



Research Project into Criminal Disclosure  
and National Sex Offence Laws within the European Union

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## Research into Criminal Disclosure and National Sex Offence Laws in the European Union

### Final Report

The risk of sex offenders working with children could be heightened by the lack of communication between EU countries, as there is currently no system to share the criminal records of known offenders. In just one month in 2004, over 17,000 people from EU states came to the UK looking to work with children or vulnerable adults. Due to the freedom of movement rights held by EU citizens, these workers can move between EU countries without limitations. However, this also applies to criminals whose backgrounds are not being fully researched before they are allowed to immigrate and search for work.

This issue was also raised in the report 'Protecting Children from Sexual Abuse in Europe: Safer Recruitment of Workers in a Border-free Europe', where it was suggested that "Although most of these individuals will be law-abiding citizens it is likely a small proportion of convicted or potential sex offenders will be among migrant workers, as with any national population"

Currently all EU countries hold intelligence records on child sex abusers but often in different ways and while more interoperability schemes are attempting to create a 'one- fits- all- template' so that this information can be easily shared and understood, there are fears that it will be many years before it comes to fruition and even then may not be effective.

It is therefore the aim of this research project to identify a way in which employers of overseas workers can increase their own safeguarding measures during the recruitment process by gathering additional information on the backgrounds of their potential recruits, while also exploring the various laws regarding sexual offences in each EU country in order to establish whether there is any contrast in the definitions of each crime or in the sentencing.

### National Laws

For the purposes of this research project the key areas in the national laws which have been researched are as follows:

- I. Ages for Legal Purposes
- II. Rape
- III. Forms of Child Sex Abuse
- IV. Child Prostitution
- V. Child Pornography
- VI. Internet
- VII. Misc. Territorial Legislation

The legal ages with regards to sexual consent in the EU are at the lowest within Spain (13 years old) and at the highest in Malta (18 years old). However, the Vatican State also has a low age of consent which is currently set at 12 years old.

In addition, the age of simple majority (which is the age a person is considered to be ready for all aspects of life) is generally set at 18 for all EU nations. However, sexual crimes against children are typically structured around the age of sexual consent rather than the age of majority. As such, this does create one of the first gaps in terms of relating sexual crimes between borders, since some acts which would be deemed a criminal offence in the UK would not be seen as such in various other countries. For example, if a migrant worker from Hungary regularly engaged in sexual acts with a 15 year old, this would not be deemed an offence in his home country. However, in the UK where the age of sexual consent is set at 16, it would be a punishable offence if he immigrated and continued such a relationship.

The only legal provisions which have been made in this area are mainly related to sexual tourism. For example, French legislation states that a French national who leaves France and engages in sexual activity with someone below the age of 15 (the French age of consent) can be convicted of a sex crime as soon as he returns to France (This is also the case with Belgian nationals and several other EU nations).

Furthermore, the definition of rape is widely agreed upon across the EU, with most EU nations defining the offence as:

Any act of sexual penetration, of whatever nature and by any means whatsoever, committed against a person who does not consent, or where consent is attained by the use of violence, coercion, or threatening behaviour.

In fact, the only major differences between the EU nations in terms of rape charges seem to appear during sentencing. For example, in Belgium the sentence for a rape charge is 10 – 15 years of forced labour, in France the sentence would be up to 20 years imprisonment and in the UK the sentence would be life imprisonment (14 years or more). In Spain the sentence would only amount to imprisonment of 1 – 3 years and in Estonia the penalty is also set at a fairly low term of 1 – 5 years imprisonment.

With regards to child prostitution, the basic legal definitions of the offence are also largely the same across the EU. However, some countries do differ on the age of a 'child' (as per their age of consent) and some nations also have extra legislation with regards to acts of child prostitution that are committed by a parent or guardian. Sentencing for the basic charge of child prostitution ranges from up to 20 years imprisonment in Cyprus to a much shorter prison sentence of 1 - 3 years in Greece.

Finally, child pornography charges also differ greatly across the EU, more so than any of the other crimes listed above. For example in Slovenia and Portugal, the possession of child pornography is not considered to be an offence at all. However, all the EU nations have legal provisions preventing the production of child pornography, though the sentences still range in their severity. In Estonia, the charge

only carries a sentence of up to 1 year imprisonment, whereas in the UK sentencing can range between 6 months' and 14 years' imprisonment.

### Overseas Criminal Records Checks

The aim of this project is not to discourage the hiring of foreign nationals but to improve the safety of employers and the general public by limiting the movement of serious criminals and sexual offenders. As Diana Sutton, Head of Policy and Public Affairs at the NSPCC, states

"We need a simple system that allows an education or health authority in Manchester to ensure a potential employee from Madrid or Marseilles is not a danger to children. This problem has been discussed many times but we can no longer afford to sit back and wait for a high-profile tragedy to hit the headlines before something is done."

However, all of the major organisations carrying out checks in the UK (Access NI, CRB and Disclosure Scotland) acknowledge they may not provide full details on a workers history outside the UK. The following quote comes from the Disclosure Scotland website:

"Disclosure Scotland and CRB cannot currently access overseas criminal records or other relevant information as part of their disclosure service. If boards are recruiting staff from overseas, a Disclosure Scotland check may not provide a complete picture of their criminal record that may or may not exist"

There have already been cases of people working with children & vulnerable adults in the UK who have serious criminal convictions from abroad that have gone undetected as CRB Checks only cover offences committed within the UK .

The only standard size template for security vetting of potential candidates on an international basis is the system used by NATO, as they provide an independent security questionnaire (details on this can be found in wallet nine of the research file). However, this would be a difficult template to emulate because it would require all the EU nations to willingly take on a new independent vetting system which is the problem that the EU is already facing at the moment.

Currently when employing an overseas worker in the UK, the criminal laws are primarily focused upon section 8 of the Asylum and Immigration act (1996) which relates to an employees right to work in the UK. If it is discovered that a migrant worker does not have the right to be in the UK, then the employer must establish a statutory defence from this conviction by retaining copies of the employee's documents at the point of recruitment which demonstrate their right to work in the UK. However, for foreign nationals who have been in the UK for less than a 5 year period they are also required to have a 'Certificate of Good Conduct' and provide a copy of their previous address. Nevertheless, these are not always comprehensive legal documents provided by the police but often simply a signed declaration by someone in a position of authority over the candidate stating that they are

trustworthy. These documents do not provide a detailed breakdown of that person's background nor do they represent criminal charges levied against them. As such, this would be a very simple loophole for a convicted criminal to exploit and thereby hide their previous convictions from a new employer.

While it is true that there are now some private UK firms which offer services in this area, for example one company known as 'Global Vetting' does provide a service for checking the records of foreign workers and they claim to have 'identified the 54 key countries that UK nationals return from and that non-UK nationals come to the UK from'. They have been operating for the past 18 months according to their website and offer translated copies of foreign documents as well as a rough breakdown of that particular country's sex offence laws. Yet these services are very expensive when applied to the basic recruiting costs and would not be a viable option for most employers.

It would therefore seem as if there is a large opening for a cheaper option to private vetting but a more comprehensive document than the 'Certificate of Good Conduct', the most viable option would be to encourage more organisations into asking foreign workers to supplement their applications by providing their own criminal record certificates from their country of origin. This is not a flawless option and there are issues with this process; for example a potential recruit may be able to falsify such documents. It would therefore be necessary to reassure any employer by providing one final contact to either the embassy or the relevant records bureau (after the check is completed) in order to ensure that the documents do relate to that person. Some private companies have expressed concern that self checking does not work because the country that the candidate is applying to may not have a national database and he could therefore attempt to gain a clear record from a local police force which does not have a record of him. However, this is also very easy to prevent as the candidate's former address would allow us to ensure that they contacted the relevant bureau.

In order to implement this scheme, an employer could contact us and have the relevant data provided to them with regards to the employees country of origin, i.e with regards to a Latvian national we could provide the contact information for the Latvian embassy and the details of the Latvian Criminal Records Bureau as well as the expected turn around time for the documents and details of what information the recruit will need to send to the records bureau, i.e. name, address, DoB, or in the case of some countries whether they will need to send legal documents to supplement their application i.e. their passport .

The employer would then instruct the recruit to contact the embassy or consulate and ask for assistance in contacting their relevant records bureau in order to obtain a copy of their criminal record. While there could be some instances where translations would be needed, most of the EU countries supply documents to Interpol in English, French or Spanish therefore there should not be a great deal of specialist translations that would be needed. Additionally, if first contract is made from a UK embassy they may be able to assist in requesting a translated copy of the documents.

Additionally, we could also supply information about the country that the check is being carried out in which is very important in terms of how spent convictions are treated and the age of consent etc. This does seem like the best system for a potential employer to adopt as it does not add a huge cost to their recruiting process and it also shields them for excessive liability in the event that their employee does commit a crime in the UK. Any employer who was to conduct a series of checks in this manner, would be able to demonstrate that they went above their basic legal requirements to ensure that this person was, at the time of recruitment, fit to work with children or vulnerable adults.

### **Risk Mitigation**

Until there is a comprehensive EU wide vetting system then no solution will be entirely free of risk, however, there is still a great deal an employer could achieve in terms of risk management by following this project. As the proposed self checking system would provide a much more extensive account of that persons background than anything which is currently in place and would thereby allow employers much more peace of mind when recruiting foreign nationals.

### **EU Legislation**

With regards to the progress made within the European Union, there was recently a written declaration from two EPP members (Tiziano Motti and Anna Zaborska) suggesting that the EU parliament 'create a European early warning system for paedophiles and sex offenders'. This should have acted as a milestone in the eventual creation of a full interoperability system for discussing criminal records and vetting foreign workers, however the legislation itself was actually aimed at increasing the Data Retention Directive which holds information about EU Citizens Internet activity (such as e-mail traffic data) and would have done almost nothing to prevent the spread of online sex offenders networks in the EU.

The declaration has also been heavily critical and branded as 'gutter lobbying' after it came to light that one of the main sponsors of the acts (Tiziano Motti) also has a position in Media set (Silvio Berlusconi's media company) which is currently suing Google, and having access to Google's database of searches would have undoubtedly helped Mediaset in this legal dispute. MEPs signed in support of the declaration very quickly, (prior to much of this information being revealed) but withdrew their support shortly after the focus of the act came to light.

However, the initial support of the act does go to show that progress in this area is welcome and therefore, if a project such as this could eventually be implemented at an international level to some degree then it may be able to gather a lot of support.

### **Summary**

In conclusion, I feel that this research does show many ways in which a project of this nature is not only viable but also necessary. For example, from a business perspective, the need to check foreign workers is clear, and the current options seem to contrast greatly between the cheap and flawed 'Certificate of Good Conduct' and the expensive private vetting companies. This is because the key areas

where foreign nationals who pose a threat will be working are largely in care homes (often as night staff) or initially following their immigration through agency work and temporary jobs. These areas are the ones which would seemingly benefit the most from a new vetting system as they cannot afford to increase their recruitment costs by hiring private firms to check on their candidates. As such, a new approach which has more comprehensive cover than the current requirements could provide greater assurances that the people being hired are trustworthy without being too costly.

Additionally, it could also be argued that this project is very pro-European as its long term application could help to improve the standing of EU workers in the UK and largely help to remove some of the concern that the majority of foreign workers being employed in the here are ex-criminals, as these checks could also be used to track the number of successful applicants who have been vetted and provide accurate and positive figures to contrast some of the more negative headlines.



## CRB Checks and Criminal Disclosure

By 2004 it was estimated that around 20% of the UK population had some kind of criminal record even if it was only for a minor misdemeanour. The Criminal Records Bureau (CRB) was therefore set up to allow employers in the public, private and voluntary sectors to run a background check on all job applicants whom they might be considering offering work to.

The check does not encompass all occupations but is designed to protect children and other vulnerable sections of the community so that employers can ensure that any candidate who is subsequently offered a job is suitable for the role and that nobody who comes into contact with that person is placed at risk in any way.

### Types of Criminal Disclosure

There are three levels of Criminal Record Disclosures available in the UK – a Basic Disclosure, a Standard Disclosure and an Enhanced Disclosure:

1. Basic Disclosure: This level of disclosure searches the Police National Computer for convictions which are not spent under the terms of the Rehabilitation of Offenders Act (*See following pages for details*). It discloses all such convictions, or states that there are none.

As it discloses only unspent convictions, a Basic Disclosure is available to any individual applying for, or already employed in, any position. For this reason, it is the most commonly ordered disclosure and is suitable for all industries and levels of candidates.

The typical turnaround time for a Basic Disclosure is 5-10 business days, although this can vary depending on the provider's service levels.

2. Standard Disclosure: This discloses details of all spent and unspent convictions, cautions, reprimands and warnings on the Police National Computer (PNC).

The typical turnaround time for a Standard Disclosure is 5-10 business days, although this can vary depending on the provider's service levels.

3. Enhanced Disclosure: This discloses details of all spent and unspent convictions, cautions, reprimands and warnings on the Police National Computer. An Enhanced Disclosure may contain non-conviction local police force information. Based on address history provided by the candidate, the disclosure request is sent to the Chief Constable or Chief Officer in the appropriate location. The Chief can choose to add any non-conviction information (e.g. suspicions) if they feel it relevant to the position applied for. Depending on the position applied for, an Enhanced Disclosure will also check the relevant ISA barred lists to ensure the individual is not barred from working with children and/or vulnerable adults.

The typical turnaround time for an Enhanced Disclosure is 4-6 weeks, although this can vary depending on the provider's service volume levels.

## **Enhanced Disclosure Certificate.**

**Please note: Standard and Enhanced Disclosure Certificates can only be issued for application purposes in the UK.**

The highest level of certificate is the Enhanced Disclosure (termed as an "enhanced criminal record certificate" under **Part V** of the Police Act 1997). In addition to the details included in Standard Disclosures, Enhanced Disclosures may contain non-conviction information which a Chief Officer or Chief Constable may choose to disclose if they believe it to be relevant to the position in question.

An Enhanced Certificate for Scotland is sent to the applicant and a copy is also sent to the person who countersigned the application on behalf of the Registered Body. A Standard Certificate for the rest of the UK is sent to the applicant and a copy is also sent to the person who countersigned the application on behalf of the Registered Body and the employer.

Applicants for Standard & Enhanced Disclosures are only permitted to apply for those occupations, professions, offices, etc. which are covered by the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2003.

**From the time the application has been received we process 90% of Enhanced checks in 4 weeks.**

The cost of obtaining an Enhanced Disclosure Certificate is 65 Pounds.

***Enhanced Disclosure is required on entry into the following professions:***

Contractors, Caterers, Cleaners, Administrators and Maintenance workers.

Betting and gaming:

- Local lottery manager or promoter
- National Lottery posts
- Positions in a casino
- Posts concerned with betting
- Selling, supplying or maintaining gaming machines

Health Services:

- Dentist
- Director of private dental or opticians practice
- Doctor
- Optician (including ophthalmic optician)
- Partner in a Pharmacists
- Partner in a private opticians
- osteopath, chiropractor, psychologist
- Nurse, midwife
- Pharmacist

### Legal:

- Judicial Appointments
- Barrister (in England and Wales), advocate (in Scotland), solicitor
- Registered foreign lawyer
- Legal executive
- Receiver appointed by the Court of Protection
- Approved legal Services body Manager
- Justice's chief executives, justices' clerks and their assistants.
- The Director of Public Prosecutions
- Any office or employment in the Crown Prosecution Service
- Judges' clerks, secretaries and legal secretaries
- Those who work with personal information relating to members of the judiciary.
- Clerks (including deputy and assistant clerks)
- Officers of the High Court of Judiciary, the Court of Session and the district court.

