses* (ed. Rahime Erbaş), (London, Lexington Books, 2022) 105.

32 Frédérique Chopin, *Cybercriminalité* (Daloz, Répertoire de droit pénal et de procédure pénale, Janvier 2020), <www.dalloz.fr>, accessed on 20 February 2022.

33 See French Penal Code, article 227-22-1, <https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070719/LEGISCTA000043405084/#LEGISCTA000043405084>, accessed on 20, February 2022.

34 Célia Scaultz, *La protection du mineur à l'aune des réseaux sociaux*, (Mémoire Université de Grenoble Alpes – Faculté de droit, 2020), <<https://dumas.ccsd.cnrs.fr/dumas-02960116/document>>, accessed on 20

children for sexual purposes in cyber space requires the victim to be under the age of fifteen.

The objective of criminalizing cyber grooming of children for sexual purposes is to protect the children from the dangers of new technologies and to prevent pedophilic conducts.³⁵

The constitutive element of the offence is a sexual proposal made to a child. Accordingly, all proposals of the perpetrator made with sexual intent are within the scope of this offence. This regulation is aimed at punishing preparatory acts.³⁶

The Court of Appeal in Aix-en-Provence ruled that the perpetrator committed the offence regulated in Article 227-22-1 of the French Penal Code by chatting with a ten-year-old girl on an internet forum, asking her to undress and to act in a sexual manner in front of the camera.³⁷

In a judgment of the Court of Appeal in Colmar dated 29 May 2012, a thirty-one-year-old man created a fake Facebook profile as a fifteen-year-old bisexual girl in order to contact minor girls. Before sending an invitation from his fake profile to the victims, he examined the information on the girls' profiles. When he finally contacted the victims, he pretended to be a fifteen-year-old girl, asked the victims to open their web cameras and directed the conversations towards sexual topics. Then he offered to take off his clothes on the condition that the victims do the same. In order to appear as if he was also undressing, he showed a video of a child whom he previously deceived and convinced to undress in front of the camera. Using spyware, he recorded videos of all his victims without their consent. The defendant was convicted of child pornography as well as cyber grooming of children for sexual purposes regulated in Article 227-22-1 of the Penal Code of France.

b. Belgium

In accordance with the Lanzarote Convention and European Directive, grooming children for sexual purposes has been regulated as an offence in the Belgian Criminal

February 2022.

35 Agathe Lepage, 'Les dispositions concernant la communication dans la loi du 5 mars 2007 relative à la prévention de la délinquance' (2007) 6 Communications-Commerce électronique, Etude n° 13.

36 Anne-Gaëlle Robert, 'Délit de proposition sexuelle faites à un mineur de quinze ans par un moyen de communication électronique (loi n°2007-297 du 5 mars 2007)' (2007) 4 Revue de science criminelle et de droit pénal comparé 853.

37 Aix-en-Provence, October 26, 2011, no. 586/J/2011, Juris-Data, no. 032854 in Chopin *supra* note 29.

Code since 2014, in Article 377*quater* of the fifth chapter on “Voyeurism, Nonconsensual Diffusion of Sexual Images and Records, Indecent Assault and Rape” under Title Seven, which governs offences committed against family order and public morality.³⁸ In fact, the progress of Belgium is slow in comparison to other European countries, as the Belgian legislature did not take initiative to adapt Belgium’s legislation to the European Directive in due course. It was not until 2014 that the legislature reinforced its legal instruments.

According to Article 377*quater* of the Belgian Criminal Code, an adult who proposes to meet a child with the purpose of committing an offence regulated under the fifth or sixth and seventh chapters of the code by using information and communication technologies will be punished with a sentence of imprisonment from one to five years when the proposal is followed by material acts leading to a meeting. Chapter Five of the Belgian Criminal Code, which governs the offence of solicitation of children for sexual purposes, also includes offences of nonconsensual diffusion of sexual images and records, and offences of sexual assault and sexual abuse of children. Solicitation of children for prostitution is regulated under Chapter Six and obscenity and child pornography are regulated under Chapter Seven.

According to Article 377*quater* of the Belgian Criminal Code, the perpetrator of the offence should be over eighteen years old. The victim is a child under the age of sixteen at the time of the proposal.

The constitutive element of the offence is the proposal of meeting with the child for the commitment of the offences mentioned in the article. The proposal of meeting consists of a plan to bring the perpetrator and the victim together physically.³⁹

As the article requires the perpetrator to propose a physical meeting, solely messaging with sexual purposes in cyber space without a meeting proposal does not meet the criteria of this offence. Likewise, if the child sends his/her own images captured while performing sexual acts or if he/she performs these acts directly in front of a web camera, this does not constitute the offence of cyber solicitation for sexual purposes. Even

38 See Belgian Criminal Code, <https://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&caller=list&cn=1867060801&la=f&fromtab=loi>, accessed on 10 February, 2022.

