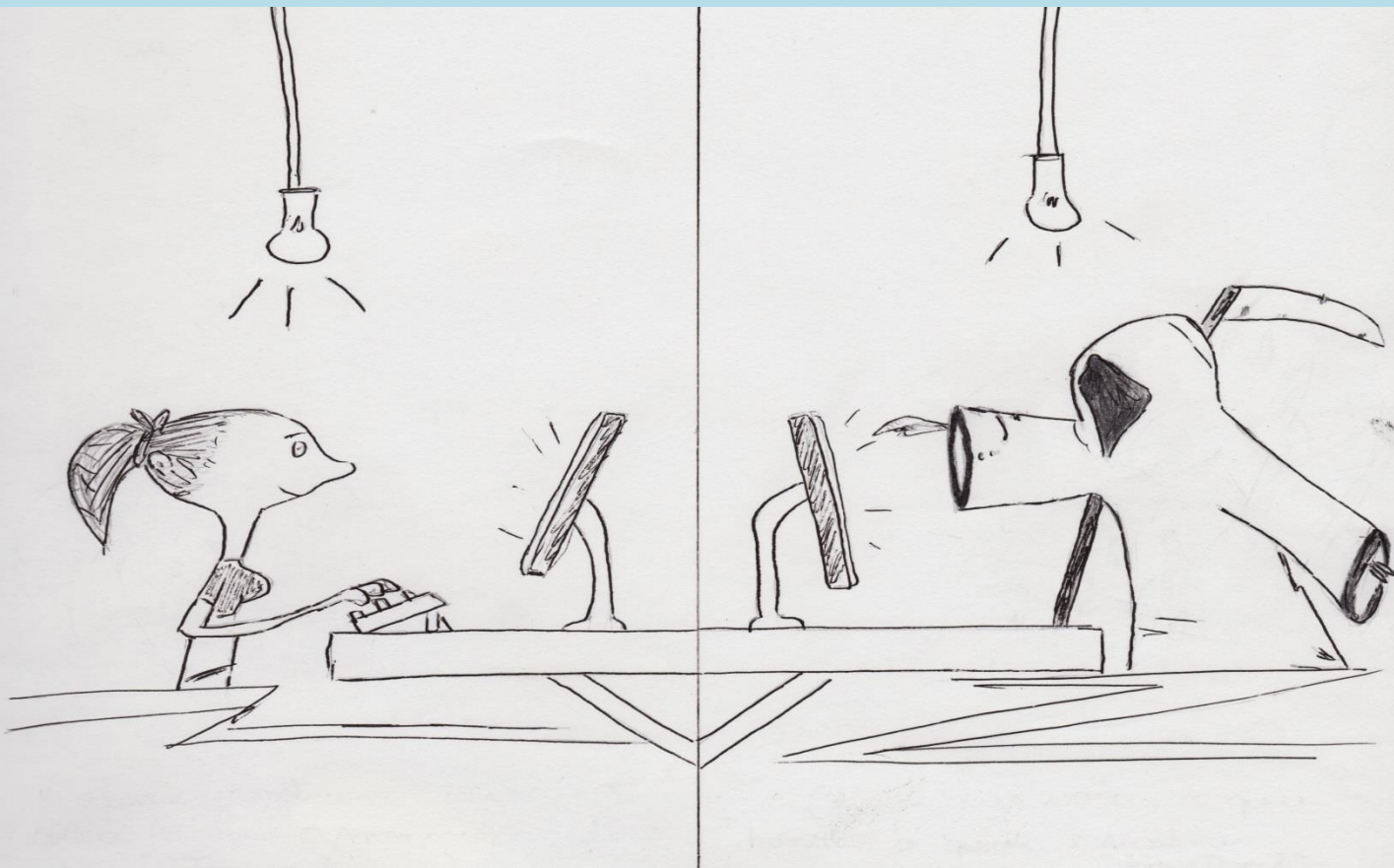


YOU AND THE INTERNET

(AB) USE, CRIME AND
COMPLAINT



Text: Cybercrime Office.

Translation from the Portuguese: Cybercrime Office.

Graphic arrangement: Cybercrime Office and Sara Marques.