### Others:

- Adoptive parents
- Child minding and day care posts
- Foster parents
- National Care Standards Commission
- Social workers and social care workers
- Those caring for or being in sole charge of persons aged under 18
- Those caring for, supervising or being in sole charge of vulnerable adults
- Home Inspector

## **Standard Disclosure Certificate.**

**Please note: Standard and Enhanced Disclosure Certificates can only be issued for application purposes in the UK.**

A Standard Disclosure is termed as a "criminal record certificate" under Part V of the Police Act 1997, and it includes convictions held on central records. It also records both spent and unspent convictions. This means that even minor convictions, perhaps dating from years ago, are included on the Disclosure. The Standard Disclosure is available on payment of the appropriate fee, subject to the application first being countersigned by a registered person (usually the potential employer or voluntary organisation, that is, the Registered Body).

A Standard Certificate for Scotland is sent to the applicant and a copy is also sent to the person who countersigned the application on behalf of the Registered Body. A Standard Certificate for the rest of the UK is sent to the applicant and a copy is also sent to the person who countersigned the application on behalf of the Registered Body and the employer

**From the time the application has been received we process 90% of standard checks in 14 days.**

The cost of obtaining a Standard Disclosure Certificate is 55 Pounds.

***Standard Disclosure is required on entry into the following professions:***

### Finance:

- Accountant
- Actuary

### Legal:

- Barrister
- Foreign Lawyer
- Legal Executive
- Receiver appointed by the Court of Protection

### Medical:

- Chiropractor
- Dentist
- Doctor
- Ophthalmic or dispensing optician
- Osteopath
- Paramedics, clinical scientists, speech and language therapists
- Pharmacists
- Psychologist

Others:

- Vet

***Standard Disclosure is also required for the following types of work:***

- Health Services
- Managers of abortion clinics

Legal:

- In the Crown Prosecution Service
- Justices' chief executives, justices clerks and their assistants

Licensing:

- Licence issued by the new Security Industry Authority
- Taxi licence
- Alcohol licence only require a Basic Disclosure

Others:

- Employment in HM Customs and Excise
- Financial services sector
- Firearms dealers
- Gaming industry
- Monitoring internet communications for the purpose of child protection
- RSPCA
- Safeguarding national security

Police/Prisons:

- Employment in the National Crime Squad
- Employment in the National Criminal Intelligence Service
- Employment in the Serious Fraud Squad
- Police Officers
- Probation officers.
- Staff who work in probation and bail hostels
- Traffic wardens
- Work in a prison or high security psychiatric hospital

## **Basic Disclosure Certificate.**

A Basic Disclosure is a criminal record check (termed as a "criminal conviction certificate" in Part V of the Police Act 1997) is the lowest level of Disclosure and is available to anyone for any purpose, on payment of the appropriate fee. It contains details of convictions considered unspent under the Rehabilitation of Offenders Act 1974 or state that there are no such convictions. This type of Disclosure is only issued to the applicant. It is not job-specific or job related and may be used more than once.

### ***Basic Disclosure Certificate - Details***

The CRB require applicants to provide information that confirms their identity. The Basic Disclosure Certificate will be sent to you within 2 weeks after we receive the full application form.

You can use either your home address or Global Choices' address as the return address. Global Choices will comply with the Data Protect law and will take every precaution to protect your data.

The disclosure contains information valid only on the day of issue. You may be asked by your employer to renew it when required. You can apply for it as many times as needed.

### ***Disqualifying Criteria***

The disqualifying criteria to be checked are the follow:

- Aviation
- Bomb threats and bomb hoaxes
- Channel Tunnel
- Criminal damage
- Evasion of liability
- Firearms
- Harmful or dangerous drugs
- Immigration
- Maritime
- Offences against the person
- Offensive weapons
- Railways
- Sex offences
- Terrorism
- Theft

## **Areas of work which require a CRB Check in the UK**

### **Working with Children**

Anybody who intends to work with children under the age of 18, or who may even come into contact with them during the course of their job are subject to a background check. This includes teachers, classroom assistants, child minders, people applying for adoption and people applying to become a foster carer. If the contact is to be in a person's own home, then everybody living in the house will be subject to a background check, regardless of whether or not they are the ones making the application to work with children.

### **Working with Vulnerable Adults**

The background check extends to anybody who will be looking to work in the provision of care services to vulnerable adults. This incorporates working with people over 18 who have a learning or physical disability or a physical or mental illness.

### **Healthcare Workers**

Anybody intending to work in the healthcare profession is also subject to a CRB check. For example, GPs, nurses, midwives, surgeons, dentists, psychologists, osteopaths, vets, chemists etc.

### **Finance & Law**

Anybody working within the financial services sector or law sector will also be required to have a CRB check.

### **Other Occupations**

Many other professions are also subject to being vetted through the CRB before a person can be deemed suitable to take a job within the profession. Some of the more common ones include people who work in the private security sector, e.g. wheel clampers, doormen, security guards, those working in HM Customs & Excise, RSPCA inspectors, firearms dealers and people who work in any kind of gaming or betting establishment.

However, the occupations stated above are by no means exclusive to those which require a CRB background check but you will always be notified during the application process if this applies to the particular job you are interested in.

### **Benefits to the Candidate**

The process is not designed to be intrusive upon an individual's private life or background but to simply safeguard vulnerable sections of society. In fact, in having passed the check, you will be provided with the Disclosure which states that you have passed which you will then be able to use to apply for other similar roles. Having passed the check, it also demonstrates your commitment to applying for specific roles which require the Disclosure.

The Disclosures come in two varieties. A Standard Disclosure details all the convictions, cautions, warnings and reprimands held on the Police National Computer (PNC). Further information will come from the Protection of Children Act List and the Protection of Vulnerable Adults Act list. A further source will come from the Department of Education and Skills (DfES) who have a list of those deemed unsuitable to work with children or banned from working with them.

An Enhanced Disclosure covers all the elements above with the added extra of any further information that may be relevant which is held by a local police force but which may not be recorded on the PNC. This does not mean that the person is considered more of a risk simply that they will be working within closer more direct contact in one of the occupations stated above.

### **Data Protection Issues**

One of the most common reasons for people being put off applying for jobs that require a CRB check is that they might have a criminal record for something entirely unrelated to the job which they want to apply for. However, they should not be discouraged as it is against the law to discriminate against anybody who has a criminal record where the crime committed has no bearing on the risk factors of them being able to carry out the job.

Likewise, not all applicants will receive a CRB check, only those who the company or organisation have decided to offer the job to in principle, will be required to have a CRB check run on them.



## **The Rehabilitation of Offenders Act 1974**

Rehabilitation of Offenders Act 1974 (ROA) was introduced in order to protect individuals who are convicted of minor, one time offences, from future discrimination. The ROA enables certain convictions to become 'spent', or ignored, after a 'rehabilitation period'.

A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention the conviction when applying for a job, obtaining insurance, or when involved in criminal or civil proceedings. Once a conviction has become spent, the individual can, for most intents and purposes, truthfully declare that they do not have a criminal record. Employers cannot legally ask candidates about spent convictions, and cannot consider spent convictions in their recruitment decisions.

### **Exempt Positions**

Certain positions are exempt from the ROA. For these exempted positions, employers are entitled to enquire about spent convictions. For some positions, it is a legal requirement for the employer to enquire about spent convictions before hiring the individual.

Typically, a position is considered exempt because it involves frequent contact with children and/or vulnerable adults. In some cases, positions that entail certain types of authority, or individuals with access to certain sensitive information are also considered exempt. This ruling is intended to protect children, other vulnerable groups, and the public from individuals that hold positions of authority over them.

### **Recruitment Decision**

Employers have certain responsibilities with respect to the usage of the disclosure information, especially where a criminal conviction has been revealed. Employers are not allowed to refuse an individual employment solely based on the fact that they have a criminal record. They should obtain as much detail as possible about any convictions and make a balanced judgement thereafter, paying careful consideration to the following:

1. The nature of the offence.
2. Its relevance to the post, position or profession in question.
3. How long ago the offence took place.
4. The person's age at the time.
5. Whether it was an isolated offence or part of a pattern of offending.
6. What is known about the person's conduct and character prior to or since the offence.

As part of the employer's responsibility includes assessing the candidate's behaviour since the offence, it is advised that employers (within the UK) consider conducting reference interviews, employment verifications, credit enquiries and education verifications as a way of providing a more holistic view of the candidate. This can

allow the employer to ascertain whether the offence was a one-time occurrence, or whether it was part of a recurring pattern of dishonest behaviour.

Additionally, the nature of some offences or inclusion on certain lists, such as the Protection of Children Act 1999 (POCA), can be enough to disqualify an individual from specific posts. Yet if the candidate was a UK resident looking for work overseas, it is advised that they have their own criminal disclosure undertaken within the UK and take it with them, in order to 'save the time of the potential employer'. This does present an opening for tighter communication within the European Union countries in order to improve the sharing of information in relation to criminal backgrounds. As the Criminal Records Bureau in the UK have also stated that the CRB check 'cannot currently access criminal records overseas'

## Additional Features of the CRB Check

### **Certificate Security Features**

CRB Disclosures contain a number of security features that can be used to verify whether a Disclosure has been counterfeited or altered in any way. If you are unsure whether a Disclosure is genuine, or if you think that it may have been altered, please contact the CRB.

The security features are:

- a 'crown seal' watermark repeated down the right hand side of the Disclosure, which is visible both on the surface and when holding the Disclosure up to a light source;
- a heat sensitive diamond-shaped security panel to the left of the Disclosure title, which will change colour when warmed, for example when held between the thumb and forefinger;
- a background design incorporating the word Disclosure which appears in a wave-like pattern across both sides of the document. The colour of this pattern is uniform across the front of the Disclosure but alternates between pink and green on the reverse side;
- Fluorescent inks and fibres that are visible under UV light. These take the form of coloured flecks scattered across the Disclosure and additional 'crown seals'. Various parts of both the text and background design will also be highlighted by UV light;
- ink and paper that will change colour in the presence of water or solvent based liquid

### **Criminal Record Bureau's Policy Statement on the Recruitment of Ex-offenders**

It is a requirement of the CRB's Code of Practice that all Registered Bodies must treat Disclosure applicants who have a criminal record fairly and do not discriminate because of a conviction or other information revealed. It also obliges Registered Bodies to have a written policy on the recruitment of ex-offenders; a copy of which can be given to Disclosure applicants at the outset of the recruitment process.

#### **Policy Statement**

As an organisation using the Criminal Records Bureau (CRB) Disclosure service to assess applicants' suitability for positions of trust, [Organisation Name] complies fully with the CRB Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or other information revealed.

1. [Organisation Name] is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
2. We have a written policy on the recruitment of ex-offenders, which is made available to all Disclosure applicants at the outset of the recruitment process.
3. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.
4. A Disclosure is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, all application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.

5. Where a Disclosure is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within [Organisation Name] and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

6. Unless the nature of the position allows [Organisation Name] to ask questions about your entire criminal record, we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974.

7. We ensure that all those in [Organisation Name] who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

8. At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

9. We make every subject of a CRB Disclosure aware of the existence of the CRB Code of Practice and make a copy available on request.

10. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

## **Austria**

### **Police Records (Strafregisterauszug)**

In Austria a criminal records certificate (so-called "Strafregisterbescheinigung" or "Strafregisterauszug") can be obtained by putting in an application in person at a local police authority (if abroad through the local Austrian Embassy).

Persons residing outside of Austria must apply at the Austrian mission or consulate in their country of residence. Persons residing in Austria must apply to the Federal police in the larger cities or any mayor's office in the rural areas. Application forms entitled "Antrag auf Ausstellung einer Bescheinigung gemaess Paragraph 10 des Strafregistergesetzes" must be used. These forms may be obtained at any of the above Austrian offices. The applicant must apply in person and be able to prove his identity by a suitable document bearing the applicant's photograph. A certificate of Criminal Record (Bescheinigung ueber Verurteilungen) will be issued by the office where the application was filed after a search of the centralized records of the Federal Police Headquarters (Bundespolizeidirektion) in Vienna. However, such certificates will not be issued to persons who are wanted by the Austrian police in Austria or in any other Schengen country. Certified copies of court records of conviction (Urteilsabschrift) may be obtained directly from the court by the applicant or his legal representative upon presentation of a power of attorney. These records are available for a period of fifty years from the date of the conviction.

Convictions (except those resulting in a sentence of life imprisonment) are automatically expunged from the centralized penal records after the passage of the specified period of time; for less serious offences, after five years and for more serious crimes, after 10 years. An act of clemency or a general amnesty may remove any conviction from the records. Convictions that have been removed from the records will not appear on the Certificate of Criminal Record. The removal of convictions from the records under Austrian law is not recognized for visa purposes, since the innocence of the convicted person is not a pre-condition for the removal.

NOTE: A Certificate of Criminal Record can only be obtained by the applicant himself.

### **Austrian Embassy Contact Details**

18 Belgrave Mews West  
London  
SW1X 8HU  
Tel: 020 7344 3250  
Fax: 020 7344 0292

### Sample Criminal Record Check:

First Name:	John
Middle Name or initial:	M
Last Name:	Smith
Country:	Austria
SSN:	N/A
DOB:	9/1/1973
Degree:	Felony
Case:	FOM19980802-93
Name on File:	John M Smith
DOB on File:	9/1/1973
File Date:	8/15/1998
Charge:	Attempted Murder
Dispo Date:	9/27/1998
Dispo:	Guilty
Sentence:	4 years jail

# **National Laws on Sex Offences in Belgium**

Bruxelles

## **I. Legal Ages**

### **Age of simple majority**

Taken from Section 388, 'From Minority, Guardianship and Emancipation', Chapter One 'In The minority':

"A minor is an individual who has not yet reached eighteen (18) years of age"

### **Age of consent for sexual activity**

In current law, sexual acts can be consensual at the age of sixteen (16) years. However, additional legal provisions regarding rape and sexual crimes are in place for minors below either 16, 14 or 10 years of age, details of which can be found below.

### **Age of consent for marriage**

Section 144, Title V, Chapter I of the Civil Code:

"No one may marry before eighteen (18) years."

However, under Article 145:

"The juvenile court may, for serious reasons, remove the prohibition in the preceding article. The request for this ruling can be made by the child's father and (or) mother, or by the minor without consent of Parents .(...)"

## **II. Rape**

Article 375, paragraph 1 of the Belgian Penal Code provides that:

"Any act of sexual penetration, of whatever nature and by any means whatsoever, committed against a person who does not consent, constitutes the crime of rape."

The lack of consent on the part of the victim is an element fundamental to the crime of rape. Thus, the 2nd paragraph of this article states that the charge of rape still applies if:

"Consent achieved through acts of violence, coercion or deception, or where the perpetrator has exploited a (physical or mental) disability of the victim. "

The penalty applied differs depending on the age of the victim, especially if it is a charge against:

- a minor over sixteen (16) years,
- a minor over fourteen (14) years and under sixteen (16) years,
- a minor under fourteen (14) years, or,
- a minor under the age of ten (10) years.