39 Olivier Leroux, ‘Protection pénale des mineurs sur internet: harcèlement, ‘grooming’ et cyberprédation’, in Jean-François Henrotte & François Jongen (eds.), *Pas de droit sans technologie* (Bruxelles, Larcier, 2015) 232; Miniandee Melichia, *La législation belge est-elle adaptée à la problématique du ‘grooming’ et de la cyberprédation?* (Université catholique de Louvain, Faculté de droit et de criminology, 2021) 11 <<http://hdl.handle.net/2078.1/thesis:27948>> accessed on 10 February 2022.

though the perpetrator sending sexual images to a child or making the child watch them does not commit the offence under Article 377^{quater} of the Belgian Criminal Code, other offences may have been committed through these acts.⁴⁰

In order for the offence to be committed, communication with a child should result in the perpetrator's proposal of a physical meeting. Therefore, if the perpetrator only meets with the victim in cyber space, this will not constitute an offence.⁴¹

Regardless of whether the meeting took place, or whether the date and the place are specifically determined, the meeting proposal must be followed by material acts leading to a physical meeting. This would be the case if the perpetrator or the victim bought a train or cinema ticket for a physical meeting, arrived at the place of meeting or requested leave from work to go to the meeting.⁴²

A meeting proposal should be transmitted through information and communication technologies. The proposal may be made on social media platforms, discussion forums, via e-mail, SMS or MMS.⁴³

The offence depends on the existence of specific intent. A meeting proposal in cyber space should be made with the intent of committing voyeurism, sexual assault, sexual abuse of child, solicitation of child for prostitution, obscenity and child pornography as stipulated in Article 377^{quater} of the Belgian Criminal Code. The content of the messages and communications, the nature of meeting preparations and the circumstances surrounding the time and the place of the proposed meeting will be taken into consideration when determining the perpetrator's intent.⁴⁴

Article 377^{ter} regulates aggravating circumstances for online grooming. According to Article 377^{ter}⁴⁵, if the offences stipulated in Articles 372-389 of the Belgian Criminal

40 Leroux *supra* note 36 at 232; Melichia *supra* note 36 at 11.

41 Leroux *supra* note 36 at 232; Melichia *supra* note 36 at 11.

42 Adrien Masset, 'Protection des mineurs en ligne en droit pénal belge', in Vanessa Franssen & Daniel Flore (eds.), *Société numérique et droit pénal* (Bruylant, Bruxelles, 2019) 69.

43 Id.

44 Masset *supra* note 39 at 70.

45 Article 377^{ter} "*In the cases provided for by this chapter or by chapters VI and VII of this title, the minimum penalties imposed by the articles concerned are doubled in the case of imprisonment, and increased by two years in the case of custodial sentences when the crime or misdemeanor has been committed against a minor under the age of sixteen and that prior to this crime or this misdemeanor, the perpetrator had solicited this minor in the intention to subsequently commit the acts referred to in this chapter or in chapters VI and VII of this title.*

In the cases referred to in article 377, paragraphs 4 to 6, the increase in the minimum penalty required in

Code are committed against children under the age of sixteen, this is considered an aggravating circumstance. If the victim is under the age of sixteen and the perpetrator grooms the victim with the intent of committing offences regulated in fifth, sixth and seventh chapters of the Belgian Criminal Code, the prison sentence will be doubled, and the aggravated imprisonment will be increased by two years.

Article 377ter, which stipulates aggravating circumstances, uses the word “solicitation,” however, there are no specific definitions of this expression in the text. The expression is interpreted as the will or invitation to remove the defense mechanism of the child.⁴⁶ In order for the conditions for aggravating circumstances to be fulfilled, the abusive acts should be committed by the perpetrator after the solicitation of the child for sexual purposes in cyber space.⁴⁷

c. Italy

The offence of solicitation of children for sexual purposes in cyber space is regulated in Article 609-undecies of the Italian Criminal Code for offences against personal liberty (under Book II, Title 12 - Offences committed against persons, under the section for offences against life and personal security-).

According to Article 609-undecies, titled “Solicitation of children,” of the Italian Criminal Code, the person who solicits a child under the age of sixteen to commit the following offences shall be punished with a prison sentence of one to three years if the act does not constitute another offence: reducing or holding a person in a condition of slavery or servitude in Article 600, solicitation of children for prostitution in Article 600-bis, child pornography in Article 600-ter, possession of or access to pornographic material in Article 600-quarter, virtual pornography in Article 600-quater-1, tourist initiatives for the abuse of children through prostitution in Article 600-quincies and using children in panhandling in Article 600-octies. The expression “solicitation” in the article refers to deceitful, luring conduct or threats aimed to gain the child’s trust through internet or other networks or means of communication.

the first paragraph is limited so that, combined with the increase in penalties provided for in article 377bis, it does not exceed the maximum penalty.”

46 Leroux *supra* note 36 at 241; Masset *supra* note 39 at 70; Melichia *supra* note 36 at 17.

47 Leroux *supra* note 36 at 241; Masset *supra* note 39 at 70; Melichia *supra* note 36 at 17; David Ribant, ‘Droit pénal et informatique : la mise à jour est en cours de téléchargement’, in *Omniprésence du droit pénal : nouvelles approches pluridisciplinaires?* (Anthemis, Bruxelles, 2017) 152.

The offence regulated in Article 609-*undecies* of the Italian Criminal Code is considered within the category of endangerment crimes.⁴⁸ For the offence to be committed, the perpetrator must gain the minor's trust through deceitful, luring conducts or threats. Any one of these acts would be sufficient for the offence to be committed.

Luring conduct refers to acts performed to solicit a person to behave a certain way by gaining his/her sympathy.

