



# Terminological Developments in the Criminalization of Child Sexual Abuse Material (CSAM) in International and European Union Law

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**Abstract.** This paper examines the evolving terminology used in international and European Union law concerning the criminalization of child sexual abuse material (CSAM). The analysis focuses on both binding legal instruments and soft law documents, tracing conceptual and definitional developments that have occurred over the past two decades. The study addresses two core research questions: (1) how do international and European legal frameworks define and conceptualize CSAM, and what definitional variations exist? (2) what terminological trends and shifts can be identified in recent international and European legal discourse, and what role have soft law instruments played in driving terminological evolution in relation to binding legal instruments? By comparing the approaches reflected in key binding and non-binding instruments, such as the Lanzarote Convention, EU Directive 2011/93/EU, the UNCC, and recent policy documents adopted by international organizations, the article highlights the gradual shift toward more precise and victim-centered terminology. The findings reveal a gradual move toward more precise, harm-based, and victim-centered terminology, reflecting broader normative and policy developments in the field of child protection, driven primarily by the soft law instruments.

**Keywords:** CSAM, CSEM, child sexual abuse, soft law, terminology.

**JEL Classification:** K14, K33, K38, K42.

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## 1. INTRODUCTION

The terminology used to describe materials depicting the sexual abuse of children has evolved in international and European legal discourse over the past two decades. What was almost universally referred to as "child pornography" in international legal instruments is increasingly being replaced by more precise, harm-based, and

child-centered terminology such as "child sexual abuse material" (CSAM) or "child sexual exploitation material" (CSEM). This shift is not merely a linguistic choice; rather, it reflects a deeper conceptual transformation in how the international stakeholders and policymakers understand and respond to the sexual exploitation and abuse of children in the digital age. Terminology not only represents normative values but also shapes institutional and policy responses: as scholars and practitioners have long argued, language shapes how we conceptualize problems, set priorities, and develop strategies for action (Martin, 2014, p. 96). The term "child pornography" has been criticized for trivializing the victimization of children and failing to convey the criminal nature of such material, as it inaccurately and inappropriately associates content documenting child abuse with pornography, a context that typically involves consenting adults (Edwards, 2000, p. 1; Gillespie, 2010, p. 23; Martin, 2014, p. 96). Consequently, international organizations, law enforcement agencies, and advocacy groups have increasingly advocated for changes in terminology to more accurately reflect the abusive nature of this content. (e.g., Interpol, n.d.; Europol, 2020; Child Rescue Coalition, n.d.).

Because international instruments, both binding and non-binding, play a central role in establishing standards of child protection, terminological clarity is essential. Understanding how terminology has evolved requires distinguishing between hard law and soft law instruments. Hard law (e.g., conventions, protocols, directives) provides legal certainty but changes slowly, often over decades (Hagemann et al., 2018, pp. 63–64; Abbott & Snidal, 2000, p. 427). Soft law (e.g., general comments, guidelines, resolutions) is more adaptable, as it can update normative standards without formal treaty amendments, and allows for inclusion of more progressive norms that the states are not yet willing to regulate in hard law instruments, though it lacks enforceability (Shelton, 2007, pp. 12–13; Abbott & Snidal, 2000, p. 434). The interplay between hard and soft law instruments is especially relevant in areas where both the underlying phenomena and our understanding of them evolve rapidly, such as technology-facilitated child sexual abuse.

This paper examines how CSAM terminology has evolved across international and European legal frameworks, focusing on the relationship between binding and non-binding instruments. The author investigates two main research questions: First, how do international and European legal frameworks define and conceptualize CSAM, and what definitional variations exist? Second, what terminological trends and shifts can be identified in recent international and European legal discourse, and what role have soft law instruments played in driving terminological evolution in relation to binding legal instruments? Applying a doctrinal legal method, this study analyzes the text of binding and non-binding instruments, examining their explicit terminological choices regarding CSAM, the legal definitions of CSAM, and CSAM terminology-focused remarks, reflections, or legal obligations. Although the line between soft law and hard law may appear blurred, especially in the case of documents associated with formally binding treaties (Shelton, 2007, pp. 11–12), for analytical clarity, documents associated with binding treaties but not legally binding themselves (e.g., explanatory reports, general comments) are treated as soft law.

The analysis focuses on instruments adopted within three interconnected legal systems: the universal human rights system (United Nations), the regional European system (Council of Europe), and the European Union system. The choice to examine European instruments alongside universal ones is a practical one, as the Council of Europe and European Union systems have produced substantial hard law and soft law addressing CSAM, making them particularly suitable for tracking the evolution of terminology and examining the interplay between binding and non-binding instruments in this area.

The instruments are organized by legal system and, within each system, analyzed chronologically and by legal character (binding before non-binding). Where soft law instruments were adopted alongside the binding instruments, such as explanatory reports accompanying Council of Europe conventions, they are discussed in parallel with their parent instrument to maintain analytical coherence. Throughout this article, the term "CSAM" will be employed as the preferred terminology in analytical discussion, while "child pornography" will be used only when directly quoting or referring to legal instruments that employ this terminology.

## 2. GLOBAL CHILD PROTECTION SYSTEM

The international human rights framework forms the foundation of global efforts to combat the sexual exploitation and abuse of children. Within the universal human rights system, binding conventions adopted under the auspices of the United Nations (UN) establish states' obligations regarding the criminalization of CSAM. Alongside these treaties, a broad range of non-binding instruments, such as guidelines, declarations, and policy frameworks adopted by United Nations bodies and other intergovernmental organizations, have contributed to shaping international norms and standards of protection. Some of these soft law instruments serve to interpret, clarify, or operationalize existing treaty obligations, while others constitute independent normative or policy commitments that guide state practice. In the following subsections, the terminology regarding CSAM in the principal international instruments relevant to the protection of children from sexual abuse and exploitation is analyzed, with particular attention to documents directly referring to terminology considerations.

### 2.1. Binding Instruments

#### 2.1.1. *UN Convention on the Rights of the Child (1989)*

The Convention on the Rights of the Child<sup>1</sup> employs the term "exploitation of children in pornographic performances and materials," obliging States Parties to take all appropriate measures at the national, bilateral, and multilateral levels to combat this phenomenon as part of ensuring the protection of children from "all forms of sexual exploitation and sexual abuse."<sup>2</sup> However, the CRC does not provide a legal definition of "pornographic performances and materials."