Illustrations: children and young people from *Escola Básica do Lumiar* (Guilherme, 6 years old, Filipe, 6 years old, António, 6 years old and Helena, 7 years old), from the 3rd and 4th degree of *Escola Básica de Telheiras nº 1* (André Moura, Miguel Garcia, Alice Custódio, Rodrigo Pereira and Francisca), from the 9th degree of *Escola Básica de Telheiras* (Ana Catarina Marques, Maria Lopes, Mafalda Policarpo, Henrique Campos, Bruno Gonçalves, Mafalda Martins, Teresa Neves, Joana Anjos, Martim Norte and André Brás Gouveia), from the 9th degree of *Escola Secundária Vergílio Ferreira* (Daniela Torres and João Pombo) and from the Secondary degree of *Escola Secundária Vergílio Ferreira* (Inês Fernandes, 15 years old, Beatriz Rodrigues, 15 years old, Maria Candeias, 16 years old and Bruno Henriques, 17 years old).

Covers: Filipe, 6 years old, from *Escola Básica do Lumiar*, Maria Candeias, 16 years old, from *Escola Secundária Vergílio Ferreira* and Bruno Henriques, 17 years old, from *Escola Secundária Vergílio Ferreira*.

October 2013

DISCLAIMER : all the mentioned legal texts do not correspond in their terms to those of the acts; those texts are quoted briefly and simply, in view of a better understanding by those who are not familiar with them.

TO THE CHILDREN AND YOUTH PEOPLE, TO THE PARENTS AND TO THE TEACHERS:

The Internet is an ubiquitous reality. Through the Internet we study, we work and we search for information that we need for the daily life. Most of us are almost permanently connected to this network of networks, for professional reasons or other – or simply because we don't want to feel ourselves *offline* or disconnected .

This is even more applicable to children and young people, who live permanently connected, especially to social networks: increasingly, they want to be in constant touch with their classmates and friends. And, of course, with all the rest they can find in the virtual world: the news and trends.

The Internet has thus gained an immeasurable dimension. Besides, it is a free and open unregulated space, where the most varied rights can have expression – beginning by the right of freedom of expression. But it is also a fertile ground for the development of new and creative illicit activities.

There are several publications and initiatives with the scope to call the attention to the dangers of the Internet and with recommendations to its safe use. The purpose of this booklet is not to be an alternative to those initiatives. Our aim is to contribute, through information, to a safer Internet, making clear that some behaviours against children and young people are a crime. We will talk about the criminal complaint, how to do it and whom to address it. Finally we will remind the existence of other answers, not in the criminal side, that can also ensure the rights of children and young victims of the misuse of the Internet .

**Joana Marques Vidal,
Procuradora-Geral da República**

YOU AND THE INTERNET

On the Internet you have the right...

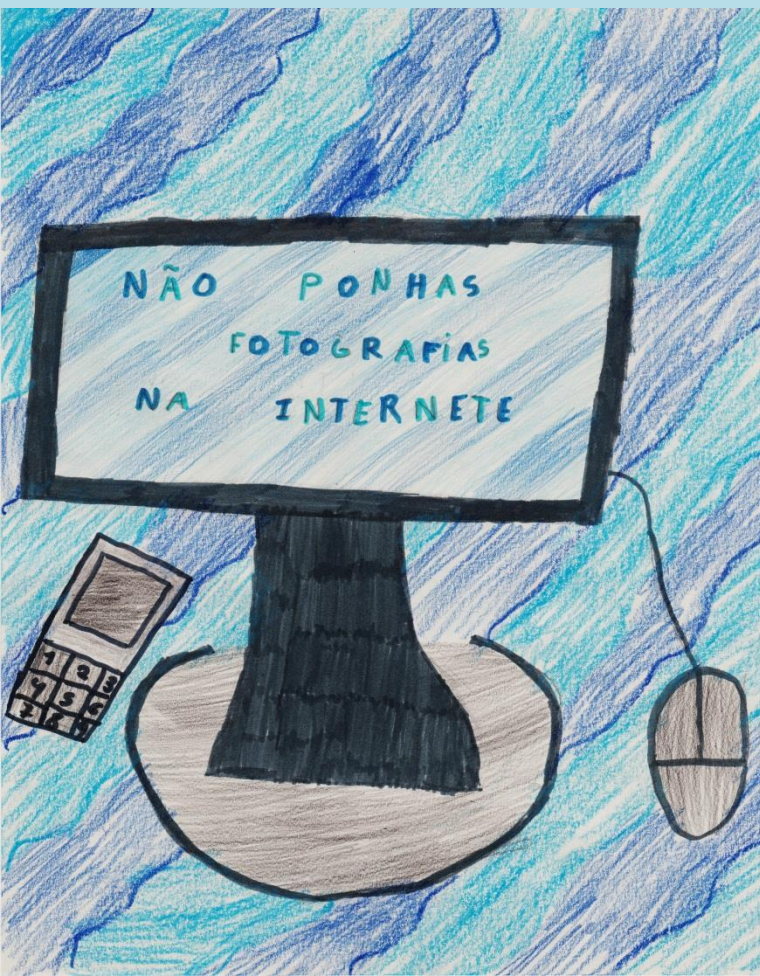
...to privacy.