### **Article 375, paragraph 4 of the Belgian Penal Code**

"Rape is punishable by forced labour from ten to fifteen years if the victim is a minor, but over the age of sixteen (16) years of age. "

**Article 375, paragraph 5 of the Belgian Penal Code**

"Rape is punishable by hard labour of fifteen or twenty years if the victim is over fourteen (14) years of age and under sixteen (16) years of age. "

**Article 375, paragraph 6 of the Belgian Penal Code**

"If the victim is under fourteen (14) years of age, rape is deemed to exist by the mere act of sexual penetration, of whatever nature and any means whatsoever. " Therefore, the consent of the victim is not a factor in assessing the existence of the offence. As such, the victim is automatically assumed to be not to consent to the act as they have not yet reached an age of sexual self determination and will not be able to fully understand their actions. It is also not necessary for the offender to have used violence or any other means referred to in Article 375, paragraph 2 for the crime to be considered rape.

**Article 375, last paragraph of the Belgian Penal Code**

"The punishment is penal servitude for life if the child is under ten (10) years of age."

We have noted the existence of two kinds of aggravating circumstances: one is related to the act and the victim, while the other relates to the author offence. Regarding the aggravating circumstances relating to the act and the victim:

**Article 376, paragraph 1 of the Belgian Penal Code**

"If the rape or indecent assault has caused the death of the person from whom it was committed, the offender shall be punished with hard labour for life, regardless of age the victim. "

**Article 376, paragraph 2nd Belgian Penal Code**

"If the rape or indecent assault was preceded or accompanied by torture or false imprisonment, the offender shall be punished with hard labour of fifteen twenty years. "

**Article 376, paragraph 3 of the Belgian Penal Code**

"If the rape or indecent assault has been committed against a person who is particularly vulnerable because of pregnancy, an illness, infirmity or a physical or mental, or is under the threat of a weapon or something like it, then the offender shall be punished with hard labour for ten fifteen years. "

There are also aggravating circumstances relating to the offender.

Thus, Article 377 of the Penal Code provides that:

"The punishment of rape and indecent assault are increased if the offender:

- \* Is the ascendant of the victim
- \* Is of those who have authority over the victim
- \* Abused the authority or facilities that give it its functions
- \* Is a physician/surgeon/midwife or health officer and the victim is entrusted to his/her care
- \* Has been helped, in the case of sections 373, 375, and 376 in the commission of the crime and the offence by one or more persons. "



Under these circumstances, the penalties are increased as follows:

**Article 377, paragraph 5 of the Belgian Penal Code**

"If the rape victim is an adult, the penalty of imprisonment is seven years at least."

**Article 377, paragraph 6 of the Belgian Penal Code**

"If the rape victim is a minor, but older than fourteen (14) years of age and less than sixteen (16) years of age, the term of hard labour is at least seventeen years.

Also, if the rape victim is a minor under the age of fourteen (14) years of age, or if the victim of rape or indecent assault suffered physical torture or sequestration, then the penalty of hard labour is again a minimum of seventeen (17) years. "

**III. Other forms of sexual abuse of children**

**'Indecent assault committed without violence or threats', Article 372 Belgian Penal Code**

"Any form of indecent assault committed without violence or threats committed against a person under the age of sixteen (16) years will be punished by imprisonment.

However, a term of hard labour ranging from ten to fifteen years will be imposed for indecent assault committed without violence, if the perpetrator had any influence over the victim (i.e. guardian or health care provider).

**'Indecent assault committed with violence or threats', Article 373 Belgian Penal Code**

"The indecent assault, committed with violence or threats, shall be punished with imprisonment of six months to five years.

If the attack was committed against a minor over sixteen (16) years, the perpetrator shall be punished by imprisonment. However, the sentence will be increased to forced labour of ten to fifteen years if the minor was under sixteen (16) years of age."

**IV. Child prostitution**

**'The corruption of youth', Article 379 of the Belgian Penal Code**

Anyone who has attempted to corrupt the morals of a minor by inciting, encouraging or facilitating, them into a position of debauchery, corruption or prostitution, shall be punished with imprisonment from 5 to 10 years and a fine of 500F to 25000F

He will be punished with imprisonment from 10 years to 15 years and a fine of 500F to 50000F if minor has not attained the age of 16 years of age.

The penalty is imprisonment for 15 years to 20 years and a fine of at 1000F 100000F if the minor has not attained the age of 10 years of age.

Article 380b section 4 of the Belgian Penal Code punishes forced labour for 10-15 years and a fine of one thousand francs to one hundred thousand francs to a person;

1 - who, in order to gratify the passions of others, has hired, trained, diverted or retained, either directly or through an intermediary, a minor under sixteen (16) years, for immoral acts or prostitution

2 – who has, either directly or through an intermediary, provided a living space where minors engaged in prostitution or debauchery

3 - who has sold, rented or made available, rooms or other premises in order make an abnormal profit by engaging minors in debauchery or prostitution,;

4 - who has operated in any manner whatsoever, with the prostitution of a minor under the age of sixteen (16) years.

These offences will be punished with hard labour of fifteen to twenty years and a fine of one thousand to one hundred thousand francs if they are committed against a child under ten years.

### **Section 380 of the Belgian Penal Code**

1. A person shall be punished by imprisonment of two months to two years and a fine of two hundred francs to two thousand francs, if they publish, distribute or advertise, directly or indirectly, an offer of sexual services with a direct or indirect profit.

In cases where the advertising is aimed specifically at minors or when it refers to sexual services proposed either by minors or by persons claimed as such.

The punishment shall be imprisonment of three months to 3 years and a fine of three hundred francs for three thousand francs. "

## **V. Child pornography**

### **Article 383 of the Penal Code.**

Regarding child pornography, the age limit is increased to 18. Anyone participating in sexual acts for the purpose of creating pornography must be over the age of 18, if the participant is below this age then it is deemed child pornography and is a punishable offence.

The word "spread" is also added to Article 383 of the Penal Code, this is referring to the dissemination of images over computer networks that are contrary to good morals. In this way the legislature wants to strengthen the fight against Internet child pornography.

### **Article 383**

The 1995 law added to Penal Code Article 383 states that

"Without prejudice to the application of Articles 379 and 380 anyone who has displayed, sold, leased, distributed or handed out emblems, objects, films, photographs, slides or other visual media representing positions or acts of a sexual pornographic nature involving or representing minors under eighteen (18) years will be punished by imprisonment and a fine of five hundred to ten thousand francs.

§ 2. Whoever knowingly possessed emblems, objects, films, photographs, slides or other visual media as referred under the above ruling, shall be punished with imprisonment of one month to one year and fined one hundred francs to one thousand francs.

§ 3. Special confiscation under Article 42, para 1, can be applied against offences referred to in § 1 and 2, even when ownership of things which it relates is not for the condemned.

§ 4. Section 382 is applicable to the offences in § 1 and 3. "

The legislature has retained only the visual and audio media excluded. In However, the term "other visual media" can guard against the emergence of new visuals.

### **Article 386**

Anyone who sells or distributes to minors under 18 years of age or exhibits indecent images, figures or objects to disturb their imagination. Shall be punished by imprisonment from 6 months to 2 years and a fine of at 1000F 5000F. The images, figures and exhibits, offered for sale or distribution shall be seized by any police officer on behalf of justice or a magistrate Township and forfeiture must be pronounced in case of conviction.

If convicted under Articles 386, paragraph 1 and the offence was committed in the operation of a business, the closure of the business may be ordered for a term of one to three months.

In case of a second conviction for any of the events referred to in the preceding paragraph, committed in time of 3 years after the first conviction, the closure may be ordered for a period of 3 to 6 months.

If a third conviction for the same offence is committed within 5 years after the second conviction, the final closure will be ordered.

### **VI. Internet**

Sections 380 and 383 of the Belgian Penal Code may apply next to "Crimes against children by the use of the Internet"

### **VII. Extra-territorial legislation**

An act was amended in the Code of Criminal Procedure to include an extraterritorial rule allowing prosecution in Belgium of Belgian nationals or Belgium aliens who have committed sexual offences abroad, in a case where an offence has been committed against a minor under sixteen (16) years.

Section 10b also removes the requirement of 'prior complaint or information', but does not explicitly mention the requirement of double criminality as such. However, this appears to have been the intention of the legislature.

The Belgian legislature can therefore continue in its courts, or abroad with no link of nationality required, thus establishing a form of 'universal jurisdiction'

# National Laws on Sex Offences in Bulgaria

Sofia

## **I. Ages for legal purposes**

### **Age of simple majority**

#### **Art. 192**

**According to the Bulgarian Law, the accomplishment of 18 years of age means that the persons shall attain their majority and be completely able to acquire the rights of an adult.**

A person who has not yet accomplished 14 years of age is considered to be a minor. As such, their legal actions shall be carried out on their behalf by their legal representatives – parents or guardians.

The persons from 14 years of age until the accomplishment of 18 years of age are juvenile. They shall carry out legal activities with the consent of their parents or guardians but they can present grounds to show their own self-determination.

Additionally, any juvenile or major person who, due to their imbecility or mental disease, cannot take care of their affairs shall be placed under full judicial disability and shall be declared legally incapable.

Any persons with such sufferings, whose condition is not so severe to be placed under full judicial disability, shall be placed under limited judicial disability.

### **Age of consent for sexual activity**

In the Bulgarian legislation the age of consent for sexual activity is 14 years of age.

### **Age of consent for marriage**

#### **Art. 190**

Anyone who, by abusing his parental power, compels a child of his, who has not accomplished 16 years of age, to live a connubial life with another, shall be punished by imprisonment of up to three years or corrective labour and public reprobation.

#### **Art. 191**

An adult who, without having entered into matrimony, begins a connubial life with a female person, who has not accomplished 16 years of age, shall be punished by imprisonment of up to two years or by corrective labour, as well as by public reprobation.

(2) An adult who persuades or facilitates an underage male or female person, who has not accomplished 16 years of age, to lead a connubial life without a marriage, shall be punished by imprisonment of up to two years or by reprobation.

(3) If the act under the preceding paragraphs has been committed against a person who has not accomplished 14 years of age the punishment shall be imprisonment of two to five years.

(4) In the cases under paragraphs 1 the perpetrator shall not be punished and the imposed punishment shall not be served if, until the enactment of the sentence, a marriage between the man and the woman follows.

## **II. Rape**

### **Art. 152**

(1) Anyone who copulates with a female person:

1. unable to defend herself and without her consent;
2. by compelling her to it by force or threat;
3. by bringing her to a helpless state,

shall be punished for rape by imprisonment of two to eight years.

(2) The punishment for rape shall be imprisonment of three to ten years:

1. if the raped has not accomplished eighteen years of age;
2. if she is a descending kinswoman;
3. if it is committed for a second time.

(3) The punishment for rape shall be imprisonment of three to fifteen years:

1. if it has been committed by two or more persons;
2. if an average bodily harm has been caused;
3. if a suicide attempt has followed;
4. if it has been committed for the purpose of engagement in subsequent lewd activities or prostitution;
5. if it represents a dangerous recidivism.

(4) The punishment for rape shall be imprisonment of ten to twenty years:

1. if the raped has not accomplished fourteen years of age;
2. if severe bodily harm has been caused;
3. if a suicide attempt has followed;
4. if it represents a particularly severe case.

## **III. Other forms of child sex abuse**

### **Art. 149**

(1). Who commits and act in order to arouse or satisfy a sexual desire without a copulation regarding a person who has not accomplished 14 years of age shall be punished for fornication by imprisonment of up to five years.

(2) If the fornication is committed by using force or threat, using the helpless status of the aggrieved or by bringing him to such a state, the punishment shall be imprisonment of two to eight years.

(3) If the act under the preceding paragraphs is repeated or represents a particularly serious case the punishment shall be imprisonment of three to ten years.

(4) The punishment for fornication shall be imprisonment of three to fifteen years if it is committed by two or more persons;

(5) The punishment for fornication shall be imprisonment of five to twenty years:

1. if the subject of fornication have been two or more minors;
2. if a serious bodily harm has been incurred or a suicide attempt has followed;
3. if it represents a dangerous recidivism.

### **Art. 150**

Who commits an act with the purpose of arousing or satisfying a sexual desire without copulation regarding a person who has accomplished 14 years of age, by using force or threat, availing himself of his helpless status or by bringing him to such a status shall be punished by imprisonment of two to eight years.

**Art. 151**

(1) Who copulates with a person who has not accomplished 14 years of age, inasmuch as the act does not constitute a crime according to art. 152 shall be punished by imprisonment of two to five years.

(2) Who copulates with a person who has accomplished 14 years of age, who does not understand the characteristic or the importance of the act, shall be punished by imprisonment of up to three years.

**Art. 154**

Copulation between ascendants and descendants, between brothers and sisters and between adopter and adopted shall be punished by imprisonment of up to three years.

**Art. 157**

(1) Who carries out sexual intercourse or an act of sexual satisfaction with a person of the same sex by using force or threat or using a state of dependence or supervision, as well as with a person unable to defend himself, shall be punished by imprisonment of two to eight years, as well as by public reprobation.

(2) Who carries out such homosexual activities with a person under 14 years of age, inasmuch as the act does not constitute a crime under paragraph 1, shall be punished by imprisonment of two to five years.

(3) Who carries out such homosexual activities with a person having accomplished 14 years of age, who does not understand the nature or the importance of the act shall be punished by imprisonment of up to three years.

(5) Who persuades another to homosexual activities with the purpose of acquiring possession or who by providing or promising benefit incites another to such activities

shall be punished by imprisonment of up to three years and by a fine of up to one thousand BGL.

**According to the Law for protection of the child:****Protection from violence****Art. 11**

(1) Each child shall have right to protection from involving into activities unfavorable for his physical, psychic, moral and educational development.

(2) Each child shall have right to protection from methods of tuition impeding his dignity, from physical, psychic or other violence and forms of influence contravening with his interests.

(3) Each child shall have right to protection from using for begging, prostitution, distribution of pornographic materials and receiving unlawful material incomes as well as from sexual harassment/abuse.

#### **IV. Child prostitution**

##### **Art. 155**

(1) Who persuades another person to prostitute or bawds to fornication or to copulation shall be punished by imprisonment of up to three years and a fine of three hundred to six hundred BGL.

(2) Who provides systematically premises to different persons for sexual intercourse or for fornication shall be punished by imprisonment of up to five years and by a fine of hundred to five hundred BGL.

(3) The punishment for the acts under paragraphs 1 and 2, committed from mercenary motives shall be imprisonment of one to six years and a fine of five hundred to one thousand BGL.

(4) Who has persuaded or compelled another person to using narcotic substances and/or their analogues for the purpose of prostituting, bawds to copulation, homosexual practices or fornication shall be punished by imprisonment of five to fifteen years and a fine of twenty thousand to fifty thousand BGL.

(5) If the act has been committed:

1. by a person acting by an errand or in fulfillment of a decision of an organized criminal group;
2. against a minor, underage or insane;
3. against more than two persons;
4. repeatedly,

the punishment shall be imprisonment of ten to twenty years and a fine of one hundred thousand to three hundred thousand BGL.

(6) Who involves minor persons in debauchery the punishment shall be imprisonment of two to eight years.

##### **Art. 156**

(1) Who abducts a female person for the purpose of debauchery shall be punished by imprisonment of up to ten years and by a fine of up to one thousand BGL.