Article 19 of the CRC requires States Parties to protect children in the care of a parent(s), legal guardian(s), or other person(s) responsible for the care of the child from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse."

#### 2.1.2. *UN International Labour Organization Convention No. 182 on the Worst Forms of Child Labour (1999)*

The International Labour Organization Convention No. 182 on the Worst Forms of Child Labour<sup>3</sup> lists "the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances" as one of the "worst forms of child labour."<sup>4</sup> At the same time, Article 1 obliges Members to "take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency." The ILO Convention No. 182 does not contain a legal definition of "pornography" or "pornographic performances."

<sup>1</sup> Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990, 1577 U.N.T.S. 3, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (CRC).

<sup>2</sup> CRC, Article 34(c).

<sup>3</sup> Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), adopted 17 June 1999, entered into force 19 November 2000, 2133 U.N.T.S. 161, International Labour Organization, available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) (ILO Convention No. 182).

<sup>4</sup> ILO Convention No. 182, Article 3(b).

### **2.1.3. UN Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (2000)**

The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography,<sup>5</sup> a second optional protocol to the CRC, expands the catalog of measures that States Parties must take to protect children from exploitation, including for the purposes of producing and distributing CSAM. It is the first international document specifically focusing on child sexual abuse, including what is now referred to as CSAM.

The OPSC adopts the term “child pornography”, providing the first treaty definition of this term, as encompassing “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.”<sup>6</sup> This definition is broad and comprehensive (Gillespie, 2010, pp. 23–24). The phrase “any display, by any means” covers all forms and materials, reflecting the diversity of CSAM available in various media and depicting children in different ways.

Under Article 3(1)(c) of the OPSC, States Parties are required to criminalize a wide range of acts and activities relating to “child pornography” (“producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes”), regardless of whether such offenses were committed in the country concerned or abroad, by individuals or in an organized manner.

### **2.1.4. UN Convention against Cybercrime (2024, not yet in force)**

It was not until 2024 that the next binding UN instrument addressing CSAM emerged. The United Nations Convention against Cybercrime, adopted in 2024,<sup>7</sup> represents the first UN treaty comprehensively addressing crimes committed through information and communication technologies. Article 14, titled “Offences related to online child sexual abuse or child sexual exploitation material,” establishes a comprehensive framework for criminalizing the production, distribution, solicitation, possession, and financing of child sexual abuse or exploitation material (CSAEM) through information and communications technology systems.

UNCC marks a departure from the terminology traditionally used in earlier international instruments by avoiding the term “child pornography” altogether. Instead, Article 14 introduces the term “online child sexual abuse or child sexual exploitation material” (CSAEM), and, in the paragraph 2, provides its legal definition, specifying that it “shall include visual material, and may include written or audio content, that depicts, describes or represents any person under 18 years of age: (a) engaging in real or simulated sexual activity; (b) in the presence of a person engaging in any sexual activity; (c) whose sexual parts are displayed for primarily sexual purposes; or (d) subjected to torture or cruel, inhuman or degrading treatment or punishment, and such material is sexual in nature.”

<sup>5</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, adopted 25 May 2000, entered into force 18 January 2002, 2171 U.N.T.S. 222, available at: <https://www.ohchr.org/sites/default/files/crc-sale.pdf> (OPSC).

<sup>6</sup> OPSC, Article 2(c).

<sup>7</sup> The United Nations Convention against Cybercrime was adopted by the General Assembly on 12 December 2024 (A/RES/79/244), available at <https://www.unodc.org/unodc/en/cybercrime/convention/text/convention-full-text.html> (UNCC). As of November 2025, it has been signed by 72 States but has not yet entered into force. Under Article 59, the Convention will enter into force 90 days after the deposit of the 40th instrument of ratification, acceptance, approval, or accession. The drafting and adoption of the Convention were subject to significant debate, including concerns over human rights safeguards and jurisdiction expansion (see Tropina, 2024; Scher-Zagier, 2025).

## 2.2. Soft Law Instruments and Interpretive Guidance

### 2.2.1. UN soft law and interpretive guidance

#### UN Committee on the Rights of the Child General Comment No. 13 (2011) and No. 25 (2021)

The Committee on the Rights of the Child is a body that monitors the implementation of the CRC by States Parties<sup>8</sup> and interprets the content of human rights provisions. The interpretation is published in the form of General Comments and General Recommendations that are not binding on States Parties.<sup>9</sup>

In General Comment No. 13 on the right of the child to freedom from all forms of violence,<sup>10</sup> the Committee on the Rights of the Child points to the need for States Parties to establish clear operational legal definitions of the various forms of violence outlined in Article 19 of the CRC (see Section 2.1.1.) to prohibit all forms of violence in all settings, including online contexts relevant to CSAM, even though the Comment does not use this term explicitly.<sup>11</sup> Paragraph 25 of the Comment lists “the use of children in audio or visual images of child sexual abuse” as a form of sexual exploitation and abuse. The document refrains from using the term “pornography” in relation to CSAM.

A more recent General Comment No. 25 on children’s rights in relation to the digital environment,<sup>12</sup> which aims to identify appropriate legislative, political, and other measures necessary to ensure compliance with the obligations under the CRC and its OPSC in the context of the digital environment, introduces the term “child sexual abuse material,” imposing obligations related to this form of sexual exploitation in the digital environment on States Parties.<sup>13</sup> It also adopts the term “self-generated sexual material by children,” distinguishing this content from “child sexual abuse material.”<sup>14</sup> The Explanatory Notes<sup>15</sup> to this Comment also use the term “child sexual abuse material” alongside the “CSAM” acronym.

### Special Rapporteur on the sale, sexual exploitation and sexual abuse of children: Mandate, Reports, and Guidance (2014–2024)

By Resolution 1990/68,<sup>16</sup> the UN Commission on Human Rights appointed a Special Rapporteur on the sale of children, child prostitution, and child pornography (Special Rapporteur). In her 2014 report,<sup>17</sup> the Special Rapporteur noted an increase in support for the term “child sexual abuse material” to replace “child pornography.” She also pointed to arguments in favor of the change in terminology, recognizing that the term “child pornography” trivializes the victimization of children and may be misleading as to the illegal nature of such material, since the term “pornography” largely covers activities performed by consenting adults.<sup>18</sup> In this report, the Special Rapporteur

<sup>8</sup> CRC, Articles 43-45.