You have the right not to see your personal data disclosed without your permission and not to have your life publicized or probed.

You have the right that facts, writings or images concerning you are not published without your permission.

You have the right that others don't open or use unlawfully an email account, or accounts on social networks, with your name, as if it was you to do so.

The truth is that everything you upload or post on the Internet can be seen by everyone and shall be there forever, out of your control. Whatever you send, by email or telephone messages, also gets out of your control: you don't know what others will do, or to whom they will forward whatever you send them.



Constitution of the Portuguese Republic

Article 26

(everyone has the right to privacy and to private and family life)

Criminal Code

Article 192 – Inquest of privacy

(it shall be punished with imprisonment up to 1 year or a fine, whoever records or broadcasts conversations, or captures images, or discloses facts concerning the private live of other people)

Article 199 - illicit recordings and photographs

(it shall be punished with imprisonment up to 1 year or a fine, whoever records or makes use of someone else's words not directed to the public, without consent, and whoever records the image of someone else, or makes use of this kind of pictures or movies, against the will of that person)

YOU AND THE INTERNET

On the Internet you have the right...

...that others respect you.

You have the right to express your ideas and to support your views.

But you also have the right that others don't insult or defame you, and the right that they don't threaten you.

You have the right that others respect your name and your image, as well as that they respect your national or ethnical origin and the fact that you belong to a certain group or religion.



Constitution of the Portuguese Republic

Article 37

(everyone has the right to freely express and publicize his or her thoughts, in writing, by images or by any other means)

Article 26

(it is recognized to all the right to the personal identity, citizenship, good name and reputation, image, and legal protection against any form of discrimination)

Penal Code - Article 180 - Defamation

(it shall be punished with imprisonment up to 6 months or with a fine not exceeding 240 days, whoever attributes to other person a fact or expresses an opinion about him or her, that can be offensive to its honour or consideration)



YOU AND THE INTERNET

On the Internet you have the right...

...not to be harassed.

Cyberbullying is a term used to describe the attitude of those who use the technologies (computers, mobile phones) to practice *bullying*.

Practicing *bullying* is assaulting colleagues, physically or psychologically, in a continuous and repeated manner, without any reason and without being assaulted.

On the Internet you have the right not to be harassed, provoked, insulted or discriminated.

You have the right not to be ridiculed for your physical characteristics, for the way you look like, for your nationality, your race or for belonging to an ethnical group, or by your religion. You have the right not to be humiliated or intimidated.



Criminal Code

Article 153 - Threat

(it shall be punished with imprisonment up to 1 year or a fine of up to 120 days, whoever threatens others, mentioning that is going to kill him, harm, offend their personal freedom or sexual self-determination or to withdraw assets of considerable value)

Article 154 - Coercion

(it shall be punished with imprisonment up to 3 years or a fine, whoever compels another person to do an act or omission, or suffer an activity by the means of violence or threat)

Article 180 - Defamation

(it shall be punished with imprisonment up to 6 months or with a fine not exceeding 240 days, whoever attributes to other person a fact or expresses an opinion about him or her, that can be offensive to its honour or consideration)

Article 181 - Insult

(it shall be punished with imprisonment up to 3 months or a fine of up to 120 days, whoever insults another person, attributing to that person facts or referring words able to offend his honour or respect)

YOU AND THE INTERNET

On the Internet you have the right...