(2) The punishment shall be imprisonment of three to twelve years when:

1. the abducted person has not accomplished 18 years of age;
2. the abducted person has been placed at a disposal for debauchery, or
3. the abduction has had the purpose of placing the person at a disposal for debauchery outside the country.

##### **Art. 188.**

(1) Who compels a minor or underage person to commit a crime or to prostitute shall

be punished by imprisonment of up to five years and by public reprobation.

(2) If harmful consequences have occurred for the physical, mental or moral development of the aggrieved, unless the act represents a more serious crime, the punishment shall be imprisonment of one to six years and public reprobation.

## **V. Child pornography**

### **Art. 159**

(1) Who produces, exhibits, broadcasts, offers, sells, lends or in any other way circulates works of pornographic contents shall be punished by imprisonment of up to one year and a fine of one thousand to three thousand BGL.

(2) Who exhibits, presents, offers, sells or lends works of pornographic nature to persons under 16 years of age shall be punished by imprisonment of up to three years and a fine of up to five thousand BGL.

(3) For acts under paragraphs 1 and 2 the punishment shall be imprisonment of up to five years and a fine of up to eight thousand BGL if, for the purposes of creation of the work, was used a minor, underage or a person with such an appearance.

(4) When the act under paragraphs 1 - 3 has been committed by an errand or in fulfilment of a decision of an organized criminal group the punishment shall be imprisonment of two to eight years and a fine of up to ten thousand BGL, as the court may rule confiscation of a part or of the whole property of the offender.

(5) Who keeps a pornographic work for whose creation a minor, underage or a person with appearance of a minor or underage has been used shall be punished by imprisonment of up to one year or a fine of up to two thousand BGL.

(6) The subject of the crime shall be seized in favour of the state, and if it is missing or has been expropriated its equivalence shall be awarded.



## **National Laws on Sex Offences in Cyprus**

Nicosia

The crimes child pornography, child prostitution, rape and other forms of child sexual

abuse are all covered in the Cypriot legislation in:

- The Convention on Cybercrime, law 22(III)/2004
- Combating Trafficking in Human Beings and Sexual Abuse of Minors Law 3(I)/2000

### **I. Ages for legal purposes**

#### **Age of simple majority**

This is not established by a specific law, as every law concerning children specifies its own legal age. However, the age of consent for marriage and legal representation stop at 18 which is the norm for simple majority elsewhere in the EU

#### **Age of consent for sexual activity**

Seventeen years of age (Criminal Code chapter 154, Article 154)

#### **Age of consent for marriage**

A) According to Section 12 of the Marriage Law CAP. 279 as amended by Law 150/91, consent of parent(s)/guardian is required when persons under the age of eighteen (18) are concerned.

B) According to the Constitution of the church of Cyprus, the legal age for marriage is 18 years of age. However exceptional cases may be examined by the church for the permission of marriage under the age of eighteen (18).

### **II. Rape**

#### **Section 144 of the Criminal Code CAP. 154**

'Any person who has unlawful carnal knowledge of a female, without her consent, or if the consent is obtained by force or fear of bodily harm, or, in the case of a married woman, by personating her husband, is guilty of the felony termed rape.'

#### **Section 145 of the Criminal Code CAP. 154**

'Any person who commits the offence of rape is liable to imprisonment for life.'

#### **Section 146 of the Criminal Code CAP. 154**

'Any person who attempts to commit rape is guilty of felony, and is liable to imprisonment for ten years.'

### **III. Other forms of child sex abuse**

#### **'Incest', Section 147 of the Criminal Code CAP. 154**

'Any male person who has carnal knowledge of a female person, irrespective of whether he has her consent, who is to his knowledge his granddaughter, daughter, sister or mother shall be guilty of the offence of incest and shall be liable to imprisonment for seven years.'

**‘Unnatural offences with a child under thirteen (13)’, Section 174 of the Criminal Code CAP. 154**

'Any person who has, or attempts to have, with or without violence, carnal knowledge of a child under thirteen (13) years of age against the order of nature is guilty of a felony and is liable to imprisonment for fourteen years.'

**Indecent assault**

a) Indecent assault on females.

Section 151 of the Criminal Code CAP. 154 :

'Any person who unlawfully and indecently assaults any female is guilty of a misdemeanour.'

b) Indecent assault on males.

Section 152 of the Criminal Code CAP. 154:

'Any person who unlawfully and indecently assaults any male person is guilty of misdemeanour.'

**‘Defilement of girls under thirteen (13) years of age’, Section 153 of the Criminal Code CAP. 154**

'(1) Any person who unlawfully and carnally knows a female under the age of thirteen (13) years is guilty of a felony and is liable to imprisonment for life.

(2) Any person who attempts to have unlawful carnal knowledge of a female under the age of thirteen (13) years is guilty of a misdemeanour and is liable to imprisonment for three years.'

**‘Defilement of girls between thirteen (13) and sixteen (16) years of age’, Section 154 of the Criminal Code CAP. 154**

'Any person who unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any female person of, or above, the age of thirteen (13) years and under the age of sixteen (16) years is guilty of a misdemeanour:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the Court before which the charge shall be brought that the person so charged had reasonable cause to believe that the female person was of, or above, the age of sixteen (16) years.'

**IV. Child prostitution**

**Sexual exploitation of persons - Law 3(1)/2000**

Sec. 3(1): 'It is prohibited:

(c): The sexual exploitation or sexual abuse of minors\*

(d): Trafficking in minors for the purpose of sexual exploitation or sexual abuse

(2)(b): Any person acting contrary to the prohibitions mentioned in sec. 3(1)(c) & 3(1)(d), commits an offence and in case of conviction is liable to imprisonment for a period not exceeding 20 years.'

\*For the purposes of the Law 3(1)/2000, 'minor' means a person who has not completed the 18th year of his age.

### **Sec 5(1): Trafficking in human beings for the purpose of sexual exploitation**

'Any person trafficking any other person or persons with or without their initial consent or knowledge, for the purpose of future sexual exploitation contrary to sections 3 or 4 of this Law or any prescribed convention which prohibits similar exploitation or

who in his knowledge induces, advises, permits or tolerates, participates or contributes to such trafficking of persons, commits an offence and in case of conviction is liable according to the provisions of this Law to a sentence of fine up to ten thousand pounds, (CY£10.000) or imprisonment up to ten (10) years or both.

(2) When an offence is committed according to paragraph (1), having a minor as a victim, the punishment provided for such an offence varies to imprisonment up to fifteen (15) years or to a fine up to fifteen thousand pounds (CY£15.000) or both.'

### **V. Child pornography**

The age in child pornography legislation is 18 years (Criminal Code chapter 154, Article 154)

### **The Convention on Cybercrime, law 22(III)/2004**

#### **Title 3 – Content-related offences**

#### **Article 9 – Offences related to child pornography**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right the following conduct

- a. producing child pornography for the purpose of its distribution through a computer system;
- b. offering or making available child pornography through a computer system;
- c. distributing or transmitting child pornography through a computer system;
- d. procuring child pornography through a computer system for oneself or for another person;
- e. possessing child pornography in a computer system or on a computer data storage medium.

2. For the purpose of paragraph 1 above, the term 'child pornography' shall include pornographic material that visually depicts:

- a. a minor engaged in sexually explicit conduct;
- b. a person appearing to be a minor engaged in sexually explicit conduct;
- c. realistic images representing a minor engaged in sexually explicit conduct.

3. For the purpose of paragraph 2 above, the term 'minor' shall include all persons under 18 years of age. A Party may, however, require a lower age limit, which shall be not less than 16 years.

4. Each Party may reserve the right not to apply, in whole or in part, paragraphs 1. sub-paragraphs d and e, and 2. sub-paragraphs b and c.

**Combating Trafficking in Human Beings and Sexual Abuse of Minors Law 3(1)/2000**

**Trading in pornography material - Law 3(1)/2000**

**Sec. 4(1):** 'Whoever, using children for trading purposes, makes, possess, carries, imports or exports by any means or circulates documents, printed material, literary works, drawings, paintings, emblems, photographs, movies or other indecent objects of any kind or uses any means of publication for the facilitation of the circulation or the trading of the indecent objects commits an offence and in case of conviction will be liable to imprisonment not exceeding ten (10) years.'

# National Laws of Sex Offences in the Czech Republic

## Prague

### **I. Ages for legal purposes**

#### **Age of simple majority**

The legal age of majority is eighteen (18) years.

#### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fifteen (15) years.

#### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years.

### **II. Rape**

#### **Article 241 of the Criminal Code**

'(1) A person who by violence or by threat of imminent violence forces a woman to copulate or abuses her helpless state and has sexual intercourse with her, shall be sentenced to imprisonment for at least two and at most eight years.'

(2) A person shall be sentenced to imprisonment for at least five and at most twelve years if:

he inflicts serious injury by the offence mentioned in paragraph 1; or

he commits this offence against a woman under fifteen (15) years of age.

(3) A sentence to imprisonment for at least ten and at most fifteen years shall be imposed if the offender causes a death by the offence mentioned in paragraph 1.'

### **III. Other forms of child sex abuse**

#### **Article 242 of the Criminal Code**

'(1) A person who has sexual intercourse with a child under fifteen (15) years of age or who sexually abuses such a person by other way shall be sentenced to imprisonment for at least one and at most eight years.

(2) If an offender commits the offence mentioned in paragraph 1 against the person who is under his/her supervision and misuses his/her dependence, a sentence of imprisonment for at least two and at most ten years shall be imposed.

(3) An offender shall be sentenced to imprisonment for at least five and at most twelve years if he inflicts serious injury by the offence mentioned in paragraph 1.

(4) An offender shall be sentenced to imprisonment for at least ten and at most fifteen years if he causes a death by the offence mentioned in paragraph 1.'

#### **Article 243 of the Criminal Code**

" The person who misuses the dependence of an other person under eighteen (18) years of age or who misuses the person under his/her supervision and forces him/her to extramarital sexual intercourse or who sexually abuses such a person by other way shall be sentenced to imprisonment for at most two years. "

**‘Sexual intercourse between relatives’, Article 245 of the Criminal Code**

'If a person has sexual intercourse with relatives in proximate generation or with a sibling, a sentence of imprisonment for at most two years shall be imposed.'

**‘Traffic in women’, Article 246 of the Criminal Code**

'(1) A person who lures, engages or takes a woman abroad for the purpose to use her for sexual intercourse with an other person, shall be sentenced to imprisonment for at least one and at most five years.

(2) An offender shall be sentenced to imprisonment for at least three and at most eight years if he:

- a) commits the offence mentioned in paragraph 1 as a member of an organised group;
- b) commits such an offence against a woman under eighteen (18) years of age; or
- c) commits such an offence for the purpose to use a woman for prostitution.'

**IV. Child prostitution**

**Article 204 of the Criminal Code**

'(1) A person who engages, forces or corrupts somebody else to prostitute oneself or

a person who exploits the fact that someone has sexual relations against payment, shall be sentenced to imprisonment for at most three years.

(2) A person who commits the offence mentioned in paragraph 1 by using violence, threat of violence or threat of other serious detriment or by misuse of straits or dependence of the other person shall be sentenced to imprisonment for at least one and at most five years.

(3) A sentence to imprisonment for at least two years and at most eight years shall be imposed if a person :

- a) gains a great profit by committing the offence mentioned in paragraph 1 or 2; or
- b) commits such an offence as a member of an organised group; or
- c) commits such an offence against a person under eighteen (18) years of age.

(4) A sentence to imprisonment for at least five years and at most twelve years shall be imposed if a person commits the offence mentioned in paragraph 2 against a person under fifteen (15) years of age.'

**V. Child pornography**

**‘Endangering of morality’, Article 205 of the Criminal Code**

'(1) A person who circulates, distributes, makes open to the public, produces or imports pornographic written works, sound or picture recordings, pictures or other things endangering morality which show disrespect to a man, violation, sexual intercourse with a child, with an animal or other pathological sexual relations shall be sentenced to imprisonment for at most one year or to fine or the forfeiture of a thing.

(2) a person who:

- a) offers, lets or makes open to a person under eighteen (18) years of age pornographic written works, sound or picture recordings or still pictures;
- b) displays or by other way makes open to the public pornographic written works, sound or picture recordings or still pictures at the place which is open to persons under eighteen (18) years of age,

-shall be sentenced to imprisonment for at most one year, or to a fine.

# National Laws on Sex Offences in Denmark

Copenhagen

## **I. Ages for legal purposes**

### **Age of simple majority**

The full legal age is eighteen (18) years.

### **Age of consent for sexual activity**

When a person is fifteen (15) years old he or she can consent to sexual intercourse.

### **Age of consent for marriage**

A person can get married without permission of the parents when s/he has reached the age of eighteen (18) years.

## **II. Rape**

### **§ 216 of the Danish Penal Code**

" (1) Any person who enforces sexual intercourse by violence or under threat of violence, shall be guilty of rape and liable to imprisonment for any term not exceeding eight (8) years. The placing of a person in such a position that that person is unable to resist the act shall be equivalent to violence.

(2) If the rape has been of a particularly dangerous nature, or in particularly aggravating circumstances, the penalty may be increased to imprisonment for any term not exceeding twelve (12) years. "

## **III. Other forms of child sex abuse**

### **§ 217 of the Danish Penal Code**

"Any person who by other unlawful compulsion (as described in section 260 of this Act) than violence or threat of violence, procures for himself sexual intercourse, shall be liable to imprisonment for any term not exceeding four years. "

### **§ 218 of the Danish Penal Code**

" (1) Any person who, by exploitation of another person's mental illness or mental deficiency, procures for himself extra-marital sexual intercourse with that person shall be liable to imprisonment for any term not exceeding four years.

(2) Any person who procures for himself extra-marital intercourse with a person who is in such a position that he is unable to resist the act shall be liable to imprisonment for any term not exceeding four years, unless the act is covered by the provisions of section 216 of this act. "

### **§ 219 of the Danish Penal Code**

"Any person who is employed in or in charge of any prison, welfare-home, children's or young person's home, hospital for treatment of mental disorders, institution for the mentally deficient or any similar institution, and who has sexual intercourse with any person who is an inmate of the same institution shall be liable to imprisonment for any term not exceeding four years."



#### **§ 220 of the Danish Penal Code**

"Any person who, by grave abuse of the subordinate position or economic dependence of another person, has extramarital sexual intercourse with that person shall be liable to imprisonment for any term not exceeding one year or, where the person is under twenty-one (21) years of age, to imprisonment for any term not exceeding three years."

#### **§ 222 of the Danish Penal Code**

"(1) Any person who has sexual intercourse with any child under the age of fifteen (15) shall be liable to imprisonment for any term not exceeding eight (8) years.  
(2) If the child is under the age of twelve (12), or if the perpetrator has enforced the sexual intercourse by coercion or by intimidation, the penalty may be increased to imprisonment for any term not exceeding twelve (12) years."

#### **§ 223 of the Danish Penal Code**

"(1) Any person who has sexual intercourse with a person under the age of eighteen (18) who is his adopted child, step-child or foster child, or who has been entrusted to him for instruction or education, shall be liable to imprisonment for any term not exceeding four (4) years.  
(2) The same penalty shall apply to any person who, by gravely abusing superior age or experience, induces any person under the age of eighteen (18) to sexual intercourse."