<sup>9</sup> According to Article 45(d) of the CRC, “The Committee may make suggestions and general recommendations based on the information received, in accordance with Articles 44 and 45 of this Convention”.

<sup>10</sup> Committee on the Rights of the Child, General Comment No. 13 (2011): The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13 (18 April 2011), available at: <https://www.refworld.org/legal/general/crc/2011/en/82269>.

<sup>11</sup> Ibidem, para. 18.

<sup>12</sup> Committee on the Rights of the Child, General Comment No. 25 (2021) on children’s rights in relation to the digital environment, CRC/C/GC/25, 2 March 2021, available at: <https://digitallibrary.un.org/record/3906061>.

<sup>13</sup> Ibidem, para. 70.

<sup>14</sup> Ibidem, para. 118.

<sup>15</sup> Explanatory Notes: UNCRC General Comment No. 25 (2021): Children’s rights in relation to the digital environment, 5Rights Foundation, 2021, available at: [https://5rightsfoundation.com/wp-content/uploads/2024/09/ExplanatoryNotes\\_UNCRCGC25.pdf](https://5rightsfoundation.com/wp-content/uploads/2024/09/ExplanatoryNotes_UNCRCGC25.pdf).

<sup>16</sup> Commission on Human Rights Resolution 1990/68 of 7 March 1990 on the sale of children, child prostitution and child pornography, E/CN.4/RES/1990/68, available at: <https://www.refworld.org/legal/resolution/unchr/1990/en/6527>.

<sup>17</sup> Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/28/56, 22 December 2014, para. 29, available at: <https://docs.un.org/en/A/HRC/28/56>.

<sup>18</sup> Ibidem.

endorsed the use of the term “child sexual abuse material,” recognizing it as more consistent with children's rights protection.<sup>19</sup>

In the 25 Years of Fighting the Sale and sexual Exploitation of Children: Addressing New Challenges handbook,<sup>20</sup> the Special Rapporteur noted that the 2017 renewal of the mandate would be “the occasion to recognize the evolutions in terminology in this field and thus modify the name of the mandate of the Special Rapporteur to make it child rights compliant.”<sup>21</sup> Indeed, the Human Rights Council, when extending the mandate in resolution 34/16 (2017),<sup>22</sup> renamed the office the *Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*,<sup>23</sup> adding “child sexual abuse material” to the previous version.

Despite the early recognition of evolving terminology by the Special Rapporteur in 2014, it was not until almost a decade later that the Human Rights Council, in Resolution 52/26 of April 4, 2023,<sup>24</sup> extending the mandate of the Special Rapporteur, amended the office title to *Special Rapporteur on the sale, sexual exploitation and sexual abuse of children*,<sup>25</sup> making it truly “child rights compliant,” as the Rapporteur wished in her 2017 handbook. The removal of the term “child pornography” from the mandate title carries both symbolic and practical significance, reflecting a deeper understanding of issues related to CSAM within UN policy. This renaming also marks a meaningful step toward standardizing language in international instruments and in the work of organizations responsible for protecting children's rights.

### **UN Committee on the Rights of the Child Guidelines on the Implementation of the OPSC and Explanatory Report (2019)**

In 2019, the Committee on the Rights of the Child issued the Guidelines regarding the Implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography<sup>26</sup> to facilitate the application of the OPSC in the digital context. These Guidelines also address the terminology used in the Protocol.

The Committee notes that certain expressions used in international and regional child rights instruments, such as “child pornography”, are gradually being replaced.<sup>27</sup> It, therefore, encourages States Parties and other stakeholders to consult the Luxembourg Guidelines (discussed in detail in Section 2.2.2) for assistance on appropriate terminology when developing laws and policies related to the prevention of sexual exploitation and sexual abuse of children and the protection of victims.<sup>28</sup> The Committee recommends that States Parties, where possible, avoid using the term “child pornography” and instead adopt alternatives such as “child sexual abuse material” and “child sexual

<sup>19</sup> Ibidem.

<sup>20</sup> 25 Years of Fighting the Sale and Sexual Exploitation of Children: Handbook, Office of the United Nations High Commissioner for Human Rights & Special Rapporteur on the sale of children, child prostitution and child pornography, 2016, available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Children/SR/25YearsMandate.pdf>.

<sup>21</sup> Ibidem, p. V.

<sup>22</sup> Human Rights Council Resolution 34/16 of 24 March 2017 renewing the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography, available at: <https://digitallibrary.un.org/record/1288947?ln=en&v=pdf#files>.

<sup>23</sup> Ibidem, para. 31.

<sup>24</sup> Human Rights Council Resolution 52/26 of 4 April 2023, renewing the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/RES/52/26, para. 2, available at: <https://docs.un.org/en/A/HRC/RES/52/26>.

<sup>25</sup> Ibidem, para. 2.

<sup>26</sup> Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, CRC/C/156, 16 September 2019, available at: [https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/CRC.C.156\\_OPSC\\_Guidelines.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/CRC.C.156_OPSC_Guidelines.pdf) (Guidelines on the Implementation of the OPSC).

<sup>27</sup> Ibidem, para. 5.

<sup>28</sup> Ibidem.

exploitation material".<sup>29</sup> At the same time, it clarifies that the term "child sexual abuse material," as used in its guidance, falls under the definition of "child pornography" provided in Article 2(c) of the OPSC.<sup>30</sup>

The accompanying Explanatory Report to the Guidelines on the Implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography,<sup>31</sup> developed by the Interagency Working Group,<sup>32</sup> elaborates on the reasons for the terminological shift, explaining that the term "child pornography" may be misleading, as it can imply that a child could consent to such practices.<sup>33</sup> It further notes that this terminology risks trivializing the gravity of the offenses or shifting blame onto the child; it also diminishes the status of the victim by associating the material with pornography, a context typically involving adults who participate voluntarily and can legally consent, which can never apply in cases involving children. For this reason, the term "child pornography" is increasingly being replaced by expressions such as "child sexual abuse material" (CSAM) or "child sexual exploitation material" (CSEM) to more accurately reflect the nature of such content as recorded depictions, whether in the form of images, videos, or audio, of children being sexually abused.<sup>34</sup>

Perhaps most importantly, the Explanatory Report emphasizes that the legal obligation of States Parties under Article 3 of the OPSC and Article 34 of the CRC concerns the criminalization of the acts described therein, rather than adherence to any particular terminology.<sup>35</sup> What matters, according to the Committee, is that domestic legislation defines the relevant offenses in a manner that captures all constitutive elements of the offence identified in the OPSC, even if a different term, such as child sexual abuse material, is employed.