D. Preliminary Conclusions

As mentioned above, children are increasingly exposed to offences committed online against their sexual integrity. In terms of the children's health and development, the threat is particularly grave regardless of the meeting taking place.⁴⁹

Lanzarote Committee does not consider texting with sexual content, even if it is part of the preparation for sexual abuse, sufficient cause to attribute criminal responsibility to the perpetrator. This is why, it is required by Article 18 Paragraph 2 for the adult to propose a meeting to the child under the age of sexual consent in order to commit the offences regulated in Article 18 Paragraph 1-a or Article 18 Paragraph 2-a. Furthermore, the intention should be present before any criminal responsibility can be attributed to the perpetrator. The article only stipulates punishment for acts of online grooming. According to the Convention, the offence is completed if only there is a material act such as going to the meeting place to meet the victim. The European Union Directive has similar regulations as the Lanzarote Convention.

However, the legal systems examined above have varying regulations. The fact that the French criminal law criminalizes solicitation of children from the moment of sexual proposal made to a minor of or under the age of fifteen may dispose of the requirement for the proposal to be followed by material acts leading to the meeting regulated in the Directive.⁵⁰ According to the French doctrine, criminalization of solicitation is difficult to apply considering the vagueness of sexual proposals which are rarely

48 Marco Montanari, *'Adescamento di minorenni tramite Facebook: tra tentativo di violenza sessuale mediante induzione con inganno e nuovo art. 609-undecies c.p.'* (2014) *Diritto penale Contemporaneo* 229.

49 Pauline Meyer, 'Sollicitation d'enfants à des fins sexuelles en ligne' (2021) PJA 224.

50 Christian Fries, *Etude des réposes française et luxembourgeoise aux prescriptions de la Directive 2011/92/UE du 13 décembre 2011 relative à lutte contre les abus sexuels et l'exploitation des enfants, ainsi que la pédopornographie*, (Mémoire de recherche, Université de Strasbourg, Faculté de droit des sciences politiques et gestion) <www.unistra.fr>, accessed on 24 May 2022.

explicit against a minor of or under the age of fifteen.⁵¹ When there is an actual meeting between the perpetrator and the child who has not reached the age of sexual consent or who introduces him/herself as such, the punishments are increased. The French doctrine criticizes the choice of inflicting heavier punishments when the solicitation is followed by a meeting. The meeting itself is less important than the strength of commitment and the obstinacy of the adult to enter into contact with a minor who has not reached the age of sexual consent.⁵²

Considering that most grooming acts take place online, it is not always possible for the physical meeting to actually occur⁵³. Most of the time, grooming is limited to online acts. The perpetrators of online sexual acts concentrate more on actions on the Web, i.e., sexual conversations and coercion to take photos or to have indecent video calls.⁵⁴ The Lanzarote committee emphasizes that even though online grooming doesn't result in a physical meeting, it still causes great harm to the child.⁵⁵

In view of the variable and dynamic nature of online offences, when criminalizing online grooming, instead of requiring a physical meeting, it may be preferable to consider an online proposal to meet sufficient cause for the offence to be committed.⁵⁶

A child is a person under the age of 18 according to the Lanzarote Convention as well as the European Union Directive. But the Directive leaves the discretion to decide the age of sexual consent to the member States. Among the countries that have implemented the Lanzarote Convention and the Directive in their national laws and that are chosen as examples in this study, Belgium and Italy have regulated the age of the victims as children under the age of 16, whereas children under 15 are considered victims in France. Hence, there is not a consensus on the age of the victims. In particular, French law requires the prosecution to demonstrate that the perpetrator knew (or thought) that the child was under the age of fifteen during the electronic communications which gave rise to dispute.⁵⁷

51 Emmanuel Dreyer, *Droit pénal spécial* (Ellipses, Paris, 2016) 290.

52 Dreyer, *supra* note 51 at 290.

53 Herceg Pakšić, *supra* note 31 at 106.

54 Id.

55 Opinion on Article 23 of the Lanzarote Convention... *supra* note 24.

56 Herceg Pakšić, *supra* note 31 at 106.

57 Dreyer, *Droit pénal spécial*, *supra* note 51 at 290.

It is not possible to say that a child under the age of 18 who has the ability to consent to sexual relationships is fully protected considering the manipulateness of the perpetrator.⁵⁸ That is why it would be appropriate to define the child victim of online grooming as a person under the age of 18.

While the Lanzarote Convention and the European Union Directive require the perpetrator of online grooming to be an adult, the Italian Criminal Code does not specify the age of the perpetrator.

III. Cyber Grooming Under the Turkish Criminal Code

Cyber grooming is not a separate offence in the Turkish Criminal Code (TCC) or in other specific criminal codes.

The invisibility of cyber grooming in Turkish criminal law does not mean that such an act shall remain unpunished. Cyber grooming may be considered a part of sexual harassment or obscenity offences.

A. Sexual Harassment

The offence of sexual harassment is regulated in Article 105 of the TCC. According to the article “*the person who harasses another for sexual purposes is punished with prison sentence of three months to two years or with judicial fine on the complaint of the victim and with prison sentence of six months to three years if the act is committed against a child*”. In the second paragraph of the article, aggravating circumstances are regulated. The same paragraph refers to situations where the victim is obliged to quit his/her job or leave his/her school or family due to sexual harassment as aggravated offences with injurious results.