#### **§ 224 of the Danish Penal Code**

*"The provisions in Sections 216-223a of this Act shall similarly apply in connection with sexual relations other than sexual intercourse."*

#### **§ 225 of the Danish Penal Code**

*"The provisions in section 216-220 and sections 222 – 223a shall similarly apply in connection with sexual relations with a person of the same sex."*

### **IV. Child prostitution**

#### **§ 223a of the Danish Penal Code**

*"Any person who, as a client, for a payment or a promise of a payment has intercourse with a person under the age of 18, shall be liable to a fine or imprisonment for any term not exceeding two years."*

#### **§ 228 of the Danish Penal Code**

"(1) Any person who-

- 1) induces another to seek a profit by sexual immorality with others; or
- 2) for the purpose of gain, induces another to indulge in sexual immorality with others or prevents another who engages in sexual immorality as a profession from giving it up; or
- 3) keeps a brothel;

-shall be guilty of procuring and liable to imprisonment for any term not exceeding four years.  
(2) The same penalty shall apply to any person who incites or helps a person under the age of twenty-one (21) to engage in sexual immorality as a profession, or to any person who abets some other person to leave the Kingdom in order that the latter

shall engage in sexual immorality as a profession abroad or shall be used for such immorality, where that person is under the age of twenty-one (21) or is at the time ignorant of the purpose. "

#### **§ 229 of the Danish Penal Code**

"(1) Any person who, for the purpose of gain or in frequently repeated cases, promotes sexual immorality by acting as an intermediary, or who derives profit from the activities of any person engaging in sexual immorality as a profession, shall be liable to imprisonment for any term not exceeding three years or, in mitigating circumstances, to simple detention or a fine.

(2) Any person who lets a room in a hotel or an inn for the carrying on of prostitution as a profession shall be liable to simple detention or imprisonment for any term not exceeding one year or, in mitigating circumstances, to a fine.

#### **§ 233 of the Danish Penal Code**

" Any person who incites or invites other persons to prostitution or exhibits immoral habits in a manner which is likely to annoy others or arouse public offence shall be liable to simple detention or to imprisonment for any term not exceeding one year or, in mitigating circumstances, to a fine. "

### **V. Child pornography**

#### **§ 235 of the Danish Penal Code**

*"(1) Any person, who disseminates obscene photographs or films, other obscene visual reproductions or similar of persons under the age of 18, shall be liable to a fine or to imprisonment for any term not exceeding two years or in particularly aggravating circumstances to imprisonment for any term not exceeding six years. Considered as particularly aggravating circumstances are especially instances where the life of the child is endangered, where gross violence is used, where the child is caused serious harm, or instances of disseminations of a more systematic or organized nature.*

*(2) Any person, who possesses or for a payment becomes acquainted with obscene photographs or films, other obscene visual reproductions or similar of persons under the age of 18, shall be liable to a fine or to imprisonment for any term not exceeding one year.*

*(3) The provision in Subsection (2) does not include possession of obscene pictures of a person who has reached the age of 15, if the person has consented to the possession.*

### **VI. Internet**

Danish legislation has not got any special provision to govern this field, which is governed by the others regulations of the Penal code on for instance threats, duress, and the like.

## **VII. Extra-territorial legislation**

### **§7 of the Danish Penal Code states**

" (1) Acts committed outside the territory of the Danish State by a Danish national or by a person resident in the Danish State shall also be subject to Danish criminal jurisdiction in the following circumstances, namely ;

- where the act was committed outside the territory recognized by international law as belonging to any State, provided acts of the kind in question are punishable with a sentence more severe than simple detention ; or
- where the act was committed within the territory of a foreign State, provided that it is also punishable under the law in force in that territory. "

# **National Laws on Sex Offences in Estonia**

Tallinn

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years. In context of different laws and legal activities, this is the age when a person becomes fully responsible for his actions and reaches the age of full criminal responsibility.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fourteen (14) years.

### **Age of consent for marriage**

The age of consent for marriage is according to Family Law Act sec.3:

1. A person who has attained eighteen (18) years of age is of age to marry.
2. A minor between fifteen (15) and eighteen (18) years of age may marry with the written consent of his or her parents or guardian.
3. If a child has one parent or other parent is declared to be missing or without active legal capacity or if one parent is deprived of parental rights, the consent of one parent is sufficient for the minor between fifteen (15) and eighteen (18) years of age to marry.
4. If even one of the parents or a
5. guardian does not consent to the marriage, a court may grant permission to marry on the application of one parent or the guardianship authority. A court shall grant permission to marry if the marriage is in the interests of the minor.

## **II. Rape**

### ***Estonian Penal Code, § 141. Rape***

*1. Sexual intercourse with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation is punishable by 1 to 5 years' imprisonment.*

*2. The same act, if:*

- 1. committed against a person of less than 18 years of age;*
- 2. committed by two or more persons;*
- 3. serious damage is thereby caused to the health of the victim;*
- 4. it causes the death of the victim;*
- 5. it leads the victim to suicide or a suicide attempt, or*
- 6. committed by a person who has previously committed rape, is punishable by 6 to 15 years' imprisonment.*

### ***§ 142. Satisfaction of sexual desire by violence***

*1. Involving a person against his or her will in satisfaction of sexual desire in a manner other than sexual intercourse by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation is punishable by up to 3 years' imprisonment.*

2. The same act, if committed against a person of less than 18 years of age, is punishable by up to 5 years' imprisonment.

**§ 143. Compelling person to engage in sexual intercourse**

1. Sexual intercourse with a person against his or her will by taking advantage of the dependency of the victim from the offender but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by up to 3 years' imprisonment.

2. The same act, if committed against a person of less than 18 years of age, is punishable by up to 5 years' imprisonment.

**§ 144. Sexual intercourse with descendant**

A parent, a person with the rights of a parent, or a grandparent, who engages in sexual intercourse with his or her child or grandchild shall be punished by up to 3 years' imprisonment.

**III. Other forms of child sex abuse**

**§ 145. Sexual intercourse with child**

An adult person who engages in sexual intercourse with a person of less than 14 years of age shall be punished by up to 3 years' imprisonment

**§ 146. Satisfaction of sexual desire with child**

An adult person who involves a person of less than 14 years of age in satisfaction of sexual desire in a manner other than sexual intercourse shall be punished by up to 2 years' imprisonment.

**§ 147. Inability of person of less than 10 years to comprehend**

Within the meaning of the offences provided for in this Division, a person is deemed to be incapable to comprehend if he or she is less than 10 years of age.

**IV. Child prostitution**

**§ 175. Disposing minors to engage in prostitution**

A person who by inducement, threat or any other act influences a person of less than 18 years of age in order to cause him or her to commence or continue prostitution, but the act does not have the necessary elements of an offence provided for in § 133 or 143 of this Code, shall be punished by a pecuniary punishment or up to 3 years' imprisonment.

**§ 176. Aiding prostitution involving minors**

1. Aiding prostitution involving a person of less than 18 years of age by mediation, provision of premises or in any other manner is punishable by a pecuniary punishment or up to 5 years' imprisonment. (12.06.2002 entered into force 01.09.2002 - RT I 2002, 56, 350)

2. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

3. For an offence provided for in this section, a court may impose a fine to the extent of assets as a supplementary punishment pursuant to § 53 of this Code.

## **V. Child pornography**

### **§ 177. Use of minors in manufacture of pornographic works**

1. Use of a person of less than 18 years of age as a model or actor in the manufacture of a pornographic or erotic picture, film or other work is punishable by a pecuniary punishment or up to one year of imprisonment.
2. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

### **§ 178. Manufacture of works involving child pornography or making child pornography available**

1. A person who manufactures, stores, hands over, displays or makes available in any other manner pictures, writings or other works or reproductions of works depicting a person of less than 14 years of age in erotic or pornographic situations shall be punished by a pecuniary punishment or up to one year of imprisonment.
2. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

### **§ 179. Sexual enticement of children**

1. A person who hands over, displays or makes otherwise knowingly available pornographic works or reproductions thereof to a person of less than 14 years of age, engages in sexual intercourse in the presence of such person or knowingly sexually entices such person in any other manner shall be punished by a pecuniary punishment or up to one year of imprisonment.
2. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

## **VI. Internet**

The Estonian Penal Code covers Internet facilitated crimes against children through § 177 and § 178.

# **National Laws on Sex Offences in Finland**

Helsinki

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is sixteen (16) years.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years.

## **II. Rape**

### **Chapter 20 of the Finnish Penal Code**

#### **Section 1 - Rape**

A person who coerces another into sexual intercourse by the use or threat of violence shall be sentenced for rape to imprisonment for at least one year and at most six years.

A person shall also be sentenced for rape if he/she takes advantage of the incapacity of another to defend himself/herself and has sexual intercourse with him/her, after rendering him/her unconscious or causing him/her to be in such a state of incapacity owing to fear or another similar reason.

An attempt is also punishable.

#### **Section 2- Aggravated rape**

If, in the rape,

(1) grievous bodily injury, serious illness or a state of mortal danger is inflicted on another;

(2) the offence is committed by several people; or especially hard mental or physical suffering is caused;

(3) the offence is committed in a particularly brutal, cruel or humiliating manner; or

(4) a firearm, edged weapon or other lethal instrument is used or a threat of other serious violence is made,

and the rape is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated rape to imprisonment for at least two years and at most ten years.

An attempt is punishable.

#### **Section 3 - Coercion into sexual intercourse**

If the rape, in view of the slightness of the violence or threat and the other particulars of the offence, is deemed to have been committed under mitigating circumstances when assessed as a whole, the offender shall be sentenced for coercion into sexual intercourse to imprisonment for at most three years.

A person who coerces another into sexual intercourse by a threat other than that referred to in section 1(1) shall also be sentenced for coercion into sexual intercourse. Again an attempt is also punishable.

#### **Section 4 - Coercion into a sexual act**

(1) A person who by violence or threat coerces another into a sexual act other than that referred to in section 1 or into submission to such an act, thus essentially violating his/her right of sexual self-determination, shall be sentenced for coercion into a sexual act to a fine or to imprisonment for at most three years.

(2) An attempt is punishable.

### **III. Other forms of child sex abuse**

#### **Section 5 - Sexual abuse**

(1) A person who abuses his/her position and entices one of the following into sexual intercourse, into another sexual act essentially violating his/her right of sexual self-determination, or into submission to such an act,

a) a person younger than eighteen years of age, who in a school or other institution is subject to the authority or supervision of the offender or in another comparable manner subordinate to the offender;

b) a person younger than eighteen years of age, whose capacity of independent sexual self-determination, owing to his/her immaturity or the age difference of the persons involved, is essentially inferior to that of the offender, where the offender blatantly takes advantage of the immaturity,

c) a patient in a hospital or other institution, whose capacity to defend

himself/herself is essentially impaired owing to illness, handicap or other infirmity; or

d) a person who is especially dependent on the offender, where the offender blatantly takes advantage of the dependence,

shall be sentenced for sexual abuse to a fine or to imprisonment for at most four years

(2) A person shall also be sentenced for sexual abuse if he/she takes advantage of the incapacity of another to defend himself/herself or to make or express a decision, owing to unconsciousness, illness, handicap or other helplessness, and has sexual intercourse with him/her, or gets him/her to perform a sexual act essentially violating his/her right of sexual self-determination or to submit to such an act.

(3) An attempt is punishable.

#### **Section 6 - Sexual abuse of a child**

A person who

(1) has sexual intercourse with a child younger than sixteen years of age,

(2) by touching or otherwise performs a sexual act to a child younger than sixteen years of age, said act being conducive to impairing his/her development,

(3) or gets him/her to perform an act referred to in subparagraph (2),

shall be sentenced for sexual abuse of a child to imprisonment for at most four years.

However, an act referred to in paragraph (1) shall not be deemed sexual abuse of a child if there is no great difference in the ages or the mental and physical maturity of the persons involved.

A person shall also be sentenced for sexual abuse of a child if he/she commits an act referred to in paragraph (1) with a person over sixteen but younger than eighteen years of age, if the offender is the parent of the child or, if living in the same household with the child, the offender is in a position comparable to that of a parent. An attempt is punishable.



## **Section 7 - Aggravated sexual abuse of a child**

If, in the sexual abuse of a child,

1. the victim is a child whose age or stage of development are such that the offence is conducive to causing special injury to him/her;
2. the offence is committed in an especially humiliating manner; or
3. the offence is conducive to causing special injury to the child owing to the special trust he/she has put in the offender or the special dependence of the child on the offender,
4. and the offence is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated sexual abuse of a child to imprisonment for at least one year and at most ten years.

An attempt is punishable.

## **Chapter 17 of Finnish penal code**

### **Section 22 - Incest**

A person who has sexual intercourse with his/her child or other descendant, his/her parent or other ascendant, or his/her sibling, shall be sentenced for incest to a fine or to imprisonment for at most two years.

A person who has had sexual intercourse with his/her parent or other ascendant while under 18 years of age and a person who has been coerced or unlawfully enticed into the sexual intercourse shall not be punished for incest.

## **IV. Child prostitution**

### **Chapter 20 of Finnish penalty code**

#### **Section 8 - Buying sexual services from a young person**

A person who, by promising or giving remuneration, gets a person younger than eighteen years of age to have sexual intercourse or to perform another sexual act shall be sentenced for buying sexual services from a young person to a fine or to imprisonment for at most one year (2004).

An attempt is punishable

## **V. Child pornography**

The following information under section V. and VI. is not up to date. Interpol will update this information as soon as a translated version of the new legislation is being provided.

### **Article 17 of the Finnish penal code**

#### **Section 18 - Dissemination of depictions of obscenity**

A person who offers for sale or for rent, distributes, or to that end manufactures or imports, pictures or visual recordings depicting children, violence or bestiality in an obscene way, shall be sentenced for distribution of depictions of obscenity to a fine or to imprisonment for at most two years.

The provisions in section 17(2) apply also to the pictures and visual recordings referred to in this section.

### **Section 19 - Possession of obscene pictures of children**

A person, who unlawfully has in his/her possession a photograph, video tape, film or other visual recording, realistically depicting a child having sexual intercourse or in a comparable sexual act, or depicting a child in another obviously obscene way, shall be sentenced for possession of obscene pictures of children to a fine or to imprisonment for at most six months.

### **Section 20 - Unlawful marketing of obscene material**

A person who, for gain, markets an obscene picture, visual recording or object which is conducive to causing public offence, by

1. giving it to a person under 15 years of age;
2. putting it on public display;
3. delivering it unsolicited to another; or
4. openly offering it for sale or promoting it by advertisement, brochure or poster or by other means causing public offence,

shall be sentenced for unlawful marketing of obscene material to a fine or to imprisonment for at most six months.

A sentence for unlawful marketing of obscene material shall also be passed on person who, in the manner referred to in paragraph (1)(4), offers for sale or promotes an obscene text or sound recording which is conducive to causing public offence.

## **VI. Internet**

Finland does not have a special legislation concerning crimes against children using the Internet

# **National Laws on Sexual Offences in France**

## **I. Legal Ages**

### **Age of simple majority**

Under Article 488 of the Civil Code:

"The majority is eighteen (18) years of age, at this age, a person is capable of all acts of civil life."

### **Age of consent for sex**

This is set at fifteen (15) years old. If the offence is punishable or where aggravating circumstances apply, the victim must be younger than fifteen (15) years of age. As the minor should be old enough to realize the nature of the acts made and be responsible for sexual self-determination at this age. All sexual relations below this threshold are criminally punishable, unless they are between two minors.