### **UN General Assembly Resolution 74/174 on Countering Child Sexual Exploitation and Sexual Abuse Online (2019)**

The 2019 UN General Assembly Resolution 74/174<sup>36</sup> recalls the CRC and the OPSC while addressing the evolving terminology used to describe sexual exploitation material involving children. The resolution notes that the term "child pornography" is increasingly being replaced in some Member States with expressions such as "child sexual exploitation material" (CSEM) or "child sexual abuse material" (CSAM) to better reflect the nature of the content and the seriousness of harm suffered by the child. At the same time, Resolution 74/174 reaffirms the importance of existing international legal instruments and their internationally agreed definitions, emphasizing the need for terminology that accurately conveys the severity of offenses against children.

### **UN General Assembly Resolution 77/233 on Strengthening National and International Efforts to Protect Children from Sexual Exploitation and Abuse (2022)**

The 2022 UN General Assembly Resolution 77/233,<sup>37</sup> drawing on the previously discussed Resolution 74/174, echoes and reinforces the earlier instrument's recognition of evolving terminology in the context of child sexual

<sup>29</sup> Ibidem.

<sup>30</sup> Ibidem, para. 60.

<sup>31</sup> Explanatory Report to the Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Interagency Working Group & ECPAT International, September 2019, available at: <https://www.ecpat.org/wp-content/uploads/2019/09/OPSC-Guidelines-Explanatory-Report-ECPAT-International-2019.pdf> (Explanatory Report to the Guidelines).

<sup>32</sup> The Interagency Working Group is also responsible for developing the Luxemburg Guidelines referred to in both instruments discussed in this subsection (for details regarding the Luxemburg Guidelines, see Section 2.2.2).

<sup>33</sup> Ibidem, p. 13.

<sup>34</sup> Ibidem, p. 60.

<sup>35</sup> Ibidem, p. 24.

<sup>36</sup> General Assembly Resolution 74/174 of 18 December 2019, Countering Child Sexual Exploitation and Sexual Abuse Online, A/RES/74/174, available at: <https://docs.un.org/en/A/RES/74/174> (Resolution 74/174).

<sup>37</sup> General Assembly Resolution 77/233 of 15 December 2022, Strengthening national and international efforts, including with the private sector, to protect children from sexual exploitation and abuse, A/RES/77/233, available at: <https://docs.un.org/en/a/res/77/233> (Resolution 77/233).

exploitation. This document highlights the importance of standardized terminology to facilitate legal precision, support effective national frameworks, and strengthen international cooperation. In paragraph 10, it further calls upon Member States to adopt common data sets of known child sexual abuse materials, such as those maintained in INTERPOL's International Child Sexual Exploitation database, and to work toward alignment of terminology in order to protect victims' safety and privacy and prevent their repeated exploitation. Resolution 77/233 reinforces the transition from "child pornography" to CSAM/CSEM, explicitly connecting this shift to operational and legal measures, and, therefore, expanding on the normative and practical guidance offered by the 2019 resolution.

**United Nations Children's Fund (UNICEF), Legislating for the Digital Age: Global Guide on Improving Legislative Frameworks to Protect Children from Online Sexual Exploitation and Abuse (2022)**

UNICEF's Legislating for the Digital Age: Global Guide<sup>38</sup> uses the phrases "child sexual abuse material" and "child sexual exploitation material", acknowledging, at the same time, that the term "child pornography" continues to persist in older instruments, including the CRC and the OPSC. Building on the non-binding framework, such as Guidelines on the Implementation of the OPSC, the CRC Committee's General Comment No. 25, and Luxembourg Guidelines, it affirms that "it is generally accepted under international standards that the term 'child pornography' should be avoided to the extent possible and replaced by terms such as 'child sexual abuse material'".<sup>39</sup> The Guide encourages States to align their legislation with this shift in terminology and to adopt definitions and frameworks that reflect children's lived experiences of online abuse and exploitation, rather than relying on terminology developed in a pre-internet era.<sup>40</sup>

**2.2.2. Inter-Agency and Multi-Stakeholder Soft Law Instruments**

**The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008)**

Adopted at the Third World Congress against Sexual Exploitation of Children and Adolescents, the Rio de Janeiro Declaration and Call for Action<sup>41</sup> represents a key inter-governmental soft law instrument coordinating international responses to sexual exploitation. Although it does not provide definitional clarification or conceptual discussion of terminology, it is among the earliest international documents to employ the term "child abuse images" alongside "child pornography", the term grounded in law.<sup>42</sup> This usage might signal an early recognition of the problematic connotations of the term *child pornography* and anticipate subsequent terminological reforms aimed at framing such material as evidence of abuse rather than as content with pornographic intent. The instrument thus marks a transitional stage in the evolution of language in international child protection discourse.

<sup>38</sup> United Nations Children's Fund (UNICEF), Legislating for the Digital Age: Global Guide on Improving Legislative Frameworks to Protect Children from Online Sexual Exploitation and Abuse, UNICEF, New York, 2022, available at: [https://www.unicef.org/media/120386/file/Legislating%20for%20the%20digital%20age\\_Global%20Guide.pdf](https://www.unicef.org/media/120386/file/Legislating%20for%20the%20digital%20age_Global%20Guide.pdf).

<sup>39</sup> Ibidem, p. 12.

<sup>40</sup> Ibidem, p. 60.

<sup>41</sup> The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents, adopted at the World Congress III against Sexual Exploitation of Children and Adolescents, Rio de Janeiro, Brazil, 25–28 November 2008, available at: <https://www.mofa.go.jp/policy/human/child/congress0811-d.pdf>.

<sup>42</sup> Ibidem, Part C, Section II, "Child pornography/child abuse images".