...to have security.

You have the right that others do not interfere with your computer or mobile phone and to use them knowing that others will not know and will not interfere with that use.

You have the right to keep the data you lawfully store in your mobile phone or computer safe, and not to see the data disclosed, removed, erased or destroyed by others.



Cybercrime Law

Article 4

(it shall be punished with imprisonment up to 10 years whoever deletes, alters, destroys, damages, removes or renders unusable computer data of another person)

Article 6

(it shall be punished with imprisonment up to 5 years whoever obtains unauthorised access to a computer system - including mobile phones - of another person)



YOU AND THE INTERNET

On the Internet you have the right...

...not to see texts or images that offend or harm you.

You have the right to surf the web without encounter websites or images of violence, discrimination of any kind or pornography.

Child pornography, in particular, is a very serious crime.



Criminal Code Article 176

(it shall be punished with imprisonment up to 8 years, whoever uses minors in photographs, films or other pornographic records;

the same penalty applies to those who distribute these materials, to those who acquire them to distribute, or to anyone who possess it).

YOU AND THE INTERNET

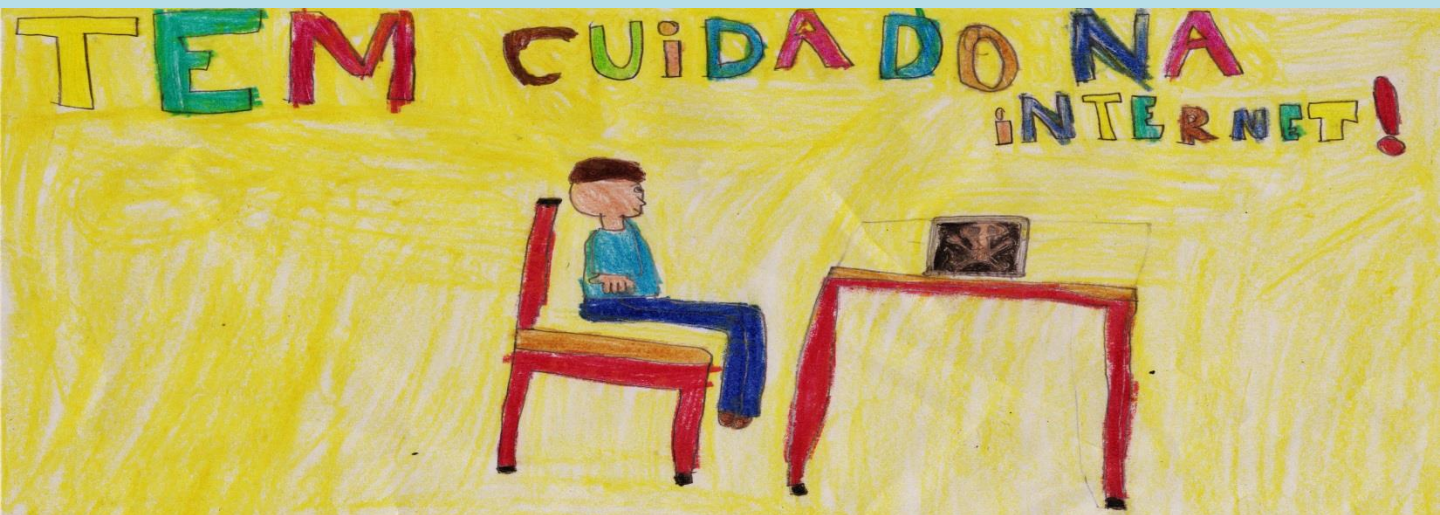
On the Internet you have the right...

...not to be deceived.

Not everything that you can find on the Internet or comes by the Internet is true. Not all the email messages were sent by those whom they seem to come. Not all those who send you emails are well-intentioned.

On the Internet you have the right to not to receive deceptive messages and to not be fooled with deals that seem fantastic.