The legal interest protected by criminalizing sexual harassment is sexual freedom and inviolability of a person.⁵⁹

58 Herceg Pakšić, *supra* note 31 at 111.

59 Mehmet Emin Artuk, Ahmet Gökçen, Mehmet Emin Aļşahin & Kerim Çakır, *Ceza Hukuku Özel Hükümler* (19. Baskı, Adalet Yayınevi, Ankara, 2021) 418; Veli Özer Özbek, Koray Doğan & Pınar Bacaksız, *Türk Ceza Hukuku Özel Hükümler* (16. Bası, Seçkin Yayınevi, Ankara, 2021) 387; Handan Yokuş Sevik, *Türk Ceza Hukuku Özel Hükümler* (2. Baskı, Adalet Yayınevi, Ankara, 2019) 183; Fahri Gökçen Taner, *Türk Ceza Hukukunda Cinsel Özgürlüğe Karşı Suçlar* (2. Baskı, Seçkin Yayınevi, Ankara, 2017) 412; Durmuş Tezcan, Mustafa Ruhan Erdem & Murat Önok, *Teorik ve Pratik Ceza Özel Hukuku* (19. Baskı, Seçkin Yayınevi, Ankara, 2021) 4; Mahmut Koca & İlhan Üzülmöz, *Türk Ceza Hukuku Özel Hükümler*, (6. Baskı, Adalet Yayınevi, Ankara, 2019) 492.

The constitutive element of the sexual harassment offence is the harassment of a person for sexual purposes. Sexual harassment refers to all verbal or written sexual acts, including acts without physical contact⁶⁰ or disturbing acts,⁶¹ directed towards people's sexuality. The disturbing character of the act is determined according to the circumstances of the case, in light of subjective and objective criteria, by taking into account the relationship between the perpetrator and the victim, social and psychological state of the victim and place and time of the acts.⁶² This offence is a result crime, where the required result for the offence may be prompted by any act.⁶³

Sexual harassment is an offence committed with specific intent,⁶⁴ the perpetrator must have behaved in a sexual manner.

The acts that are committed against children without violating their physical integrity constitute the offence of sexual harassment. If the perpetrator is the guardian, tutor, instructor, caregiver, custodial parents or people providing the victim with healthcare or having the obligation to protect, look after or supervise the victim, the offence is considered to be aggravated by the virtue of second paragraph of Article 105 of the TCC. Accordingly, sexual acts committed against children in cyber space may constitute the crime of sexual harassment.⁶⁵ Sexual harassment is an offence that can be committed in cyber space as well. Indeed, the Court of Cassation of Türkiye considered the acts of sending messages with sexual content to children on the internet and of exposing one's own genitals to them during an MSN video chat to be sexual harassment.⁶⁶

60 Yokuş Sevik *supra* note 45 at 183; Taner *supra* note 45 at 412; Özbek, Doğan & Bacaksiz *supra* note 45 at 390; Koca & Üzülmüş *supra* note 45 at 379. *See* for the critics about physical contact criterion, Tezcan, Erdem & Önok *supra* note 45 at 497.

61 Tezcan, Erdem & Önok *supra* note 45 at 493; Koca & Üzülmüş *supra* note 45 at 379; Özbek, Doğan & Bacaksiz *supra* note 45 at 390.

62 Eylem Baş, 'Türk Ceza Hukukunda Cinsel Taciz Suçu', (2016) 65/4 AÜHF 1165; Tezcan, Erdem & Önok *supra* note 45 at 495.

63 Yokuş Sevik *supra* note 45 at 185; Tezcan, Erdem & Önok *supra* note 45 at 494; Özbek, Doğan & Bacaksiz *supra* note 45 at 391.

64 Tezcan, Erdem & Önok *supra* note 45 at 495; Yokuş Sevik *supra* note 45 at 185; Taner *supra* note 45 at 425; *Contra* Özbek, Doğan & Bacaksiz *supra* note 45 at 394.

65 Gülbike Nilay Elverdi Tuna, *Ceza Hukuku Boyutuyla Çocukların Çevrimiçi Cinsel İstismarı* (Yayımlanmamış Yüksek Lisans Tezi, İstanbul Kültür Üniversitesi Lisansüstü Eğitim Enstitüsü, 2021); Fatih Selami Mahmutoğlu, 'Bilişim Sistemleri Yoluyla Çocuklara Yönelik Cinsel İstismar Fiillerinin Ceza Mevzuatımız Açısından Değerlendirilmesi ve Bu Bağlamda Çocukların Korunmasına Yönelik Görüş ve Öneriler' (2013) XI/121 Legal Hukuk Dergisi 4.

66 Turkish Court of Cassation 14th Criminal Division, 17 November 2020, File no. 2016/4987, Decision no. 2020/5046 <www.legalbank.net> accessed on 10 February 2022.

According to Article 105 Paragraph 2 of the TCC, committing this offence by taking advantage of mail or electronic communication devices constitute aggravating circumstances. Nevertheless, I argue that such aggravating circumstances cannot be applicable to cyber grooming.⁶⁷ For sexual harassment to be committed by taking advantage of electronic communication devices, the victim should not have the opportunity to resist the advances, or in other words, the victim should have no choice in receiving messages with sexual content.⁶⁸ It must be noted that, as mentioned before, cyber grooming mostly starts with innocent conversations in order to gain the trust of the child and continues with sexual conversations to solicit the child for sexual purposes. In this case, the child would think that the sexual conversations are friendly behaviors happening in the natural occurrence of their contact.⁶⁹ For this reason, I agree with the view that it is not a question of sexually disturbing the child but abusing him/her by taking advantage of his/her innocence.⁷⁰ One of the fundamental differences between cyber grooming of children for sexual purposes and sexual harassment is that cyber grooming does not require that the perpetrator's act reaches the level of being "disturbing".