### **Luxembourg Guidelines on Terminology for the Protection of Children from Sexual Exploitation and Sexual Abuse (2016, updated 2025)**

The Luxembourg Guidelines on Terminology for the Protection of Children from Sexual Exploitation and Sexual Abuse (first ed. 2016,<sup>43</sup> updated 2025<sup>44</sup>),<sup>45</sup> adopted through a global, multi-stakeholder process involving intergovernmental and international organizations, including ECPAT, INTERPOL, UNICEF, and the Council of Europe, provide comprehensive guidance for terms related to child sexual exploitation. Both editions strongly discourage the term “child pornography”, instead recommending “child sexual abuse material” (CSAM) and “child sexual exploitation material” (CSEM) to correctly convey the abusive nature of these images. For example, the 2016 Guidelines emphasize that sexualized images of children are “a representation, and a form, of child sexual abuse” and should not be described as pornography.<sup>46</sup> The revised (2025) Guidelines similarly note that “child pornography” remains a strictly legal term and should be avoided in everyday usage, while CSAM/CSEM are the preferred terms.<sup>47</sup>

The 2016 Guidelines introduce a clear CSAM/CSEM distinction, explicitly defining CSAM as material depicting the actual sexual abuse of a child, and CSEM as the broader class of sexualized content involving children. In particular, the document explains that CSAM is “a subset of CSEM where there is actual abuse or a concentration on the anal or genital region of the child”, whereas CSEM represents a broader category that encompasses both CSAM, and other sexualised content depicting children.<sup>48</sup> The 2025 revision reaffirms these definitions in light of new legal standards. It notes, for example, that a 2024 EU legislative proposal explicitly replaces “child pornography” with “child sexual abuse material”.<sup>49</sup>

## **3. REGIONAL SYSTEM: COUNCIL OF EUROPE (COE)**

The Council of Europe plays a leading role in developing regional European standards for the protection of children against sexual exploitation and abuse. Its instruments often complement and reinforce UN treaties, while introducing more detailed and operational provisions applicable within the European context. This section presents the key binding and non-binding instruments adopted under the Council of Europe framework, including the Lanzarote Convention and its accompanying soft law instruments.

### **3.1. Binding Instruments**

#### ***3.1.1. Council of Europe Convention on Cybercrime (2001)***

The Council of Europe Convention on Cybercrime<sup>50</sup> addresses offenses related to SCAM in Article 9(2), titled “Offences related to child pornography.” This provision defines “child pornography” as “pornographic material that visually depicts: a. a minor engaged in sexually explicit conduct; b. a person appearing to be a minor engaged in

<sup>43</sup> Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group, Luxembourg 28 January 2016, ECPAT International & ECPAT Luxembourg, available at: <https://ecpat.org/wp-content/uploads/2021/05/Terminology-guidelines-396922-EN-1.pdf> (Luxembourg Guidelines, 2016).

<sup>44</sup> Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (2nd ed.), Interagency Working Group, March 2025, ECPAT International, available at: <https://ecpat.org/wp-content/uploads/2025/04/Second-Edition-Terminology-Guidelines-final.pdf> (Luxembourg Guidelines, 2025).

<sup>45</sup> Unless the date is specified, in the rest of the text, both the 2016 and 2025 editions of these guidelines will be referred to collectively as the Luxembourg Guidelines, without further distinction between editions, for ease of reference.

<sup>46</sup> Luxembourg Guidelines, 2016, p. 38.

<sup>47</sup> Luxembourg Guidelines, 2025, p. 66.

<sup>48</sup> Luxembourg Guidelines, 2016, p. 39.

<sup>49</sup> Luxembourg Guidelines, 2025, p. 56.

<sup>50</sup> Council of Europe, Convention on Cybercrime (Budapest, 23 Nov. 2001) (ETS No. 185), available at: <https://rm.coe.int/1680081561> (Budapest Convention).

sexually explicit conduct; c. realistic images representing a minor engaged in sexually explicit conduct.” The Budapest Convention itself does not provide definitions of “pornographic material” or “sexually explicit conduct.”

The Explanatory Report to the Convention on Cybercrime,<sup>51</sup> a non-binding interpretative instrument which the COE adopted alongside the convention, clarifies that the term “pornographic material” used in Article 9, paragraph 2, is determined by domestic standards concerning the classification of materials as “obscene, inconsistent with public morals or similarly corrupt”.<sup>52</sup> It further specifies that “sexually explicit conduct” includes at least real or simulated acts of: sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between minors or between an adult and a minor, of the same or opposite sex; bestiality; masturbation; sadistic or masochistic abuse in a sexual context; or lascivious exhibition of a minor’s genitals or pubic area, regardless of whether the conduct depicted is real or simulated.<sup>53</sup>

Under Article 9(1), the Budapest Convention obliges Parties to criminalize a broad range of conduct related to “child pornography” in the digital environment. This includes producing such material for the purpose of its distribution through a computer system; offering or making it available through a computer system; distributing or transmitting it through a computer system; procuring it through a computer system for oneself or another person; and possessing it within a computer system or on computer-data storage media.

### ***3.1.2. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)***

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>54</sup> defines “child pornography” in Article 20(2) as “any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child’s sexual organs for primarily sexual purposes.” Similar to Budapest Convention, the Lanzarote Convention retains the term “child pornography.” While the Explanatory Report to the Lanzarote Convention<sup>55</sup>, a non-binding document facilitating the convention’s interpretation, indicates that its Article 20 was inspired by the provisions of Article 9 of the Budapest Convention,<sup>56</sup> the definition adopted in Article 20 is more closely aligned with that contained in the OPSC.

Although the Lanzarote Convention does not further specify the meaning of “sexually explicit conduct,” the Explanatory Report provides clarification identical to that offered in the Budapest Convention, listing real or simulated sexual intercourse, bestiality, masturbation, sadistic or masochistic sexual abuse, and lascivious exhibition of a child’s genitals or pubic area.<sup>57</sup>

Under Article 20(1), States Parties are required to criminalize a wide range of intentional acts related to “child pornography,” including: producing; offering or making available; distributing or transmitting; procuring for oneself or for another; possessing; and knowingly obtaining access through information and communication technologies.

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<sup>51</sup> Council of Europe, *Explanatory Report to the Convention on Cybercrime* (ETS No. 185), available at: <https://rm.coe.int/16800cce5b>.

<sup>52</sup> Ibidem, Title 3, para. 99.

<sup>53</sup> Ibidem, Title 3, para. 100.

<sup>54</sup> Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote, 25 Oct. 2007) (CETS No. 201), available at: <https://rm.coe.int/1680084822>.