You have the right not to be invaded by viruses and other malicious software that will break down your computer.



Cybercrime Law - Article 4

(it shall be punished with imprisonment up to 3 years or a fine, whoever disseminates software able to interfere or to produce computer damage)

Criminal Code Article 217 - fraud

(it shall be punished with imprisonment up to 3 years or a fine, whoever, by the means of a mistake, deceives another person, causing to that person lost of property)

Article 221 - computer fraud

(it shall be punished with imprisonment up to 3 years or a fine, whoever manipulates computer data without authorization and, through it, causes lost of property)



YOU AND THE INTERNET

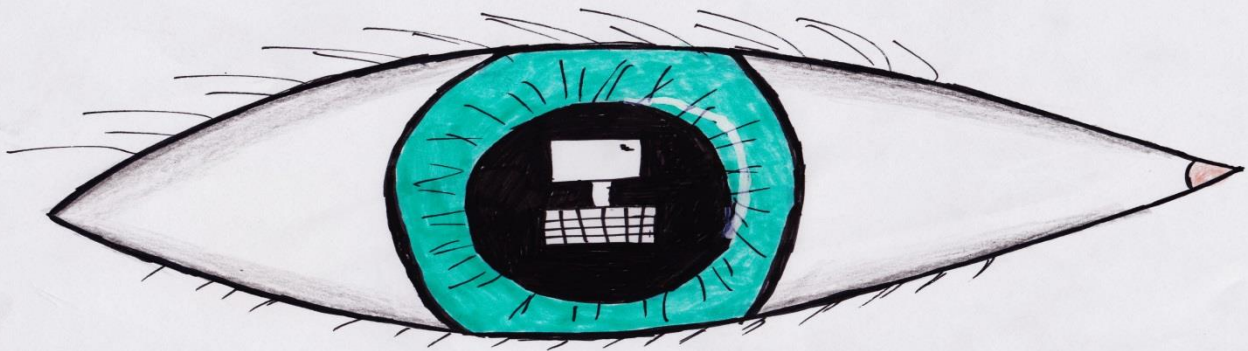
On the Internet you have the right...

...not to be harassed or molested.

Authorities call *grooming* to the attempts that adults develop to approach children and young people, in order to sexually harass or assault them.

On the Internet you have the right not to be approached by adults, even if they pretend to be young, for purposes of this nature.

Although Portuguese law does not provide for a specific crime at this respect, Portugal committed itself internationally to introduce it in the domestic law.



O PERIGO ESPREITA
VÊ PARA ALÉM DO ECRÃ



Lanzarote Convention 2007 (Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse)

(it must be punished as a crime the act of an adult that, using information and communication technologies, approaches a child with the purposes of meeting him or her, with the intention to commit crimes of sexual nature)

Penal Code - Article 171

(it shall be punished with imprisonment up to 3 years to act of whoever approaches a minor of less than 14, with pornographic conversations, writings or other pornographic materials)

YOU AND THE INTERNET

On the Internet you have the right...

...that your work and creations are respected.

Whatever you upload to the Internet – your photos, your texts or your videos –, even if they can be seen by everybody, remain your work or your creation.

You have the right that others do not use or modify those creations without your permission.

Furthermore, you cannot improperly use, without the permission of the author, photographs, text, music or videos.



Constitution of the Portuguese Republic Article 42

(everybody is free to create intellectual, artistic or scientific work and this freedom includes the right to the invention, production and dissemination of scientific, literary or artistic works, including the legal protection of copyright)

Code of Copyright and Related Rights Articles 195, 196, 197 and 199

(it will commit a crime punishable with imprisonment up to 3 years and a fine, whoever uses the creation of another person as his own, or whoever uses the work of another person without his or her consent, as well as those who sell or distribute it to the public)



YOU AND THE INTERNET

If your rights are violated...

...you have the right to present a complaint.

When you are a victim of a crime, you have the right to complain. The complaint is the appropriate way to react against a crime.

Some public authorities are specially prepared to handle your complaints. It is the case of the *Ministério Público* or of all the police corporations (*Polícia de Segurança Pública – PSP –*, *Guarda Nacional Republicana – GNR –*, or *Polícia Judiciária – PJ*).