However, in a ruling at The Court of Appeal of Bourges (Judgement of 06.18.1987) it was nevertheless retained that a valid age of consent was thirteen (13) years.

### **Age of consent for marriage**

The age of consent for marriage in France is 18. Additionally however, Article 144 of the Civil Code states that:

"The man before eighteen (18) years of age, the woman before fifteen (15) years of age, may not contract marriage. "

While Article 145 of the Civil Code claims it is open to the public prosecutor to grant dispensation from the age for serious reasons. Although in this case the minor must also obtain the approval of at least one parent in order to marry.

### **Direct Quote:**

["Néanmoins, il est loisible au procureur de la République du lieu de célébration du mariage, d'accorder des dispenses d'âge pour des motifs graves. Pour pouvoir contracter mariage, le mineur doit obtenir l'autorisation d'au moins l'un de ses parents."]

## **II. Sexual assault**

Section III - Chapter II - Part II of the New Penal Code is devoted to sexual assault. This section contains three subsections entitled: rape, sexual assault and sexual harassment.

Under section 222-22 of the New Penal Code "aggression is sexual molestation committed through sexual violence, coercion, threat or surprise."

## II.a Rape

Rape is when the victim's consent is vitiated by either violence, coercion, threat or surprise. Violence refers to physical pressure exerted on a person to obtain sexual acts. The violence inflicted on the victim is without their consent and sufficient enough to paralyze or restrain.

Coercion is considered to be either physical or moral stress which is aimed to achieve the desired result without exerting physical pressure. This threat, although not a direct assault, removes the consent and characterizes the act as rape. Coercion could be categorised as an act designed to inspire fear in the victim and places them in a situation where they feel that either they themselves or a family member are in serious and immediate danger.

Finally, acts of sexual aggression held under the term 'surprise' consists of obtaining sexual favours by deceiving the victim of the true nature of a situation or by abusing their ability to understand what is happening. It is an offence synonymous with fraud and trickery and the term surprise can be applied when the victim is unable to give full consent due to their age, physical condition or mental condition. This principle greatly applies to children, as their degree of maturity makes them unable to realize the nature and seriousness of the acts that are imposed.

### 'Rape' defined under Article 222-23 of the New Penal Code:

"Any act of sexual penetration, of whatever nature, committed on another person by violence, coercion, threat or surprise is rape.

#### a) Component materials of offence:

The crime of rape requires that the perpetrator commits the act of sexual penetration on the victim. Rape can be the result of normal relations imposed by a man to a woman (i.e forced sexual contact between spouses). But a man may also violate another man; even a woman can commit the offence on a person of the same gender. Indeed, the act of penetration may consist not only of a combination of male and female, but also in sodomy or fellatio, or in the introduction of an object into the vagina or anus of the victim.

The use of violence, coercion, threat and surprise reveals the absence of the victim's consent. Therefore, the victim can not validly give consent if they are subject to:

- physical strength sufficient to paralyze;
- a constraint depriving them of their capacity to consent;
- threats inspiring a serious and immediate fear of exposing either the themselves or their family to grave and imminent peril;
- a surprise that may result from its lack of discernment, due to young age or a mental disorder.

Rape is up to the extent that its author was aware of imposing the victim of unwanted sex. Rape and one or more of the aggravating circumstances listed below

is punishable by 20 years imprisonment. However, there are additional guidelines regarding 'moral infringement' within the new penal code which would govern a lesser offence.

#### 'Aggravated rape' under Article 222-24 of the New Penal Code

Rape is punished by twenty years of imprisonment:

1. If it has caused disfigurement or permanent disability;
2. When committed against a child under fifteen (15) years;
3. When committed on a person whose suffers from a particular vulnerability which is apparent or known to the perpetrator; this can be due to age, illness, infirmity, physical or mental disabilities, or a pregnancy;
4. When committed by a person with a legitimate form of authority over the victim (i.e. a parent/guardian or teacher);
5. When done by a person abusing the authority conferred functions;
6. When done by several persons acting as author or accomplice
7. When committed with the use or threat of a weapon.

#### 'Rape killing the victim' under Article 222-25 of the New Penal Code

"Rape is punished by thirty years' imprisonment when it has caused the death of the victim. The first two paragraphs of article 132-23 governing the safety period are applicable to the offence under this section. "

#### Rape accompanied or followed by acts of torture or barbarity, Article 222-26 New Penal Code

"Rape is punishable by life imprisonment when it is preceded, accompanied or followed by torture or acts of barbarism. The first two clauses of article 132-23 governing the safety period are applicable to the offence under this section. "

### II.b Other sexual assault

The New Penal Code does not provide a definition of sexual assault other than that of rape, although it does state that sexual assaults other than rape imply the absence of willing consent from the victim; and as such, consent is gained by the use of violence, coercion, threat or surprise. As this section excludes rape then the violation must be one which involves sexual acts other than penetration. The criminal intent here could also involve serious cases of immoral or obscene acts against another party.

#### 'Sexual assault other than rape' under Article 222-27 of the New Penal Code

"Sexual assault other than rape is punishable by five (5) years imprisonment and a 75,000 euro fine."

### 'Sexual assault other than rape with aggravating circumstances' under Article 222-29 of the New Penal Code

A sexual assault other than rape (with aggravating circumstances) is punishable by seven (7) years imprisonment and a 100,000 euro fine. In this instance, aggravating circumstances are considered to be a case in which the victim is:

1. a minor under fifteen (15) years;
2. a person whose particular vulnerability due to age, illness, infirmity, physical or mental impairment or pregnancy, is apparent or known to the perpetrator.

However, in cases where there are more serious aggravating circumstances (as defined in article 222- 29) they are said to be punished by ten (10) years imprisonment and a 150,000 euro fine. These 'serious' conditions are listed as an offence:

1. which has caused injury or damage;
2. which was committed by a person with a legitimate form of authority over the victim (i.e. a parent/guardian or teacher);
3. which was committed by a person who abuses a position of authority;
4. which was committed by several persons acting as author or accomplices;
5. which was committed with the use or threat of a weapon.

Additionally, under Article 222-31 of the New Penal Code the attempt of these crimes is also punished by the same sentences.

### III. Other forms of sexual abuse against children

The New Penal Code also contains articles referring to acts which are 'indecent without violence '. Although the sentencing differs between sexual abuse committed without violence on a minor under fifteen (15) years, and sexual abuse committed without violence on a minor between fifteen (15) and eighteen (18) years.

#### 'Sexual Violation of a minor' under Article 227-25 of the New Penal Code

"An act of sexual molestation committed without violence, coercion, threat or surprise on of a minor under fifteen (15) years is punishable by five (5) years imprisonment and 75,000 euros fine. "

The victim must be under the age of fifteen (15) years of age. It must be aware of the nature of the acts. It is therefore necessary that the minor has been an age enough to realize what he was doing.

The offence disappears if the minor is willing and older than fifteen (15) years.

### 'Violation of a minor with aggravated sexual' under Article 227-26 of the New Penal Code

The offence defined in article 227-25 is punished by ten (10) years imprisonment and 150,000 euros fine:

1. If committed by a person with a legitimate form of authority over the victim (i.e. a parent/guardian or teacher);
2. If committed by a person who abuses the functions of his authority;
3. If committed by several persons acting as author or accomplices;

To fight against the abuse of sex tourism, the Act of 1 February 1994 (Article 227-26) amends the general rules for crimes committed within France. So a French 'sex tourist' abroad is punishable in France even if the facts are not punishable in the country where they were committed and that the child is not French.

The French courts may, therefore, condemn the person who had sexual relations with minors abroad without an official report or a complaint is made either by the authorities. **An example of this would be a French 'sex tourist' who travels to Thailand and engages a prostitute below the age of 15 (15 being the age of consent in France). As he would then face prosecution when returning to France, even if no formal complaint was lodged against him.**

### **Article 227-27 of the New Penal Code**

An act of sexual abuse without violence, coercion, threat or surprise on a minor over the age of fifteen (15) years who has not been emancipated by marriage is punished by two (2) years imprisonment and a fine of 30,000 euros:

1. When committed by a legitimate parent or guardian, natural or adoptive or by any other person having authority over the victim;
2. When committed by a person who abuses his authority to gain sexual favours from the victim

The article cited no provisions for non-violent sexual offences committed against a minor over fifteen (15) years, who has not been emancipated by marriage in cases of indecent assault committed by a relative or a person in authority.

### **'Corruption of minors', Article 227-22 of the Penal Code**

The corruption of a minor is punishable by 5 years imprisonment and 75,000 euros fine. These penalties are increased to 7 years imprisonment and a 100,000 euros fine when the minor is less than 15 years. This also applies to contact made with a minor over a 'telecommunications network' or via the internet.

The same penalties shall apply if an adult has held meetings or exhibitions involving sex which a minor has either attended or participated in. These actions may also have been made to satisfy the passions of people other than the minor. This is for example the case of meetings or exhibitions involving sexual relationships with a minor attending or participating.

#### **IV. Child prostitution**

##### **'Pimping', Article 225-5 of the New Penal Code**

"Pimping is done by anyone in any manner whatsoever:

1. To assist or protect the prostitution of others;
2. Benefit from the prostitution of others, to share products or receive money from a person habitually engaged in prostitution
3. To hire, or train a person for the purpose of becoming a prostitute or to exercise pressure on her so that she continues to be a prostitute.

These acts are punishable by seven (7) years imprisonment and 150 000 Euro fine. "

##### **'Aggravated pimping', Article 225-7 of the New Penal Code**

"Procuring is punishable by ten (10) years imprisonment and a 1.5 million euro fine when committed:

1. In respect of a minor;
2. In respect of a person whose particular vulnerability, due to age, illness, infirmity, physical or mental impairment or pregnancy, is apparent or known to the perpetrator;
3. In respect of many people;
4. by a legitimate parent or guardian, (either natural or adopted) or by a person who has authority over the victim and abuses their authority to confer its functions;
5. For a person carrying a weapon;
6. With the use of coercion, violence or deceit;
7. By several persons acting as perpetrators or accomplices, who have formed an organized gang

#### **Act No. 2002-305 of 4 March 2002 concerning parental authority**

##### **Art 13. Provisions for child prostitution**

The law provides a new article 225-12-1 of the Penal Code whose provisions are following:

- 1) The prostitution of minors is prohibited; any minor who indulges even occasionally is deemed at risk and therefore falls under the protection of the courts.

The text also provides for aggravating circumstances:

- a) an offence committed habitually or with several minors
  - b) the use of a communication network (Internet, audiotel, Minitel)
  - c) author abusing the authority conferred upon its functions.
- It applies to offences committed abroad by a French person or a person residing usually on French territory.



## **V. Child pornography**

In France, the age taken into account in legislation on child pornography is 18. Any pornography created with participants below the age of 18 is deemed child pornography.

### **Article 227-23 of the New Penal Code**

The distribution of images or representations of a pornographic nature featuring minors is punishable by three years imprisonment and 45,000 euros fine. The import or export, of said materials is punished by the same penalties.

The penalties are increased to 5 years imprisonment and 75,000 euros fine when it was used for the dissemination of the image or representation of the minor for an undetermined audience over a telecommunications network.

The possession of such an image or representation is punishable by 2 years imprisonment and 30,000 euros fine.

The provisions of this Article shall also apply to pictures and pornography of a person whose physical appearance is that of a minor, unless it is established that this person was aged 18 on the day of recording the image. "

Element of the offence:

The offence is very wide and includes not only the production of a photograph or film of a child, but also drawings, or even images resulting from the transformation of a real image, including photomontages, Fidelity or superimposed images, or scanned computer graphics.

### **Act No. 2002-305 of 4 March 2002**

This act added additional laws to Article 227-23 of the Penal Code and a new paragraph regarding possession of child pornography, "to hold such an image or representation is punishable by 2 years imprisonment and 30,000 euros fine".

Offences under the second, third and fourth paragraphs shall be punished BY ten years imprisonment and 500,000 euros fine when committed by an organized gang.

## **VI. Internet**

In order to prevent the facilitation of sexual offences through the use of a telecommunication networks such as the Internet, a new provision has been built into the aggravating circumstances law of 17 June 1998 with the intention of preventing these new forms of sexual offences.

The fixed sentences for crimes of rape, sexual assault other than rape and pimping, regardless of whether the victim is an adult or minor, are increased if the author has used the Internet to commit then or make contact with the victim. (confer respectively Articles 222-24, 222-28 and 225-7 of the Penal Code).

Similarly this is also the case for offences involving minor victims exclusively, such as corruption of minors (Article 227-22 of the Penal Code), the distribution/creation of pornographic images of a minor (Article 227-23 of the Penal Code) and achievement sexual abuse of a minor below fifteen (15) years (Article 227-26 of the Code criminal).

#### Additional information

##### Article 222 -22

Sexual aggression is any sexual offence committed with violence, coercion, threat or surprise. When sexual assaults are committed against a foreign minor by a French national or a person who is ordinarily a resident on French territory, the French law applies notwithstanding the second paragraph of article 113-6 and the provisions of the second sentence of article 113-8 do not apply.

## **National Laws on Sex Offences in Germany**

### **I. Ages for legal purposes**

#### Age of consent for marriage

The age of consent for marriage, according to the article 1303 of the German Civil Code is the age of majority: eighteen (18) years accomplished.

### **II. Rape**

#### Section 177 'Sexual coercion; Rape'

##### (1) Whoever coerces another person

1. by force,
  2. by the threat of immediate danger to life or limb, or
  3. by exploiting a situation in which the victim is defenceless and at the mercy of the actions of the perpetrator
- into submitting to sexual acts performed by the perpetrator or by a third person or into performing such acts on the perpetrator or on the third person, shall be punished by imprisonment of not less than one year.

(2) In particularly serious cases, the punishment shall be imprisonment of not less than two years. A particularly serious case shall normally be deemed to exist if

1. the perpetrator has full sexual intercourse with the victim or performs similar sexual acts on the victim or allows the victim to perform such acts on him or her, which are particularly degrading to the victim, especially if they involve physical penetration (rape), or
2. the offence is committed jointly by several persons.

(3) Imprisonment of not less than three years shall be imposed in cases where the perpetrator

1. carries a firearm or another dangerous implement,
2. otherwise carries an implement or device in order to prevent or overcome the resistance of another person by force or the threat of force, or
3. through the offence exposes the victim's health to the risk of severe impairment.

(4) Imprisonment of not less than five years shall be imposed in cases where the perpetrator

1. in committing the offence uses a firearm or another dangerous implement, or
2. i) in committing the offence seriously physically maltreats the victim, or  
ii) through the offence places the victim in mortal danger.

(5) In less serious cases referred to under subsection 1, the punishment shall be imprisonment from six months to five years; in less serious cases referred to under subsections 3 and 4, the punishment shall be imprisonment from one year to ten years.

### III. Other forms of child sex abuse

#### **‘Sexual intercourse between relatives’ Section 173 of the German Penal Code’**

- '(1) Whoever has full sexual intercourse with a consanguine descendant shall be punished by imprisonment not exceeding three years or by a fine.
- (2) Whoever has sexual intercourse with a consanguine relative in the ascending line shall be punished by imprisonment not exceeding two years or by a fine; this shall apply even if the legal family relationship has ceased to exist. Siblings who have full sexual intercourse with each other shall be punished in the same way.
- (3) Descendants and siblings who had not reached the age of eighteen at the time of the offence shall not be punished under this provision.'