<sup>55</sup> Council of Europe, Explanatory Report to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), available at: <https://rm.coe.int/16800d3832>.

<sup>56</sup> Ibidem, Chapter VI, para. 133.

<sup>57</sup> Ibidem, Chapter V, para. 143

### 3.2. Soft Law Instruments and Interpretive Guidance

#### 3.2.1. COE Lanzarote Committee — Opinions, Implementation Reports, Declarations (2016–2023)

The Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) is the body established to monitor whether Parties effectively implement the Lanzarote Convention and interpret its provisions through statements and opinions. In the Declaration on web addresses advertising or promoting child sexual abuse material (2016),<sup>58</sup> the Lanzarote Committee calls on Parties to act against web addresses promoting such material. It explicitly uses the term “child sexual abuse material” and avoids the term “child pornography” altogether, despite the latter being used in the Lanzarote Convention. The declaration marks a terminological shift related to CSAM in COE soft law instruments.

More recent Lanzarote Committee documents deepen and consolidate this terminology usage. For instance, the Thematic Implementation Report on the Protection of Children against Sexual Exploitation and Sexual Abuse Facilitated by ICTs (2022)<sup>59</sup> that addresses child self-generated images and explicitly frames problematic content in harm-based terms, consistently adopts CSAM language, clarifying that the term “child pornography” is only used in the document to quote the term used in legal texts.<sup>60</sup> It recommends that Parties use the term “child sexual abuse material” (CSAM) for material “depicting acts of sexual abuse of children and/or focusing on the genitalia of the child”, acknowledging that the term “child pornography” can be misleading and can undermine the gravity of the crimes it refers to.<sup>61</sup>

The Committee’s activity reports further document institutional uptake. The 7th Activity Report (2023)<sup>62</sup> explicitly encourages Parties “to use the term ‘child sexual abuse material’ (CSAM) instead of ‘child pornography’ for material depicting acts of sexual abuse of children and/or focusing on the genitalia of the child.”<sup>63</sup> The 9th Activity Report (2025)<sup>64</sup> highlights findings from the INHOPE mapping study on CSAM legislation (Global CSAM Legislative Overview, 2024), noting that many national laws still rely on the term “child pornography” rather than “child sexual abuse material.” It also observes substantial variation among Parties regarding which types of material are criminalised. According to the report, this continued lack of harmonised terminology and legal scope complicates cross-border investigations and prosecutions.<sup>65</sup>

<sup>58</sup> Lanzarote Committee (Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse), Declaration on Web Addresses Advertising or Promoting Child Sexual Abuse Material or Images or Any Other Offences Established in Accordance with the Lanzarote Convention, adopted 16 June 2016, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cffa>.

<sup>59</sup> Lanzarote Committee, Thematic Implementation Report: The Protection of Children against Sexual Exploitation and Sexual Abuse Facilitated by Information and Communication Technologies (ICTs), adopted 10 March 2022, available at: <https://rm.coe.int/implementation-report-on-the-2nd-monitoring-round-the-protection-of-ch/1680a619c4>.

<sup>60</sup> Ibidem, p. 27.

<sup>61</sup> Ibidem, pp. 26-27.

<sup>62</sup> Lanzarote Committee, 7th Activity Report of the Lanzarote Committee (covering the period 1 July 2021–2 February 2023), adopted 2 February 2023, available at: <https://rm.coe.int/7th-activity-report-of-the-lanzarote-committee/1680aa8e3a> (7th Activity Report).

<sup>63</sup> Ibidem, p. 17.

<sup>64</sup> Lanzarote Committee, 9th Activity Report of the Lanzarote Committee (covering the period 16 February 2024–6 March 2025), adopted 6 March 2025, available at: <https://rm.coe.int/9th-activity-report-lanzarote-committee/1680b586fe> (9th Activity Report).

<sup>65</sup> Ibidem, p. 18.

### 3.2.2. COE — other documents

#### COE Committee of Ministers Recommendation CM/Rec(2018)7: Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment (2018)

The Committee of Ministers' Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment<sup>66</sup> and the accompanying Handbook for Policy Makers<sup>67</sup> were adopted to assist the states and other relevant policymakers in ensuring their legislation, policies, and practices provide adequate protection for children's rights in the digital age through a rights-based lens. While the Guidelines adopt the term "child sexual abuse", the Handbook provides the reasoning behind this linguistic choice, referring to the Luxembourg Guidelines, and acknowledging that "although several conventions and other legislative instruments use notions such as 'child pornography', this has become contested over the past few years."<sup>68</sup>

#### Council of Europe Steering Committee for the Rights of the Child (CDENF) – Thematic Guidance Note: Safeguarding Children from the Risks of Accessing Online Pornographic Content (2025)

Although the CDENF Thematic Guidance Note on Safeguarding Children from the Risks of Accessing Online Pornographic Content (2025)<sup>69</sup> is focused on protecting children from risks associated with exposure to pornography, rather than on CSAM, it nevertheless makes an important distinction between the terms describing these phenomena. It provides a clear definition of "pornography" or "pornographic content", which refers to "any material depicting a person engaged in sexually explicit conduct, whether real or simulated, which typically includes portrayals of nudity and/or various sexual acts."<sup>70</sup> It then excludes CSAM from the scope of this definition, pointing out that it is an entirely different type of content, which is always illegal.<sup>71</sup> In doing so, it further solidifies COE's approach to CSAM-related terminology expressed in soft law instruments.

## 4. EUROPEAN UNION (EU)

The European Union has progressively developed its own legal and policy framework addressing child sexual exploitation, particularly through criminal law harmonization and digital safety initiatives. The EU approach combines binding directives with strategic communications and recommendations, reflecting the Union's evolving competence in matters of child protection and online regulation. The following subsections examine the main legal acts and complementary policy instruments shaping the EU response to CSAM.

### 4.1. Binding Instruments

#### 4.1.1. EU Council Decision 2000/375/JHA on Combating Child Pornography on the Internet (2000)

Council Decision 2000/375/JHA<sup>72</sup> represents one of the European Union's earliest legal instruments aimed at addressing the problem of CSAM. It obliges Member States to adopt a range of measures intended to prevent and

<sup>66</sup> Council of Europe, Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment, adopted 4 July 2018, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016808b79f7> (CM/Rec[2018]7).