You can submit your complaint to any of them. The complaint will always be sent to the prosecutor who will direct the investigations of the case and, if there is evidence of a crime, will charge the suspect in view that he is submitted to a trial.



Daniela Tonnes

Constitution of the Portuguese Republic Article 20

(it is guaranteed the access to the courts to defend the rights and interests protected by law, and justice may not be denied for economic insufficiency)

(everyone has the right to legal information and consultation)

(the law provides legal proceedings in order to obtain effective and timely protection against threats or violations of rights)

YOU AND THE INTERNET

There are several ways to submit a complaint.

You can go directly to the *Ministério Público*, which has services throughout the national territory, and talk to the prosecutor. You can also choose to go to a police station, both from PSP, GNR or *Polícia Judiciária*.

If you prefer, you can send a letter by regular mail or by email.



Here you will find information that

will help you:

Ministério Público

(www.pgr.pt)

PSP

(www.psp.pt)

GNR

(www.gnr.pt)

and

(Judicial Police

(www.pj.pt).



YOU AND THE INTERNET

If you want to complain and you need aid....

If you want to submit a complaint but you feel alone, unattended or you need aid, you can seek support from your parents, relatives, one of your teachers, your family doctor, or anyone else you trust.

The prosecutors (from the *Ministério Público*) within the Family and Minors Courts, the *Comissão Nacional de Crianças e Jovens em Risco* (www.cncjr.pt), or the commission for the protection of children and young persons in the area where you live can also aid you, as all of them have, as a mission, the tasks of helping, informing and, above all, protecting you.



YOU AND THE INTERNET

Do not forget that if you are a victim of a crime you can always submit a complain...

...even if you don't know the identity of the suspect.

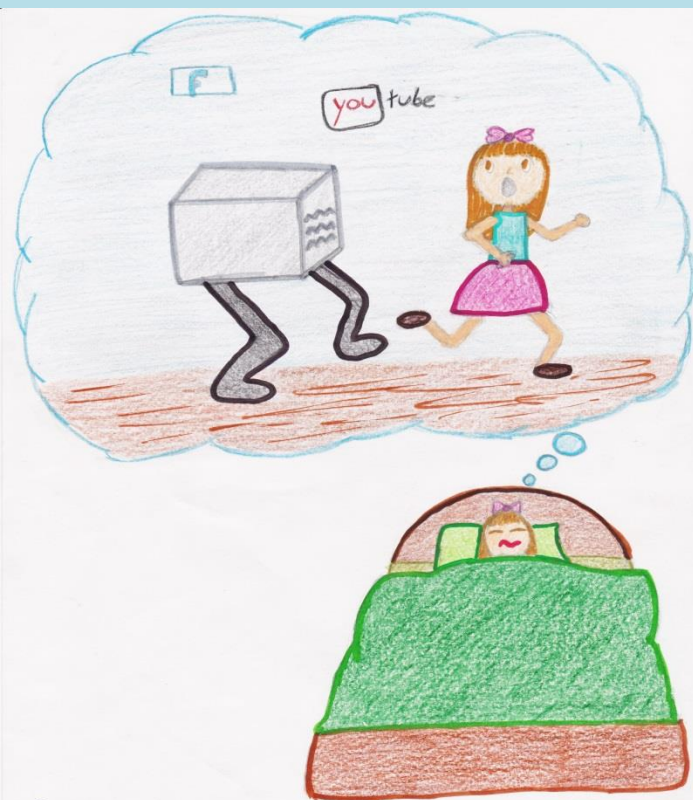
The authorities have several ways to discover the identity of the perpetrator of a crime .

The traffic data of all the Internet communications are recorded. The communication service providers are required to store those data for one year. Therefore, in many cases, the authorities can ask for them and use them to identify the person in case.