#### **Section 174**

- (1) 'Whoever performs sexual acts
1. on a person of less than sixteen years of age who has been entrusted to him or her for upbringing, education or care concerning that person's way of life,
  2. on a person of less than eighteen years of age who either has been entrusted to him or her for upbringing, education or care concerning that person's way of life or who is subordinate to him or her in a service or employment relationship, by abusing a dependency in connection with the relationship of upbringing, education, care, service or employment, or
  3. on his or her own natural or adopted child of less than eighteen years of age or allows such a person in his or her charge to perform sexual acts on him or her,
- shall be punished by imprisonment not exceeding five years or by a fine.
- (2) Whoever, under the prerequisites laid down in subsection 1 nos. 1 to 3
1. performs sexual acts in the presence of the person in his or her charge or
  2. allows the person in his or her charge to perform sexual acts in his or her presence
- in order to thereby sexually arouse either him- or herself or the person in his or her charge, shall be punished by imprisonment not exceeding three years or by a fine.
- (3) An attempt shall incur criminal liability.
- (4) In the cases referred to under subsection 1 no. 1 or subsection 2 in conjunction with subsection 1 no. 1, the court may refrain from imposing punishment pursuant to this provision if, taking the behaviour of the person in his or her charge into consideration, the wrongfulness of the act is insignificant.'

#### **‘Sexual abuse of children’, § 176 of the German Penal Code**

- '(1) Whoever commits sex acts on a person under fourteen (14) years of age (a child) or whoever permits to do the same to him, shall be punished by imprisonment from six months to ten years or, in less serious cases, by up to five years imprisonment or by fine.
- (2) Similar punishment shall be imposed on anyone who induces a child to commit sex acts on a third person or to permit a third person to do the same to the child.
- (3) Imprisonment from one to ten years shall be imposed in especially serious cases.

As a general rule, an especially serious case shall be deemed to exist if the offender:

1. has sexual intercourse with the child; or

2. in committing the act grossly abuses the child.

(4) If, in committing the act, the offender recklessly caused the death of the child, not less than five years' imprisonment shall be imposed.

(5) Up to three years' imprisonment or fine shall be imposed on anyone who -

1. commits sex acts in front of a child;

2. induces a child to commit sex acts in front of him or a third person; or

3. exerts influence on a child, by showing him pornographic illustrations or representations, by playing recordings of pornographic content, or by suggestive speech of the same nature,

- in order to thereby sexually arouse himself, the child or a third person.

The attempt is punishable.

This rule shall not apply to offences falling under subparagraph (5) number 3.'

### **Section 176a. Aggravated sexual abuse of children**

'(1) Sexual abuse of children in the cases referred to under section 176 subsections 1 and 2 shall be punished by imprisonment of not less than one year where

1. a person of more than eighteen years of age has full sexual intercourse with the child or performs similar sexual acts on the child or allows the child to perform such acts on him or her which involve physical penetration,

2. the offence is committed jointly by several persons,

3. the perpetrator through the offence exposes the child's health to the risk of severe

impairment or exposes the child's physical or emotional development to the risk of serious damage, or

4. the perpetrator has been convicted of such a criminal offence with legal force in the past five years.

(2) Imprisonment of not less than two years shall be imposed on anyone who, in the cases referred to under section 176 subsections 1 to 4, acts as a perpetrator or other participant with intent to make the offence the subject of a pornographic writing (section 11 subsection 3) which is intended to be disseminated pursuant to section 184 subsection 3 or 4.

(3) In less serious cases referred to under subsection 1, the punishment shall be imprisonment from three months to five years; in less serious cases referred to under subsection 2, the punishment shall be imprisonment from one year to ten years.

(4) Imprisonment of not less than five years shall be imposed on anyone who, in the cases referred to under section 176 subsections 1 and 2

1. seriously physically maltreats the child in committing the offence, or

2. through the offence places the child in mortal danger.'

### **IV. Child prostitution**

### **'Promoting the engagement of minors in sex', § 180 of the German Penal Code**

'(1) Whoever -

1. by his mediation; or
  2. by affording or creating an opportunity,
- promotes the commission of sex acts by a person less than sixteen (16) years of age on or before a third person, or the commission of sex acts by a third person on a person less than sixteen (16) years of age, shall be punished by up to three years' imprisonment or by fine. Sentence one, number two of the paragraph shall not be applied to the acts of a person who is lawfully entitled to care for another. This rule shall not apply if, by his promotional activity, the person lawfully entitled to care for another flagrantly violated his duties with respect to the upbringing of the other person.
- (2) Whoever entices a person less than eighteen (18) years of age to commit sex acts for remuneration on or in front of a third person, or to permit a third person to do the same on him, or whoever sees as intermediary in promoting such conduct, shall be punished by up to five years' imprisonment or by fine.
- (3) Whoever, by abusing an upbringing, educational, care, work or employment dependency relationship, induces a person less than eighteen (18) years of age who either has been entrusted to him for upbringing, education or care, or who is subordinate to him in a work or employment relationship, to commit sex acts on or in front of a third person, or to permit a third person to commit such acts on him, shall be punished by up to five years' imprisonment or by fine.
- (4) The attempt is punishable in cases falling under subparagraphs (2) and (3)'

### **'Encouraging prostitution', § 180a of the German Penal Code**

- '(1) Whoever, on a commercial basis, maintains or manages a house of prostitution in which-
1. prostitutes are kept in a state of personal or economic dependency ;
  2. prostitution is encouraged by means which go beyond simply providing a place of residence, temporary quarters or reception rooms and the accoutrements which are normally associated therewith,
- shall be punished by up to three years' imprisonment or by fine.
- (2) Similar punishment shall be imposed on anyone who:
1. provides, in connection with prostitution, to a person less than eighteen (18) years of age, a place of residence or, on a commercial basis, temporary quarters or reception rooms ; or
  2. provides a place of residence for the purpose of prostitution to another person whom he induces to be a prostitute or whom he is exploiting as a prostitute.
- (3) Whoever, on a commercial basis, recruits another to become a prostitute or to engage in prostitution in a foreign country, shall be punished by up to five years' imprisonment or by fine.
- (4) Whoever entices a person less than twenty-one (21) years of age to engage in prostitution or exerts influence on such a person for the purpose of persuading him to become or to continue to work as a prostitute, shall be punished by imprisonment from six months to ten years.
- (5) The attempt is punishable in cases falling under subparagraphs (3) and (4)'

### **'White slave traffic', § 181 of the German Penal Code**

'Whoever -

1. by force or the threat of perpetrating grievous wrong, or by trick and device, induces another to become a prostitute: or
  2. recruits or, by trick and device, threats or force, abducts another in order to exploit the helplessness connected with his being in a foreign country to get him to commit sex acts on or in front of a third person or to permit a third person to do the same to him,
- shall be punished by imprisonment from one to ten years or, in less serious cases, by imprisonment from three months to five years.'

### **'Seduction', § of the German Penal Code**

- '(1) Whoever seduces a girl less than sixteen (16) years of age to have sexual intercourse with him shall be punished by up to one year imprisonment or by fine.
- (2) The act shall be prosecuted only on formal complaint. No prosecution shall take place if the perpetrator marries the person seduced.
- (3) The court may refrain from imposing any punishment under these provisions if , at the time of the act, the perpetrator was less than twenty-one (21) years of age.'

### V. Child pornography

### **Section 6. Offences committed abroad against internationally protected Interests**

'German criminal law shall also apply, regardless of the law of the place of commission, to the following offences committed abroad:

- a. ... 3.trafficking in human beings (section 180b) and aggravated trafficking in human beings (section 181);
- d. ... dissemination of pornographic writings in the cases referred to under section 184 subsections 3 and 4;'

### **Section 184 'Dissemination of pornographic writings'**

'(1) Whoever

1. offers, hands over or makes accessible to a person of less than eighteen years of age, displays, puts up, presents or otherwise makes accessible at a place accessible or visible to persons of less than eighteen years of age,
2. offers to or hands over to another in retail trade outside business premises, in kiosks or other sales outlets which the customer does not usually frequent, by mail order, or through commercial lending libraries or magazine loan services,
3. offers to or hands over to another, by means of a commercial lease or by comparable commercial granting of use, except in stores which are not accessible and not visible to persons of less than eighteen years of age,
4. undertakes to import by means of mail order,
5. publicly offers, announces, or commends at a place accessible or visible to persons of less than eighteen years of age, or by the dissemination of writings outside the normal course of business,

6. without being requested beforehand to do so, allows a person to acquire,  
7. shows in a public film presentation for a fee which is demanded entirely or primarily for this presentation,  
8. produces, obtains, supplies, keeps in stock or undertakes to import, in order to use or to enable another to use them or copies made from them within the meaning of nos. 1 to 7, or  
9. undertakes to export, in order to disseminate them or copies made from them, or make publicly accessible, or make such use possible, abroad, in violation of the criminal law provisions in force there,  
pornographic writings (section 11 subsection 3), shall be punished by imprisonment not exceeding one year or by a fine.

(2). The same punishment shall be imposed on anyone who disseminates a pornographic presentation by radio broadcasting.

(3) Whoever

1. disseminates,  
2. publicly displays, puts up, presents or otherwise makes accessible, or produces, obtains, supplies, keeps in stock, offers, announces, commends or undertakes to import or to export, in order to use or enable another to use them or copies made from them within the meaning of nos. 1 and 2,  
pornographic writings (section 11 subsection 3), the subject of which are violent acts, sexual abuse of children or sexual acts between human beings and animals, shall, where the pornographic writings have the sexual abuse of children as their subject, be punished by imprisonment from three months to five years, otherwise be punished by imprisonment not exceeding three years or by a fine.

(4) Where the pornographic writings (section 11 subsection 3) in the cases referred to under subsection 3 have the sexual abuse of children as their subject matter, and where they show real or realistic action, the punishment shall be imprisonment from six months to ten years if the perpetrator is acting on a commercial basis or as a member of a gang which has been formed in order to commit such acts repeatedly.

(5) Whoever undertakes to obtain pornographic writings (section 11 subsection 3) for him or herself or for a third person, which have sexual abuse of children as their subject matter, shall be punished by imprisonment not exceeding one year or by a fine if the writings show real or realistic action. The same punishment shall be imposed on anyone who is in possession of such writings as described under sentence 1.

(6) Subsection 1 no. 1 shall not be applied where the person who acts is entitled to custody of the other person. Subsection 1 no. 3a shall not apply where the act is committed in the course of business with commercial borrowers. Subsection 5 shall not apply to acts which exclusively serve the purpose of fulfilling legal official or professional obligations.

(7) Section 73d shall be applied in the cases referred to under subsection 4. Items to which a criminal offence pursuant to subsection 5 relates shall be confiscated. Section 74a shall be applied.'



# **National Laws on Sex Offences in Greece**

Athens

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fifteen (15) years.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years. Nevertheless, the Court can allow the marriage, even before the completion of the 18th year of age, if the wedding is imperative by a significant reason, after having heard the persons about to be married and the parents or guardians of that person.

## **II. Rape**

**In the Hellenic Legislation, there is no special provision that deals with sexual contact with a minor, involving the use of violence.**

**The general provision of Article 336 of the Greek Penal Code can be applied, as it refers to adults and minors of both sexes:**

'One who by physical force or threat of serious and immediate danger forces another into extra-marital intercourse or attempts an indecent act, is punished with confinement.

If the act of rape is committed by two or more perpetrators who were acting jointly, the persons are punished with confinement of at least 10 years.

If the act of rape causes the death of the victim, confinement of at least ten years or life-imprisonment is imposed.

## **III. Other forms of child sex abuse**

### **'Seduction of minors', Article 339 of the Greek Penal Code**

'1) One who commits an indecent act with a person under fifteen (15) years of age, or causes this person to commit or undergo such an act through deception, is punished as follows:

a) if the victim is under ten (10) years of age, with at least ten years' confinement.  
b) if the victim has completed ten (10) years of age, but is under thirteen (13) years of age, with confinement of up to ten years.

c) if the victim has completed thirteen (13) years of age, with imprisonment.

2) If in case of section c) of the first paragraph, the perpetrator has not completed seventeen (17) years of age, the Court can only impose reformatory or curative measures.

3) If a wedding was performed between the perpetrator and the victim, no criminal prosecution will be exercised and if such has been instituted, it is declared inadmissible.'

### **‘Abduction with consent’, Article 328 of the Greek Penal Code**

'One who abducts or detains with intent of marriage or debauchery an unwed and minor woman, with her consent but without the consent of the persons legally responsible for her, is punished with imprisonment for up to three years if he committed this act with intent of marriage, or with imprisonment if he committed this act with intent of debauchery. A complaint is required for the criminal prosecution.'

### **‘Abuse of minors’, Article 342 of the Greek Penal Code**

'1. Imprisonment of at least one year is given, when a minor's guardian, parent or foster parent commits an unchaste act with his/her minor descendant or foster child, a guardian or commissioner, tutor or cleric of any kind who commits the same act with a minor they have in their custody, shall also serve the same sentence  
2. The same punishment shall be inflicted to the servants or tenants who commit an unchaste act upon a minor who belongs to the same domestic circle, as well as anyone who commits an indecent act upon a minor entrusted to his supervision or guardianship, even temporarily.'

### **‘Incest’, Article 345 of the Greek Penal Code**

'1. Sexual intercourse with blood-relatives of an ascendant is punished with confinement for up to ten (10) years, and with blood-relatives of a descendant, with imprisonment for up to two (2) years, and between brothers and sisters or halfbrothers and half-sisters, sexual intercourse is punished with imprisonment for up to two (2) years.  
2. Lineal blood descendants may be absolved from punishment if at the time of the commission of the act, they had not reached seventeen (17) years of age.'

### **‘Indecency between relatives’, Article 346 of the Greek Penal Code**

'1. The attempt of another indecent act between relatives as mentioned at Article 345 is punished with imprisonment for up to one (1) year.  
2. The second paragraph of Article 345 shall also be applied in this case.'

### **‘Insult of sexual dignity’, Article 337 of the Greek Penal Code**

'1. One who insults heavily the dignity of a person concerning his sexual life, with the perpetration of unchaste gesticulations or with proposals regarding unchaste acts, shall be punished with imprisonment of not more than one (1) year or with a fine.  
2. The act described in the above-mentioned paragraph is punished with imprisonment from three (3) months to two (2) years if the victim is younger than twelve (12) years of age.'

### **‘Sodomy’, Article 347 of the Greek Penal Code**

'a) Abuse of a relationship of dependence based upon employment; or  
b) Sodomy committed by an adult through the seduction of a person under seventeen (17) years of age, or for financial gain, shall be punished with imprisonment of at least three (3) months.'

#### **IV. Child prostitution**

**Child prostitution is completely prohibited in Greece. This results from the provision of Article 6 of the Law 1193/81, according to which 'any woman intending to prostitute herself for money, must have reached twenty-one (21) years of age and submit relevant application to the competent police authority.'**

**The following provisions of the Greek Penal Code are also applicable with a view to encounter child prostitution:**

##### **'Pandering', Article 349**

- '1. One who induces, urges, procures or facilitates the prostitution or lewd acts of minors with the intend to facilitate another one's debauchery, shall be punished with imprisonment for at least nine (9) months and not more than three years, and a fine.
2. The penalty will be increased to imprisonment for at least one year and a fine if the offence is committed under one of the following circumstances:
  - a) If the victim is under sixteen (16) years of age;
  - b) If the perpetrator is an ancestor through blood or marriage or a foster parent, spouse, guardian, or any other person to whom the minor is entrusted for rearing, education, supervision or custody, even temporarily.