<sup>67</sup> Council of Europe, Handbook for Policy Makers on the Rights of the Child in the Digital Environment, supporting Recommendation CM/Rec(2018)7, 2019, available at: <https://rm.coe.int/handbook-for-policy-makers-on-the-rights-of-the-child-in-the-digital-e/1680a069f8>.

<sup>68</sup> Ibidem, p. 60.

<sup>69</sup> Council of Europe, Thematic Guidance Note: Safeguarding Children from the Risks of Accessing Online Pornographic Content, 2025, available at: <https://rm.coe.int/cdenf-2024-20-final-guidance-note-on-safeguarding-children-from-the-ri/1680b4bc32>.

<sup>70</sup> Ibidem, p. 6.

<sup>71</sup> Ibidem.

<sup>72</sup> Council of the European Union. Council Decision of 29 May 2000 to combat child pornography on the Internet (2000/375/JHA), OJ L 138, 09.06.2000, pp. 1–4, available at: <https://eur-lex.europa.eu/eli/dec/2000/375/oj/eng>.

combat the production, processing, possession and distribution of child pornography material and to promote the effective investigation and prosecution of offences in this area.”<sup>73</sup> Although the Decision consistently uses the term “child pornography”, it does not provide a legal definition of this concept.

#### ***4.1.2. EU Directive 2011/93/EU on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography (2011)***

Directive 2011/93/EU on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography<sup>74</sup> defines “child pornography” in Article 2(c) as: “(i) any material that visually depicts a child engaged in real or simulated sexually explicit conduct; (ii) any depiction of the sexual organs of a child for primarily sexual purposes; (iii) any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the sexual organs of any person appearing to be a child, for primarily sexual purposes; or (iv) realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, for primarily sexual purposes.”

This constitutes one of the broadest legal definitions in international instruments relevant to CSAM. At the same time, Recital 46 of the Directive preamble clarifies that the term “child pornography” refers to “images of child sexual abuse,” thereby underscoring that such material documents acts of sexual violence against children rather than any form of consensual or legitimate sexual expression.

The list of criminal offences related to child pornography set out in Article 5 mirrors the conduct criminalized under the Lanzarote Convention. However, the Directive goes further by specifying minimum (and in some instances maximum) penalties that Member States must adopt for these offence categories.

#### ***4.1.3. EU Regulation 2021/1232 on a Temporary Derogation for Providers of Number-Independent Interpersonal Communications Services to Combat Online Child Sexual Abuse (2021)***

EU Regulation 2021/1232<sup>75</sup> establishes the legal basis that enables providers of online communications services to detect child sexual abuse in interpersonal communications and to report such cases to law enforcement authorities. The Regulation employs the term “online child sexual abuse material”, which it defines in Article 2(1) as including “child pornography as defined in Article 2(c) of Directive 2011/93/EU, and pornographic performances as defined in Article 2(e) of that Directive.”

While replacing the term “child pornography” with “child sexual abuse material” is a step towards a child-centered approach, the regulatory approach also introduces a degree of terminological inconsistency. In previously discussed international instruments, including Directive 2011/93/EU, the concepts of pornographic performances and child pornography are treated as distinct categories, each defined separately. By merging these two notions under the single label “online child sexual abuse material,” a term already used in earlier soft-law instruments to refer only to one of these categories, the Regulation inadvertently contributes to a lack of coherence in EU-level terminology (Dąbrowska, 2025, p. 59).

<sup>73</sup> Ibidem, Article 1.

<sup>74</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, OJ L 335, 17.12.2011, pp. 1–14, ELI: <http://data.europa.eu/eli/dir/2011/93/oi> (Directive 2011/93/EU).

<sup>75</sup> Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse (Text with EEA relevance, consolidated version 15 May 2024), ELI: <http://data.europa.eu/eli/reg/2021/1232/2024-05-15>.

#### **4.1.4. EU Regulation 2022/2065 of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) (2022)**

EU Regulation 2022/2065, known as the Digital Services Act (DSA),<sup>76</sup> establishes a harmonized framework for regulating digital services across the EU, with a central focus on strengthening the responsibilities of online intermediary services in addressing illegal content. The DSA defines “illegal content” broadly to include any information that is unlawful under Union or Member State law, irrespective of the precise subject matter or nature of that law.<sup>77</sup> This definition clearly also covers CSAM.<sup>78</sup>

#### **4.1.5. Proposal for an EU Directive on Combating Child Sexual Abuse and Exploitation (2024)**

In February 2024, the European Commission presented a proposal to amend Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children. The proposal introduces important terminological changes. The proposed Article 2(1)(c) replaces the term “child pornography” with “child sexual abuse material” and expands the scope of the definition to cover materials designed to provide advice, guidance, or instructions on how to sexually abuse, sexually exploit, or sexually solicit children. The proposal explains that the terminology used in the document has been brought into line with recognized international standards, such as the Luxembourg Guidelines.<sup>79</sup>

### **4.2. Soft Law Instruments and Interpretive Guidance**

#### **4.2.1. European Parliament Resolution 2015/2564(RSP) on Child Sexual Abuse Online (2015)**

A shift in terminology relating to CSAM in soft-law instruments, a trend already described in the previous sections, can also be observed at the EU level. In its Resolution on child sexual abuse online,<sup>80</sup> the European Parliament emphasizes the importance of using accurate language when referring to offences against children. It underscored that this includes the way in which depictions of sexual abuse are described, noting that the term “child sexual abuse material” should be used in place of “child pornography.”<sup>81</sup>

#### **4.2.2. Other Relevant EU Soft-Law Documents (2020, 2025)**

Recent EU soft-law instruments continue this terminological shift. In particular, the EU Strategy for a More Effective Fight Against Child Sexual Abuse, issued by the European Commission in July 2020,<sup>82</sup> consistently uses this term and explains in footnote 9 that it should be understood broadly to cover sexual abuse, sexual exploitation, and “materials depicting the sexual abuse of children (referred to in legal acts as child pornography).” This clarification reflects an effort to promote terminology that accurately conveys the abusive character of the conduct.

<sup>76</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, pp. 1–102). <https://eur-lex.europa.eu/eli/reg/2022/2065/oj/eng> (DSA).

<sup>77</sup> Ibidem, Article 13(h).