The age of the child is also important when evaluating whether the sexual conversation with the child in cyber space may be considered as sexual harassment.⁷¹

Under Turkish law, the consent of victims of or under the age of fifteen who are not considered to be capable of understanding the meaning and legal consequences of a sexual act are not taken into consideration. Taking into account that they would not have reached physical or mental maturity, the legislator did not give any legal effect to their consent, assuming that they would not have the capacity to give their approval when their sexual freedom is at stake.

For victims of more than fifteen years of age who understand the meaning and the legal consequences of the act, Article 105 of the Turkish Criminal Code applies only if the victim has not given his/her consent.⁷²

67 See also Neslihan Can, 'Çocuğun Sanal Cinsel İstismarı' (2022) 50 Türkiye Adalet Akademisi Dergisi 130.

68 Tezcan, Erdem & Önok *supra* note 45 at 500; Baş *supra* note 48 at 1195.

69 Can *supra* note 53 at 130.

70 Id. at 131.

71 Mahmutoğlu *supra* note 51 at 4.

72 Id.

The only observation to be made at this stage is about whether the child has reached sexual maturity or not. It is true that the law refers to an act's legal consequences. Nevertheless, we must admit that the child is hardly able to understand the legal significance of any such act. For this reason, it is preferable to refer to sexual maturity, which also includes a psychological and cognitive aspect.⁷³

In one case, the Istanbul Regional Court of Appeal rendered a decision on what can be considered cyber grooming, as it was related to sexual abuse of a victim over the age of fifteen. The defendant obtained the phone number of the victim from a third party, introduced himself as a service driver aged 29, and sent the first text message to the victim. For the next two years, he initiated sexual conversations with the victim and once made the victim send him a fully naked photo of herself. One time when the victim was truant on a school day, he invited her to his house and she accepted the invitation. The Court of First Instance convicted the defendant of sexual harassment for sending texts with sexual content to the victim. The Istanbul Regional Court of Appeal did not agree with the decision of the Court of First Instance and acquitted the defendant for the absence of conditions for sexual harassment, as the victim was over the age of fifteen, had mental competence, voluntarily went to the defendant's house and the event took place with the free will of both parties.⁷⁴

B. Obscenity

Obscenity is regulated in Article 226 of the TCC under the offences committed against public morality.

The second paragraph of the article refers to “diffusing obscene images, written or oral materials via press or facilitating their diffusion”. Article 6 of the TCC titled “Definitions” explains the term “press” as “diffusion of content through any and all written, visual, audial and electronic mass media outlets” (TCC Article 6 Paragraph 1-g).

Due to the definition of “press” in the TCC, obscene content may constitute the offence regulated in Article 226 Paragraph 2 of the TCC only if it is diffused via “mass media outlets”. Article 226 Paragraph 2 of the TCC does not apply to private communications.⁷⁵

73 E. Eylem Aksoy Retornaz, ‘Les infractions sexuelles sur mineurs en froit ture’ (2019) 21 D.E.Ü. Hukuk Fakültesi Dergisi, Prof. Dr. Durmuş Tezcan’a Armağan, 3189.

74 Istanbul Regional Court of Appeal 20th Criminal Division, 7 May 2018, File no. 2018/813 Decision no. 2018/774 <www.legalbank.net> accessed on 10 February 2022.

75 Veli Özer Özbek, *Müstehcenlik Suçu (TCK m.226)* (Seçkin Yayınevi, Ankara, 2009) 267.

It should also be mentioned that the main difference between the offence of obscenity and grooming children for sexual purposes pertains to the subject of the offence. The subject of obscenity is any obscene material that contains images, written or oral materials.⁷⁶ In contrast, the subject and the victim of cyber grooming, as of the offence of the sexual abuse of minors, is the child.⁷⁷

The subject of obscenity consists of any obscene material that contains images, written or oral elements.⁷⁸ It is argued in the doctrine that nude images of a man or a woman, images of their genitals or images of sexual intercourse cannot be considered obscene per se⁷⁹ unless these are also unaesthetic, disgusting and repugnant.⁸⁰

Nevertheless, the Court of Cassation considers the exposure of physical privacy of a child to be obscenity. For example, if the perpetrator contacts the child victim on the internet as an act of cyber grooming, convinces him/her to do sexual acts, makes him/her get undressed and records these images, the offence regulated in Article 226 Paragraph 3 of the TCC will be committed.⁸¹

Conclusion

Because the existence of sexual behavior depends on the criterion of physical contact under Turkish criminal law, if there was physical contact with the child the offence in question would be sexual abuse. In the doctrine, this physical contact criterion is criticized and there are recommendations to consider all kinds of sexual behavior against children as sexual abuse of children, even in the absence of physical contact.⁸² From this point of view, cyber grooming can be considered sexual abuse.⁸³ Similarly, there are studies in comparative law about the sexual offences committed against

76 Ali Kemal Yıldız, 'Müstehcenlik' in *Özel Ceza Hukuku C. VII* (On İki Levha Yayıncılık, İstanbul, 2020) 235-270.

77 See Taner *supra* note 45 at 290, for mentioning the child as the subject and as the victim of the offence of sexual abuse of children.

