



This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

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

- Law for the comprehensive protection of children and Adolescence

Ratified by The Government of Guatemala Through Decree 27-90 Of The Congress Of The Republic.

Article 2. Definition of childhood and adolescence. For the purposes of this Law, every person is considered a boy or girl from conception until they turn thirteen years old of age, and adolescent to anyone from thirteen to eighteen years old. (not an official English translation)

Link:

https://www.oas.org/dil/esp/ley_de_proteccion_integral_de_la_ninez_y_adolescencia_guatemala.pdf

- Convention on the Rights of the Children

Ratified by the government of Guatemala through decree 27-90 of the Congress of the Republic.

Article 1. For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Link: <https://www.un.org/es/events/childrenday/pdf/derechos.pdf>

b. child sexual exploitation (Missing Children's Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala



ARTICLE 193.* Paid sexual activities with minors. Who for himself or third parties, in exchange for any sexual act with a minor of age, provides or promises to this or a third person an economic or any other benefit nature, regardless of whether the purpose is achieved, will be punished with imprisonment of five to eight years, without prejudice to the penalties that may apply for the commission of other crimes. (not an official English translation)

Link: https://tse.org.gt/images/UECFFPP/leyes/Codigo_Penal.pdf

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

ARTICLE 2. For the purpose of the present protocol:

...

- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

Link: https://treaties.un.org/doc/Treaties/2000/05/20000525_03-16_AM/Ch_IV_11_cp.pdf

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

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala

ARTICLE 188.* Sexual exhibitionism. Whoever executes, or causes another person to execute, sexual acts in front of minors or person with volitional or cognitive incapacity, will be punished with a sentence of three to five years in prison. (not an official English translation)

Link: https://tse.org.gt/images/UECFFPP/leyes/Codigo_Penal.pdf

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

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala

Article 173. Rape. Who, with violence physically or psychologically, has sexual intercourse via the vagina, anal or mouth with another person, or introduces any part of the body or objects, by any of the indicated routes, or forces another person to introduce them to herself, she will be punished with prison sentence of eight to twelve years.

This crime is always committed when the victim is a person under fourteen years of age, or when it is a person with volitional disability or cognitive, even when physical violence is not involved or psychological.

The penalty will be imposed without prejudice to the penalties that may correspond to the commission of other crimes. (not an official English translation)

Link: https://tse.org.gt/images/UECFFPP/leyes/Codigo_Penal.pdf



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

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala

Article 194. Production of pornography minors. who of any form and through any means, produce, manufactures or produces pornographic material that contains a real or simulated image or voice, of one or several minors or persons with volitional or cognitive incapacity, in pornographic or erotic actions, will be punished with imprisonment of six to ten years and a fine of fifty thousand to five hundred one thousand Quetzales (not an official English translation)

Link: https://tse.org.gt/images/UECFFPP/leyes/Codigo_Penal.pdf

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Ratified by the government of Guatemala through decree 76-2001 of the Congress of the Republic.

ARTICLE 2. For the purpose of the present protocol:

...

- (c) Child pornography means 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.

f. computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)

There is no specific applicable regulation in Guatemala regarding this matter.

g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)

- Decree 11-2022. Reforms to decree number 17-73 of the Congress of the Republic of Guatemala, criminal code, in relation to crimes committed against childhood and adolescence through technological media

Article 190 Bis. Seduction of boys, girls or adolescents by the use of information technologies.

Whoever, through any type or class of technological means, whether or not using anonymity, contacts any child or adolescent with the purpose of:

- a. Request or receive material with sexual or pornographic content, your own or that of third parties, whether or not it includes audiovisual media;
- b. Have or facilitate sexual relations with a third person;
- c. Facilitate the commission of any other crime against the sexual freedom or



indemnity of the contacted child or adolescent.

The person responsible for one or more conducts indicated above will be punished with imprisonment of six (6) to twelve (12) years, regardless of whether he achieves his purpose.

The penalty will be increased by two thirds when the victim is a child or adolescent with cognitive or volitional incapacity.

The penalty will be imposed without prejudice to those that may apply for the commission of other crimes.

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

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala

Article 173. Rape. Who, with violence physically or psychologically, has sexual intercourse via the vagina, anal or mouth with another person, or introduces any part of the body or objects, by any of the indicated routes, or forces another person to introduce them to herself, she will be punished with prison sentence of eight to twelve years.

This crime is always committed when the victim is a person under fourteen years of age, or when it is a person with volitional disability or cognitive, even when physical violence is not involved or psychological.

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i. Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children's Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

- Decree 11-2022. Reforms to decree number 17-73 of the Congress of the Republic of Guatemala, criminal code, in relation to crimes committed against childhood and adolescence through technological media

Article 190 Ter. Blackmailing children or adolescents through the use of information technologies or technological means. Whoever, through the use of information technologies or technological means, whether or not using anonymity, threatens a child, adolescent or their legal representatives with disseminating material with sexual or pornographic content of the child or adolescent, whether the material is contained in audiovisual or other media, will be punished with imprisonment of six (6) to twelve (12) years.