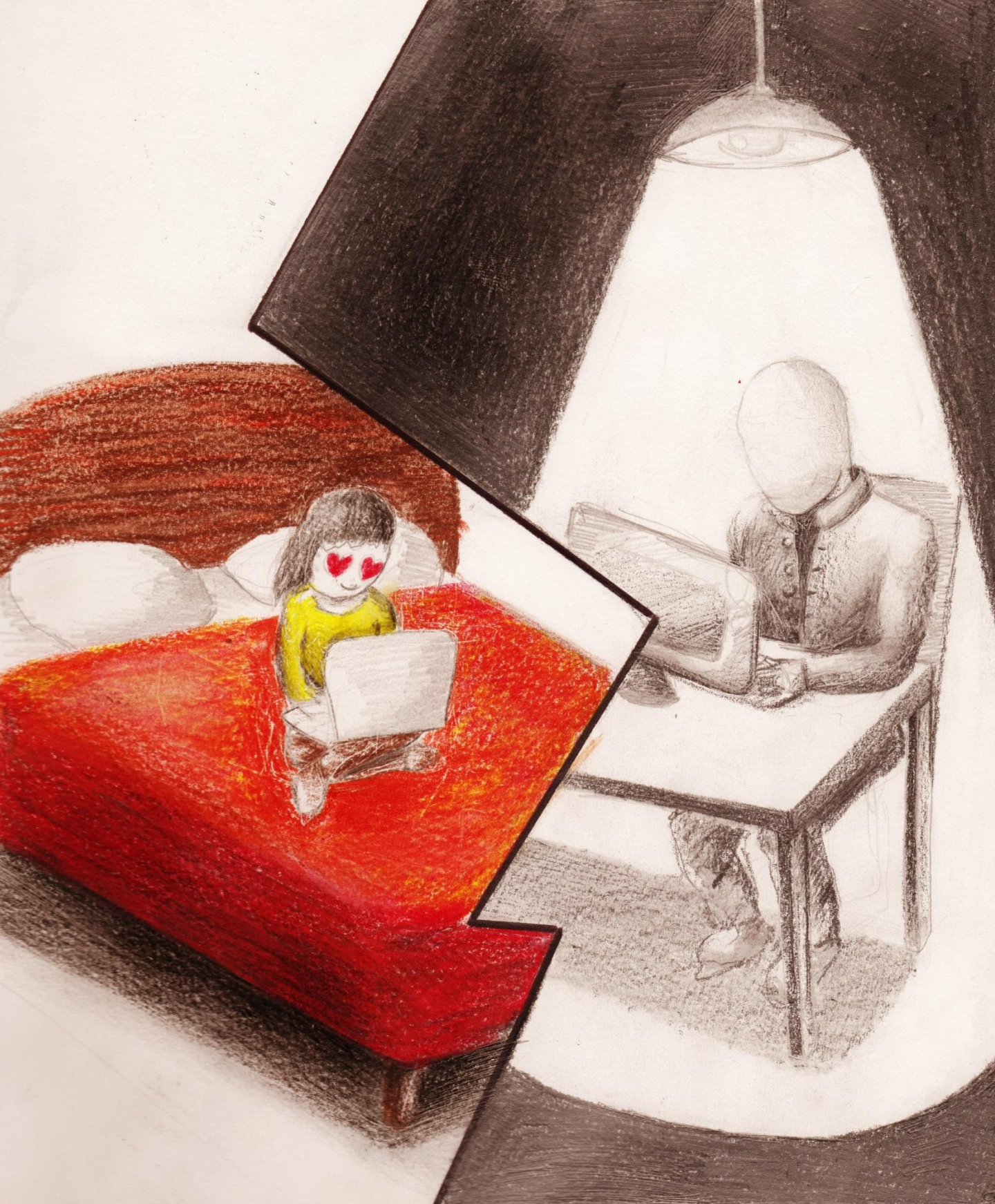
...even if the suspect is a minor.

If anyone who violated your rights is under 16, it will not be a criminal court who will handle the case, which will be sent to Family and Minors Court.

In that situation several measures can apply. The simplest one is the admonition, a kind of warning, which is made by the judge, and the more serious is the admission into an educational centre, within others, such as, for example, to be required to attend training programs or to accomplish certain tasks to the community.



Teresa Neves



PROCURADORIA-GERAL DA REPÚBLICA

Rua da Escola Politécnica, 140, 1269-269 Lisboa