78 Yıldız *supra* note 62 at 244.

79 Nevzat Gürelli, 'Ceza Hukukunda Müstehcenlik Kavramı' (1966) XXXII/2-4 İÜHF 585; Yıldız *supra* note 62 at 245.

80 Artuk, Gökçen & Yenidünya *supra* note 45 at 6603; Yıldız *supra* note 62 at 245.

81 Turkish Court of Cassation, 18th Criminal Division, 28 February 2018, File no. 2018/1154, Decision no. 2018/2740 <www.kanunum.com> accessed on 10 February 2022.

82 Pınar Memiş Kartal, *Türk Ceza Hukuku'nda Çocukların Cinsel İstismarı* (Der Yayınları, İstanbul 2014) 16, 138; İzzet Özgenç, 'Cinsel Suçlar, Türk Ceza Kanununun Cinsel Suçlara İlişkin Düzenlemelerinin Dayandığı Felsefi Temel, Cinsel Suçlara İlişkin Kanun Hükümlerinin Uygulanmasından Kaynaklanan Sorunlar' (2020) 1 Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi 263.

83 Can *supra* note 53 at 130.

children in cyber space, which argue that grooming children for sexual purposes constitutes sexual abuse.⁸⁴

In my opinion, it would be disproportional to consider sexual behavior violating the physical integrity of a child and grooming children for sexual purposes as the same offence.

It seems impossible to consider the sexual abuse of minors as having taken place in cases of online solicitation of children for sexual purposes. Indeed, the child does not find himself/herself involved in or drawn into a physical act and the perpetrator does not commit any such act during cyber grooming, at least not yet. Although it can be considered that the adult already derives a certain satisfaction from building a child's trust online, the question cannot be immediately answered as to whether, in any case, the online solicitation of children for sexual purposes can be considered an act that appears neither frankly neutral nor explicitly sexual⁸⁵. This exchange does not consist of a physical activity and therefore cannot achieve the objective constituent element that is typical behavior, which allows us to leave the previous question open. The sexual abuse of minors could therefore not be carried out by grooming behavior, in the strict sense as well as in the broad sense.

The Turkish Court of Cassation considers sexual behavior committed against children, without physical contact and by taking advantage of accessibility and anonymity of cyber space, to be sexual harassment.⁸⁶ However, as mentioned above, it cannot be said that the acts of cyber grooming of children for sexual purposes fall under the offence of sexual harassment. In the case of an act of cyber grooming that continues over a long period of time, the predator would gain the child's trust, share sexual images and have sexual conversations, thereby taking the child into the "back yard"⁸⁷ of committing the offence of sexual abuse.

In comparative law, in order to prevent acts of grooming, to dissuade the perpetrators

84 Juliane A. Kloess, Anthony R. Beech & Leigh Harkins, 'Online Child Sexual Exploitation: Prevalence, Process, and Offender Characteristics' (2014) 15 *Trauma Violence Abuse* 127; International Centre for Missing & Exploited Children, *Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review*, <https://www.icmec.org/wp-content/uploads/2017/09/Online-Grooming-of-Children_FINAL_9-18-17.pdf> accessed on 25 April 2022.

85 Meyer, 224.

86 *Contra*, Tezcan, Erdem & Önok *supra* note 45 at 497-498; Baş *supra* note 48 at 1169; Can *supra* note 53 at 130.

87 Masset *supra* note 39 at 68.

and to protect the victims, grooming children for sexual offences is regulated as a separate offence in accordance with the Lanzarote Convention. In my opinion, in order to protect the mental and physical integrity and the sexual inviolability of children and to protect them from cyber violence, cyber grooming of children for sexual purposes should be regulated as a separate offence in Turkish law as well.⁸⁸

Peer-review: Externally peer-reviewed.

Conflict of Interest: The author has no conflict of interest to declare.

Grant Support: The author declared that this study has received no financial support.