The penalty will be increased by two thirds when the victim is a child or adolescent with cognitive or volitional incapacity.



The penalty will be imposed without prejudice to those that may apply for the commission of other crimes. (not an official English translation)

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

There is no specific applicable regulation in Guatemala regarding this matter; nevertheless, the following regulations are relevant to the subject:

- Penal Code Decree 17-70 of the Congress of the Republic of Guatemala

Article 195.Bis* Marketing or dissemination of pornography of minors. Whoever publishes, reproduces, imports, exports, distributes, transports, exhibits, creates propaganda, disseminates or trade in any form and through any means, pornographic material of minors of age or with volitional or cognitive disability where their real or simulated image or voice is used, it will be punished with imprisonment of six to eight years and a fine of fifty thousand to five hundred thousand Quetzales. (not an official English translation)

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

There is no specific applicable regulation in Guatemala regarding this matter; nevertheless, the following regulations are relevant to the subject:

- Decree 11-2022. Reforms to decree number 17-73 of the Congress of the Republic of Guatemala, criminal code, in relation to crimes committed against childhood and adolescence through technological media

Article 190 Ter. Blackmailing children or adolescents through the use of information technologies or technological means.

Whoever, through the use of information technologies or technological means, whether or not using anonymity, threatens a child, adolescent or their legal representatives with disseminating material with sexual or pornographic content of the child or adolescent, whether the material is contained in audiovisual or other media, will be punished with imprisonment of six (6) to twelve (12) years.

The penalty will be increased by two thirds when the victim is a child or adolescent with cognitive or volitional incapacity.

The penalty will be imposed without prejudice to those that may apply for the



commission of other crimes. (not an official English translation)

Article 190 Bis. Seduction of boys, girls or adolescents by the use of information technologies.

Whoever, through any type or class of technological means, whether or not using anonymity, contacts any child or adolescent with the purpose of:

- a. Request or receive material with sexual or pornographic content, your own or that of third parties, whether or not it includes audiovisual media;
- b. Have or facilitate sexual relations with a third person;
- c. Facilitate the commission of any other crime against the sexual freedom or indemnity of the contacted child or adolescent.

The person responsible for one or more conducts indicated above will be punished with imprisonment of six (6) to twelve (12) years, regardless of whether he achieves his purpose.

The penalty will be increased by two thirds when the victim is a child or adolescent with cognitive or volitional incapacity.

The penalty will be imposed without prejudice to those that may apply for the commission of other crimes.

- c. **report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization**

There is no specific applicable regulation in Guatemala regarding this matter; nevertheless, the following regulations are relevant to the subject:

- Decree 11-2022. Reforms to decree number 17-73 of the Congress of the Republic of Guatemala, criminal code, in relation to crimes committed against childhood and adolescence through technological media

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- a. Request or receive material with sexual or pornographic content, your own or that of third parties, whether or not it includes audiovisual media;
- b. Have or facilitate sexual relations with a third person;
- c. Facilitate the commission of any other crime against the sexual freedom or indemnity of the contacted child or adolescent.

The person responsible for one or more conducts indicated above will be punished with imprisonment of six (6) to twelve (12) years, regardless of whether he achieves his purpose.

The penalty will be increased by two thirds when the victim is a child or adolescent with cognitive or volitional incapacity.

The penalty will be imposed without prejudice to those that may apply for the commission of other crimes.

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

There is no specific applicable regulation in Guatemala regarding this matter.

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

There is no specific applicable regulation in Guatemala regarding this matter.

- f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency**

There is no specific applicable regulation in Guatemala regarding this matter.

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
 - i. "Hashing technology"** (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**



There is no specific applicable regulation in Guatemala regarding this matter.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?**

There is no specific applicable regulation in Guatemala regarding this matter.

- 3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?**

There is no specific applicable regulation in Guatemala regarding this matter.

- 4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?**

There is no specific applicable regulation in Guatemala regarding this matter.

- 5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:**

YES

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

Yes, in fact, there is a procedure that is regulated in the criminal process. This is carried out once a person is found guilty. Through this process, the victim can request that specific measures be applied to their case to repair the damage caused by the crime.

- Criminal Procedure Code, Decree Number 51-92 of The Congress of the Republic of Guatemala.

Article 124.- Right to decent reparation. The reparation to which is entitled the victim, understands the restoration of the right affected by the criminal event, which begins from recognizing the victim as a person with all her circumstances as a subject of rights against whom the action fell criminal offense, to the alternatives available for their social reintegration in order to enjoy or make use of the affected right as soon as possible, to the extent that such reparation is humanly possible and, where appropriate, the compensation for damages derived from the commission of the crime;

To exercise this right, the following rules must be observed:

1. The action for reparation may be exercised in the same criminal process once the conviction has been handed down. The judge or court that issue the sentencing sentence, when there is a specific victim, In the report of the



sentence, the procedural subjects will be summoned and the victim or aggrieved party to the reparation hearing, which will be will take place on the third day.