<sup>78</sup> The Recitals 61, 64, and 80 of the DSA’s preamble specifically refer to CSAM as an illegal content, using the term “child sexual abuse material”.

<sup>79</sup> See: Ibidem, Explanatory Memorandum, Section 5 (“Other Elements”).

<sup>80</sup> European Parliament, Resolution of 11 March 2015 on child sexual abuse online (2015/2564(RSP)), OJ C 316, 30 August 2016, pp. 109–112, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015IP0070&qid=1763364864018> (resolution 2015/2564(RSP)).

<sup>81</sup> Ibidem, Recital 12 of the preamble.

<sup>82</sup> European Commission, Communication COM(2020) 607 final: EU Strategy for a More Effective Fight Against Child Sexual Abuse, Brussels, 24 July 2020, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0607>.

A similar approach appears in the Commission's Guidelines on measures to ensure a high level of privacy, safety and security for minors online,<sup>83</sup> adopted under Article 28(4) of the DSA. The Guidelines list CSAM as one example of "illegal content," while noting that its legal definition is found in other EU or national instruments rather than in the DSA itself.<sup>84</sup> Taken together, the 2020 Strategy and the DSA Guidelines illustrate the continued use of abuse-focused terminology in recent EU policy documents.

## 5. DISCUSSION

The analysis of international and European legal instruments demonstrates a gradual shift in terminology utilized to describe CSAM. The earlier international treaties, such as the CRC and ILO Convention No. 182, focused on the use of children in pornography rather than on the resulting material and did not contain the term "child pornography" at all, and although associating children with pornography is questionable, the terms used in these instruments emphasized the child's exploitation. The OPSC introduced the first treaty definition of "child pornography," and subsequent instruments largely followed this approach. Over time, however, it became clear that this terminology is both stigmatizing and conceptually misleading. The Explanatory Report to the Budapest Convention shows that the understanding of "pornographic material" was tied to domestic standards of obscenity, public morals, and corruption — criteria oriented toward protecting societal sensibilities rather than addressing the sexual abuse of children. As Ost (2010) notes, obscenity-based frameworks traditionally centre on moral harm to the public rather than on the victimization in child sexual abuse. In this wider context, the contemporary move toward CSAM terminology reflects a shift in *ratio legis*: away from moralistic notions embedded in obscenity discourse and toward a child-centered conceptualization that properly recognizes the material as evidence of crimes committed against children.

The findings of this study suggest that the evolution of terminology relating to CSAM has been driven primarily by soft law. Soft law instruments have functioned not merely as supplementary guidance but as primary vehicles for normative development and terminological reform when binding instruments stayed locked in their terminology, and treaty-making mechanisms proved too slow to address the need for a shift in this regard. An example of this interplay is the nearly 24-year gap between the OPSC and the adoption of the UNCC in 2024. During this period, no new universally binding instrument was introduced to establish new CSAM-related regulations or address terminological issues surrounding the phenomenon; however, the field did not remain stagnant. Instead, interpretive guidance, general comments, resolutions, and expert-developed standards gradually transformed the conceptual vocabulary used to describe CSAM.

The Luxembourg Guidelines emerge as the key document marking the transition from "child pornography" to "CSAM/CSEM" terminology, referenced by most of the subsequent instruments. Developed through a global multi-stakeholder process involving, *inter alia*, ECPAT, INTERPOL, UNICEF, and the COE, these Guidelines provided interagency consensus on terminology at a time when binding instruments remained locked into outdated language. Although signals of terminological evolution appeared earlier, e.g., in the 2011 EU Directive's Recital 46, which characterized "child pornography" as "images of child sexual abuse," or in the 2014 Special Rapporteur report endorsing CSAM terminology, the Luxembourg Guidelines represented the first comprehensive, systematic effort to establish standardized terminology across the child protection field. This is in line with previous research arguing that the multistakeholder process is at the core of the regulatory process surrounding emerging technologies (Hagemann et al., 2018, pp. 84–85). By 2024, when the UNCC was adopted, "child sexual abuse or child sexual exploitation material" had achieved sufficient normative acceptance to appear in a binding universal instrument

<sup>83</sup> European Commission, Communication C/2025/6826: Guidelines on Measures to Ensure a High Level of Privacy, Safety and Security for Minors Online, OJ C C/2025/5519, 10 October 2025, ELI: <http://data.europa.eu/eli/C/2025/5519/oj>.

<sup>84</sup> *Ibidem*, Section 1 ("Introduction"), footnote (3).

without any reference to "child pornography." This evolution demonstrates the successful "hardening" of soft law norms: gradual norm-building through interpretive guidance and policy documents eventually shaped the content of binding law.

However, terminological evolution has created new challenges. The UNCC adopts "online child sexual abuse or child sexual exploitation material" (CSAEM), diverging from the "CSAM" term that had gained traction in earlier UN soft law instruments and the Luxembourg Guidelines. Proposed EU Regulation 2021/1232, in turn, uses "online child sexual abuse material" but defines it as encompassing both "child pornography" (as defined in Directive 2011/93/EU) and "pornographic performances," concepts that previous instruments treated as distinct categories. Even as "child pornography" is being retired, consensus on replacement terminology remains incomplete.

At the domestic level, the INHOPE Global CSAM Legislative Overview (2024) and the Lanzarote Committee's 9th Activity Report (2025) document that many states still retain "child pornography" in legislation and that the categories of material criminalized vary widely.<sup>85</sup> The Lanzarote Committee has repeatedly encouraged Parties to adopt CSAM terminology stressing that inconsistency hampers cross-border investigations and prosecutions. This shows that the practical consequences of non-harmonized terminology extend beyond conceptual clarity.

The terminological inconsistency in domestic laws under the discussed international frameworks also accentuates a tension inherent in the soft law strategy: while non-binding instruments can build normative consensus relatively quickly, they cannot compel uniform implementation. In the case of CSAM-related terminology, the result is a dual discourse in which states simultaneously maintain outdated terminology in formal legal contexts while their policy documents and soft law commitments employ reformed terminology.

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<sup>85</sup> For analysis of how the international terminology developments relate to Polish criminal law, see M. Dąbrowska, 'Propozycja reform terminologicznych dotyczących kryminalizacji materiałów przedstawiających wykorzystywanie seksualne małoletnich (CSAM) w polskim prawie karnym', *Studia Prawnoustrojowe* 68 (2025).

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