References

- Aksoy Retornaz, E. Eylem, 'Les infractions sexuelles sur mineurs en droit turc' (2019) 21 D.E.Ü. Hukuk Fakültesi Dergisi, Prof. Dr. Durmuş Tezcan'a Armağan, 3189.
- Aksoy Retornaz, E. Eylem, *Bir Siber Taciz Biçimi: Cinsel İçerikli Görüntüleri Rızaya Aykırı Olarak İfşa Etme, Yayma, Erişilebilir Kılma veya Üretme Suçu (Revenge Porn ve Deep Fake)* (On İki Levha Yayıncılık, İstanbul, 2021).
- Artuk, Mehmet Emin, Gökçen, Ahmet, Alşahin, Mehmet Emin & Çakır, Kerim, *Ceza Hukuku Özel Hükümler* (19. Baskı, Adalet Yayınevi, Ankara, 2021).
- Baş, Eylem, 'Türk Ceza Hukukunda Cinsel Taciz Suçu', (2016) 65/4 AÜHFD 1165.
- Can, Neslihan, 'Çocuğun Sanal Cinsel İstismarı' (2022) 50 Türkiye Adalet Akademisi Dergisi 130.
- Chopin, Frédérique, *Cybercriminalité* (Daloz, Répertoire de droit pénal et de procédure pénale, Janvier 2020), <www.daloz.fr>, accessed on 20 February 2022.
- Comité de la Convention sur la cybercriminalité (T-CY), (2018) Étude cartographique sur la cyberviolence, Groupe de travail sur la cyberintimidation et les autres formes de violence en ligne, en particulier contre les femmes et les enfants <<https://rm.coe.int/t-cy-2017-10-cbg-study-fr-v2/1680993e65>> accessed on 19 January 2022.
- Craven, Samantha, Brown, Sarah & Gilchrist, Elizabeth, 'Sexual Grooming of Children: Review of Literature and Theoretical Considerations', (2006) 12/3 Journal of Sexual Aggression 297.
- Çalışkan, Mustafa, 'Toplum ve Suç Araştırmalarında Sınırları Aşan Bir Suç: 'Çevrimiçi Çocuk İstismarı' ve Bu Suça Karşı Alınabilecek Önlemler' (2019) 61 Dumlupınar Üniversitesi Sosyal Bilimler Dergisi 122-131.
- Davidson, Julia & Gottschalk, Petter, *Internet Child Abuse: Current Research and Policy* (New York, Abingdon, Routledge, 2011).
- Dean, Stephen, *Sexual Predators: How to Recognize Them on the Internet and on the Street: How to Keep Your Kids Away* (Los Angeles, Silver Lake Publishing, 2007).
- Directive 2011/92/UE of the European Parliament and the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17 December 2011, <<http://eur-lex.europa.eu>>, accessed on 19 January 2022.
- Dülger, Murat Volkan, 'İnternet Aracılığıyla İşlenen Cinsel Suçlar' (2021) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3792316>, accessed on 25 April 2022; Can *supra* note 53 at 134.
- Dreyer, Emmanuel, *Droit pénal spécial* (Ellipses, Paris, 2016).

88 Murat Volkan Dülger, 'İnternet Aracılığıyla İşlenen Cinsel Suçlar' (2021) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3792316>, accessed on 25 April 2022; Can *supra* note 53 at 134.

- ECPAT International and Religions for Peace (RfP), Protecting Children from Online Sexual Exploitation (2016), <<https://www.unicef.org/media/73506/file/FBO-Guide-for-Religious-Leaders-Communities-2016.pdf.pdf>>, accessed on 14 April 2022.
- Elverdi Tuna, Gülbike Nilay, *Ceza Hukuku Boyutuyla Çocukların Çevrimiçi Cinsel İstismarı* (Yayımlanmamış Yüksek Lisans Tezi, İstanbul Kültür Üniversitesi Lisansüstü Eğitim Enstitüsü, 2021).
- Fries, Christian, *Etude des réposes française et luxembourgeoise aux prescriptions de la Directive 2011/92/UE du 13 décembre 2011 relative à lutte contre les abus sexuels et l'exploitation des enfants, ainsi que la pédopornographie*, (Mémoire de recherche, Université de Strasbourg, Faculté de droit des sciences politiques et gestion), <www.unistra.fr>, accessed on 24 May 2022.
- Gazin, Fabienne, Haguenu – Moizard, Catherine & Leblois-Happe, Jocelyne, *Les fondements du droit pénal européen*, (Larcier, Bruxelles, 2016).
- Gürelli, Nevzat, 'Ceza Hukukunda Müstehcenlik Kavramı' (1966) XXXII/2-4 ÜHF 585.
- International Centre for Missing & Exploited Children, Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review, <https://www.icmec.org/wp-content/uploads/2017/09/Online-Grooming-of-Children_FINAL_9-18-17.pdf> accessed on 25 April 2022.
- Kierkegaard, Sylvia. 'Online Child Protection Cybering, Online Grooming and Ageplay' (2008) 24 Computer Law & Security Report 42.
- Klimek, Libor, 'European Responses Criminalising Online Solicitation of Children For Sexual Purposes' (December 2020) 16 Balkan Social Science Review 8.
- Kloess, Juliane A., Beech, Anthony R. & Harkins, Leigh, 'Online Child Sexual Exploitation: Prevalence, Process, and Offender Characteristics' (2014) 15 Trauma Violence Abuse 127.
- Koca, Mahmut & Üzülmez, İlhan, *Türk Ceza Hukuku Özel Hükümler*, (6. Baskı, Adalet Yayınevi, Ankara, 2019).
- Kool, Renée, 'Prevention by All Means? A Legal Comparison of the Criminalization of Online Grooming and its Enforcement', (October 2011) 7/3 Utrecht Law Review 49.
- Lepage, Agathe, 'Les dispositions concernant la communication dans la loi du 5 mars 2007 relative à la prévention de la délinquance' (2007) 6 Communications-Commerce électronique, Etude n° 13.
- Leroux, Olivier, 'Protection pénale des mineurs sur internet: harcèlement, 'grooming' et cyberprédation', in Jean-François Henrotte & François Jongen (eds.), *Pas de droit sans technologie* (Bruxelles, Larcier, 2015) 232.
- Mahmutoğlu, Fatih Selami, 'Bilişim Sistemleri Yoluyla Çocuklara Yönelik Cinsel İstismar Fiillerinin Ceza Mevzuatımız Açısından Değerlendirilmesi ve Bu Bağlamda Çocukların Korunmasına Yönelik Görüş ve Öneriler' (2013) XI/121 Legal Hukuk Dergisi 4.
- Masset, Adrien, 'Protection des mineurs en ligne en droit pénal belge', in Vanessa Franssen & Daniel Flore (eds.), *Société numérique et droit pénal* (Bruylant, Bruxelles, 2019) 69.
- Melichia, Miniandee, *La législation belge est-elle adaptée à la problématique du 'grooming' et de la cyberprédation?* (Université catholique de Louvain, Faculté de droit et de criminology, 2021) 11 <<http://hdl.handle.net/2078.1/thesis:27948>> accessed on 10 February 2022.
- Memiş Kartal, Pınar, *Türk Ceza Hukuku'nda Çocukların Cinsel İstismarı* (Der Yayınları, İstanbul 2014).
- Meyer, Pauline, 'Sollicitation d'enfants à des fins sexuelles en ligne' (2021) PJA 224
- Montanari, Marco, 'Adescamento di minorenni tramite Facebook: tra tentativo di violenza sessuale mediante induzione con inganno e nuovo art. 609-undecies c.p.' (2014) Diritto penale Contemporaneo 229.
- Opinion on Article 23 of the Lanzarote Convention and its explanatory note, Solicitation of children for sexual purposes through information and communication technology (Grooming) (June 17, 2015) <<https://rm.coe.int/168046e8>> accessed on 20 January 2022.
- Ošmjanski, Vera & Vujičić, Staša Stanković, 'Cyber-aggression, Cyberbullying, and Cyber-grooming: A Survey and Research Challenges' (2020) 54/1 ACM Computing Surveys 11.