2. At the reparation hearing, the amount of the compensation must be proven. compensation, restitution and, where appropriate, damages in accordance with the rules of evidence and, pronounce the decision immediately at the hearing itself.
3. With the decision of reparation, and the previously reported criminal responsibility and penalty, the written sentence is integrated.
4. Notwithstanding the above, at any time during the criminal process, the victim or aggrieved party may request from the competent judge or court the adoption of precautionary measures that allow the assets to be secured sufficient to cover the amount of the repair.
5. The declaration of civil liability will be enforceable when the conviction remains final.

If the remedial action has not been carried out in this way, the right of the victim or injured party to exercise it in civil proceedings. . (not an official English translation)

Article 125.- Content and Limits.

The exercise of civil action in criminal proceedings will include reparation for damages caused by the crime, in accordance with the respective legislation. (not an official English translation)

Link:

http://ww2.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/pdfs/Codigos/CodigoProcesalPenal_CENADOJ.pdf

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

Yes, the same procedure used to get monetary recovery from an offender, regulates not just monetary retributions but any other that may be used in any specific case. These measures include: restitution measures, rehabilitation, compensation, satisfaction and guarantees of non-repetition. So, the Judge must apply some or all of these measures toward helping the victim find relief from the damage caused by the actions.

- Criminal Procedure Code, Decree Number 51-92 of The Congress of the Republic of Guatemala.

Article 124.- Right to decent reparation. The reparation to which is entitled the victim, understands the restoration of the right affected by the criminal event, which begins from recognizing the victim as a person with all her circumstances as a subject of rights against whom the action fell criminal offense, to the alternatives available for their social reintegration in order to enjoy or make use of the affected right as soon as possible, to the extent that such reparation is humanly possible and, where appropriate, the compensation for damages derived from the commission of the crime;



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3. With the decision of reparation, and the previously reported criminal responsibility and penalty, the written sentence is integrated.
4. Notwithstanding the above, at any time during the criminal process, the victim or aggrieved party may request from the competent judge or court the adoption of precautionary measures that allow the assets to be secured sufficient to cover the amount of the repair.
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- c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?**

There is no specific applicable regulation in Guatemala regarding this matter.

- d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?**

Yes, the same procedure used to get monetary recovery from an offender, regulates not just monetary retributions but any other that may be used in any specific case. These measures include: restitution measures, rehabilitation, compensation, satisfaction and guarantees of non-repetition. So, the Judge must apply some or all of these measures toward helping the victim find relief from the damage caused by the actions.



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3. With the decision of reparation, and the previously reported criminal responsibility and penalty, the written sentence is integrated.
4. Notwithstanding the above, at any time during the criminal process, the victim or aggrieved party may request from the competent judge or court the adoption of precautionary measures that allow the assets to be secured sufficient to cover the amount of the repair.
5. The declaration of civil liability will be enforceable when the conviction remains final.

If the remedial action has not been carried out in this way, the right of the victim or injured party to exercise it in civil proceedings. (not an official English translation)

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The exercise of civil action in criminal proceedings will include reparation for damages caused by the crime, in accordance with the respective legislation. (not an official English translation)

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- e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?



- Criminal Procedure Code, Decree Number 51-92 of The Congress of the Republic of Guatemala.

Article 124.- Right to decent reparation. The reparation to which is entitled the victim, understands the restoration of the right affected by the criminal event, which begins from recognizing the victim as a person with all her circumstances as a subject of rights against whom the action fell criminal offense, to the alternatives available for their social reintegration in order to enjoy or make use of the affected right as soon as possible, to the extent that such reparation is humanly possible and, where appropriate, the compensation for damages derived from the commission of the crime;

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- f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?**

Yes, the same procedure used to get monetary recovery from an offender, regulates not just



monetary retributions but any other that may be used in any specific case. These measures include: restitution measures, rehabilitation, compensation, satisfaction and guarantees of non-repetition. So, the Judge must apply some or all of these measures toward helping the victim find relief from the damage caused by the actions.

- Criminal Procedure Code, Decree Number 51-92 of The Congress of the Republic of Guatemala.

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To exercise this right, the following rules must be observed:

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2. At the reparation hearing, the amount of the compensation must be proven. Compensation, restitution and, where appropriate, damages in accordance with the rules of evidence and, pronounce the decision immediately at the hearing itself.
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- g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?**

There is no specific applicable regulation in Guatemala regarding this matter.

- 6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.**

- a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?**

There is no specific applicable regulation in Guatemala regarding this matter.

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

There is no specific applicable regulation in Guatemala regarding this matter.

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

There is no specific applicable regulation in Guatemala regarding this matter.

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

There is no specific applicable regulation in Guatemala regarding this matter.

- b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?**

There is no specific applicable regulation in Guatemala regarding this matter.