- Ost, Suzanne, *Child Pornography and Sexual Grooming, Legal and Societal Responses* (London, Cambridge University Press, 2009).
- Özbek, Veli Özer, Doğan, Koray & Bacaksız, Pınar, *Türk Ceza Hukuku Özel Hükümler* (16. Bası, Seçkin Yayınevi, Ankara, 2021).
- Özbek, Veli Özer, *Müstehcenlik Suçu (TCK m.226)* (Seçkin Yayınevi, Ankara, 2009).
- Özgenç, İzzet, 'Cinsel Suçlar, Türk Ceza Kanununun Cinsel Suçlara İlişkin Düzenlemelerinin Dayandığı Felsefi Temel, Cinsel Suçlara İlişkin Kanun Hükümlerinin Uygulanmasından Kaynaklanan Sorunlar' (2020) 1 Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi 263.
- Pakšić Herceg, Barbara 'Grooming Re-Examined The Protection of Children from Sexual Abuse in the Republic of Croatia', *Global Problems in Sexual Offenses* (ed. Rahime Erbaş), (London, Lexington Books, 2022), 101.
- Powell, Adrian, *Paedophiles, Child Abuse and the Internet: A Practical Guide to Identification, Action and Prevention* (Radcliffe Publishing, Oxford, 2007).
- Ribant, David, 'Droit pénal et informatique : la mise à jour est en cours de téléchargement', in *Omniprésence du droit pénal : nouvelles approches pluridisciplinaires?* (Anthemis, Bruxelles, 2017) 152.
- Robert, Anne-Gaëlle, 'Délit de proposition sexuelle faites à un mineur de quinze ans par un moyen de communication électronique (loi n°2007-297 du 5 mars 2007)' (2007) 4 Revue de science criminelle et de droit pénal comparé 853.
- Scaultz, Célia, *La protection du mineur à l'aune des réseaux sociaux*, (Mémoire Université de Grenoble Alpes – Faculté de droit, 2020), <<https://dumas.ccsd.cnrs.fr/dumas-02960116/document>>, accessed on 20 February 2022.
- Scherrer, Amandine & Van Ballegooij, Wouter, 'Combating Sexual Abuse of Children-Study' <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/598614/EPRS_STU%282017%29598614_EN.pdf> 13> accessed on 23 May 2022.
- Taner, Fahri Gökçen, *Türk Ceza Hukukunda Cinsel Özgürlüğe Karşı Suçlar* (2. Baskı, Seçkin Yayınevi, Ankara, 2017).
- Tezcan, Durmuş, Erdem, Mustafa Ruhan & Önok, Murat, *Teorik ve Pratik Ceza Özel Hukuku* (19. Baskı, Seçkin Yayınevi, Ankara, 2021).
- Turkish Statistical Institute (Türk İstatistikleri Enstitüsü), 'Çocuklarda Bilişim Teknolojileri Kullanım Araştırması (2021)' <<https://data.tuik.gov.tr/Bulten/Index?p=Cocuklarda-Bilisim-Teknolojileri-Kullanim-Arastirmasi-2021-41132>> accessed on 14 April 2022.
- Whittle, Helen, Hamilton-Giachritsis, Catherine, Beech, Anthony & Collings, Guy, 'A review of online grooming: Characteristics and concerns' (2013) 18 Aggression and Violent Behavior 63.
- Yıldız, Ali Kemal, 'Müstehcenlik' in *Özel Ceza Hukuku C. VII* (On İki Levha Yayıncılık, İstanbul, 2020) 235-270.
- Yokuş Sevük, Handan, *Türk Ceza Hukuku Özel Hükümler* (2. Baskı, Adalet Yayınevi, Ankara, 2019).