##### **'Trafficking in prostitution', Article 351 of the Greek Penal Code**

- '1. One who, with a view to facilitate another one's debauchery, engages or influences a female minor person for the purpose of prostitution, even with her consent, shall be punished with imprisonment for at least one (1) year and not more than three (3) years, and a fine.
2. The penalty will be increased to imprisonment for up to five (5) years if the offence is committed by an ancestor through blood or marriage, a foster parent, spouse, guardian or by any other person to whom the minor is entrusted for rearing, education, supervision or custody, even temporarily.
3. These penalties will be imposed, even though the acts of the above-mentioned crime have been perpetrated in different territories.'

##### **'Neglect of a minor', Article 360 of the Greek Penal Code**

- '1. One, with the duty of care for a minor under seventeen (17) years of age, who fails to prevent such minor from committing a criminal offence or being engaged in prostitution, shall be punished with imprisonment for up to one (1) year.
2. The person who commits this offence by neglect, will be punished with imprisonment for up to three (3) months.
3. If the offence is committed by a parent, guardian or representative under whose care a minor has been placed, the penalty mentioned in the first paragraph will be increased to a maximum of two (2) years' imprisonment, and the penalty mentioned in the first paragraph will be increased to a maximum of six (6) months' imprisonment.

## **V. Child pornography**

*1. According to the provisions of Article 348A of the Greek Penal Code, Pornographic material constitutes every depiction, real or fictitious imprinting, on any material carrier of a minor's body, intended for sexual excitement, as well as the recording or imprinting, on any material carrier, of a real, simulated or fictitious indecent assault acted for the same purpose by or with a minor.*

*Whoever, on the cause of speculation (gain), prepares, possesses, puts by any means into circulation pornographic material, coming under the definition of the preceding paragraph, is sentenced to at least one year imprisonment plus a monetary penalty, while pornographic material distribution associated with the exploitation of need, of mental weakness, of vanity, of minors inexperience or with the performance of physical violence against a minor, constitutes an aggravated circumstance punishable as a felony. Provisions of articles 29 and 30, of law 5060/1931 "concerning indecent publication" are implemented in assistance and inflict misdemeanor penalties to whoever exposes to public view, indecent material, by means of any kind of printed or electronic matter.*

*2. According to article 121 of our penal code, which has been modified by law 3189/2003, minor is considered any person aged from eight (8) to eighteen (18) years old, while younger ages, come under the meaning of a child*

# **National Laws on Sex Offences in Hungary**

Budapest

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of simple majority is 18 years. According to the article 107 (chapter IV) of 1978 from de Penal Code of Republic of Hungary 'a minor is the person who in the moment of the infringement is over 14 but under 18 years of age'.

### **Age of consent for sexual activity**

The age of consent for sexual activity is 14 years

### **Age of consent for marriage**

In general the age of consent for marriage is 18 years, but with the consent of the parent or tutor marriage can be concluded at the age of 16 years. Any marriage concluded before age of 16 years, with or without consent of the parent or tutor, is invalid.

## **II. Rape**

### **Section 197 Rape**

- 1) A person who by violent action or direct menace against life or limb forces a woman to have sexual intercourse, or uses the incapacity of the woman for defence or for the manifestation of her will for sexual intercourse, commits a felony and shall be punishable with imprisonment between 2 and 8 years.
- 2) The punishment shall be imprisonment from 5 to 10 years if:
  - a) the victim is under 12 years of age
  - b) the victim is under the education, supervision, care or medical treatment of the perpetrator
  - c) more than one person have sexual intercourse with the victim on the same occasion, knowing about each other's acts
- 3) The punishment shall be imprisonment between 5 to 15 years if the provisions of paragraph b) or c) of subsection 2) also apply to rape committed against a victim under 12 years of age.

## **III. Other forms of child sex abuse**

### **Section 195 Endangering a minor**

- 1) The person obliged to conduct the education, supervision of or care for a minor, who seriously violates his obligations arising from such duty, and thereby endangers the physical, intellectual or moral development of the minor, commits a felony and shall be punishable with imprisonment between 1 to 5 years.
- 2) Unless a graver crime is realized, that major person shall be punishable in accordance with subsection 1), who induces or tries to induce a minor to the perpetration of a crime or to the pursuance of a dissolute way of life.
- 3) Any person of legal age who has forced labour conducted by a minor commits a felony offence and shall be punishable with imprisonment between 2 to 8 years.

### **Section 198 Assault against decency**

- 1) A person who by violence or direct menace against life or limb forces another person to engage in sodomy or to the endurance thereof, or uses for sodomy the incapacity of another person for defence or for the manifestation of will, commits a felony and shall be punishable with imprisonment between 2 to 8 years.
- 2) The punishment shall be imprisonment from 5 years to 10 years, if:
  - a) the victim is under 12 years of age
  - b) the victim is under education, supervision, care or medical treatment of the perpetrator
  - c) if several persons sodomize the victim on the same occasion, knowing about each other's act.
- 3) the punishment shall be imprisonment between 5 to 15 years if the provisions of paragraph b) or c) of subsection 2) also apply to the sexual assault committed against a victim under 12 years of age.

### **Section 199 Fornication against nature**

A person who has reached 18 years of age, who fornicates with a person of identical sex younger than that age, commits a felony, and shall be punishable with imprisonment of up to 3 years.

### **Section 200 Forceful fornication against nature**

- 1) A person who by violence or direct menace against life or limb forces a person of the same sex to engage in sodomy or to the endurance thereof, or uses his/her incapacity for defence or for the manifestation of will for sodomy, commits a felony, and shall be punishable with imprisonment from 2 to 8 years.
- 2) The punishment shall be imprisonment from 5 to 10 years, if:
  - a) the victim is under 12 years of age
  - b) the victim is under education, supervision, care or medical treatment of the perpetrator
  - c) several persons sodomize the victim on the same occasion, knowing about each other's acts.
- 3) The punishment shall be imprisonment between 5 to 15 years if the provisions of paragraph b) or c) of subsection 2) also apply to sexual assault committed against a victim under 12 years of age.

### **Section 210**

For the purposes of Section 197, 198 and 200, the person who has not yet completed his 12th year of age shall be deemed as incapable of defence.

### **Section 201 Seduction**

- 1) The person who has sexual intercourse with a person who has not yet completed his 14th year, as well as the person who has completed his 18th year and engages in fornication with a person who has not yet exceeded his 14th year of age, commits a felony and shall be punishable with imprisonment from 1 to 5 years.
- 2) The person who has completed his 18th year and strives to persuade a person who has not completed his 14th years, to have sexual intercourse or to fornicate with him, commits a felony and shall be punishable with imprisonment of up to 3 years.
- 3) The punishment shall be imprisonment from 2 to 8 years, or from 1 to 5 years, respectively, if the injured party of the crime defined in subsections 1) or 2) is a

relative of the perpetrator, or is under the education, supervision, care or medical treatment of the perpetrator

### **Section 202**

- 1) The person who induces a person who has not yet completed his 14th year to have sexual intercourse or to fornicate with another person, commits a felony and shall be punishable with imprisonment from 1 to 5 years.
- 2) The person who has completed his 18th year and strives to persuade a person who has not yet completed his 14th year, to have a sexual intercourse or to fornicate with another person, commits a felony, and shall be punishable with imprisonment of up to 3 years.
- 3) The punishment shall be imprisonment from 2 to 8 years, or from 1 to 5 years, respectively, if the injured party of the crime defined in subsections 1) or 2) is a relative of the perpetrator, or is under the education, supervision, care or medical treatment of the perpetrator

### **Section 203 Incest**

- 1) The person who has sexual intercourse or fornicates with his relative in direct line, commits a felony and shall be punishable with imprisonment from 1 year to 5 years.
- 2) The descendant shall not be punishable, if he has not yet completed his 18th year of age on the perpetration of the act.
- 3) A person who has sexual intercourse with his or her sibling shall be punishable for a misdemeanour offence with imprisonment of up to 2 years.

### **Section 208 Obscenity**

A person who exposes himself before another person in an indecent way for the satisfaction of his or her sexual desire, commits a misdemeanour, and shall be punishable with imprisonment of up to 2 years, labour in public interest, or a fine

## **IV. Child prostitution**

### **Section 205 Promotion of prostitution**

- 1) The person who makes available a building or another place for prostitution to another person, commits a felony and shall be punishable with imprisonment of up to 3 years.
- 2) The person who maintains, heads a brothel, or makes available financial means to the functioning thereof, commits a felony, and shall be punishable with imprisonment of up to 5 years.
- 3) The punishment shall be imprisonment from 2 to 8 years if:
  - a) any person who has not yet completed his 18th year engages in prostitution in the brothel
  - b) prostitution is promoted as a part of a criminal organization.
- 4) The person who persuades another person to engage in prostitution, shall be punishable in accordance with subsection 1).

### **Section 206 Living on earnings of prostitution**

The person who lives wholly or in part on the earnings of a person engaging in prostitution, commits a felony, and shall be punishable with imprisonment of up to 3 years. Banishment may also take place as a supplementary punishment.

### **Section 207 Pandering**

- 1) The person who solicits another person for sexual intercourse or fornication for somebody else in order to make profit, commits a felony, and shall be punishable with imprisonment of up to 3 years.
- 2) The punishment shall be imprisonment from 1 to 5 years, if the pandering is business- like.
- 3) The punishment shall be imprisonment from 2 to 8 years, if the pandering is committed:
  - a) to the injury of a relative of the perpetrator or of a person under this education, supervision or care or who has not yet completed his 18th year of age
  - b) with deceit, violence or direct menace against life or limbs
  - c) as a part of criminal organization.
- 4) The person who agrees on the perpetration of pandering defined in subsection 2) commits a felony and shall be punishable with imprisonment of up to 3 years.

### **Section 210/A**

- 1) Prostitution is pursued by the person who has sexual intercourse or fornicates striving to make regular profit.
- 2) For the purposes of this title, fornication is : any gravely indecent act with the exception of sexual intercourse, which serves the stimulation or satisfaction of sexual desire.

### **Section 175/B from de legislation on trafficking in human beings**

- 1) Any person who sells, purchases, conveys or receives another person or exchanges a person from another person, in addition to any person who recruits others for the above purpose, or transports, hides or appropriates a person for another party, commits a felony offence and shall be punishable with imprisonment of up to 3 years.
- 2) The punishment shall be imprisonment between 1 to 5 years if the criminal act is committed:
  - a) against the person under the age of 18 years;
  - b) against a person deprived of personal freedom;
  - c) for the purpose of labour;
  - d) for the purpose of sodomy or sexual intercourse;
  - e) for an illegal use of the human body;
  - f) as an organized criminal act, or
  - g) in return for a payment.
- 3) The punishment shall be imprisonment between 2 to 8 years if the criminal act is committed:
  - a) against the person under the tutelage, guardianship, supervision or medical treatment of the perpetrator;
  - b) as described in points c)-e) of paragraph 2) if the perpetrator uses:
    - 1) violence, or threatens
    - 2) deceives
    - 3) and tortures a person.
- 4) The punishment shall be imprisonment between 5 to 10 years if the criminal act is committed
  - a) against a person described in points a)-b) of paragraph 2) or in a point a) of paragraph 3) for the purposes defined in points c)-e) of paragraph 2), and in a



manner described in sub-points 1-3 of point b) paragraph 3), or  
b) for the purposes of making illegal pornographic pictures.  
5) The punishment shall be imprisonment between 5 to 15 years or life imprisonment if the criminal act is committed against person under the age of 12  
a) for the purpose defined in points c)-e) of paragraph 2)  
b) in a manner described in sub-points 1-3 of point b), paragraph 3), or  
c) for the purpose of making illegal pornographic pictures  
6) Any person making preparations to engage in trafficking of human beings commits a misdemeanour offence and shall be punishable with imprisonment of up to 2 years.

## **V. Child pornography**

### **Section 195/A Misuse of prohibited pictures**

1) A person acquiring or keeping pornographic pictures of a minor by video, film, photograph or by any other means, commits a felony and shall be punishable with imprisonment of up to 3 years.  
2) A person offering or adding pornographic pictures of a minor by video, film, photograph or by any other means, commits a felony and shall be punishable with imprisonment of up to 5 years.  
3) A person making, distributing or trading pornographic pictures of a minor by video, film photograph or by any other means, or makes such picture available for big publicity, commits a felony and shall be punishable with imprisonment between 2 to 8 years.  
4) A person having a minor participating in a pornographic show shall be punishable as set forth in subsection 3).  
5) The person providing financial means and thus assisting in the commission of the crime defined in subsection 3)-4) shall be punishable with imprisonment between 2 to 8 years.  
6) In the application of subsection 1)-4) pornographic picture or pornographic show is the act or display of sexuality in a gravely indecent manner of exposure specifically arousing sexual demeanour.

# **National Laws on Sex Offences in Ireland**

Dublin

## **I. Ages for legal purposes**

### **Age of simple majority**

Section 2 of the Age of Majority Act, 1985 provides that a person attains the full legal age when he attains the age of eighteen (18) years, or in case where he marries before attaining that age, upon his marriage.

### **Age of consent for sexual activity**

The legal age at which a person is currently competent to consent to sexual intercourse is currently seventeen (17) years.

### **Age of consent for marriage**

Section 31 of the Family Law Act, 1995 provides that a marriage between persons either of whom is under the age of eighteen (18) years shall not be valid in law, unless the person under 18 has been exempted by the high court by virtue of an application under section 33 of this Act.

## **II. Rape**

### **'Sexual intercourse with a female- no consent'**

Section 2 of the Criminal Law (Rape) Act, 1981 provides for the offence of rape which is Sexual intercourse by a man with a woman who does not consent to it.

### **Rape under Section 4 of Criminal Law (Rape) (Amendment) Act, 1990**

This sexual assault includes:

- a) penetration (however slight) of the anus or mouth by the penis or;
- b) penetration (however slight) of the vagina by any object held or manipulated by another person

## **III. Other forms of child sex abuse**

### **'Sexual intercourse with persons U.17'**

Sexual Intercourse with girls under the age of seventeen (17) years is rendered criminal by the following legislation:

- (i) Section 1 of the Criminal Law Amendment Act, 1935 provides that it is an offence punishable by a maximum penalty of imprisonment for life to have unlawful carnal knowledge of a girl under the age of fifteen (15) years.
- (ii) Section 2 of the Criminal Law Act, 1935 provides that it is an offence punishable by five (5) years imprisonment on first conviction and ten (10) years imprisonment on second conviction, to have unlawful carnal knowledge of a girl aged between fifteen (15) and seventeen (17) years.

In both these cases neither consent on the part of the female or mistake on the part of the male as to her age will afford any defence.

Section 3 of the Criminal Law (Sexual Offences) Act, 1993 provides that it is an offence to commit an act of buggery with any person under the age of seventeen (17) years. Consent does not provide a defence to a charge of buggery with a person under this age.

### **‘Sexual intercourse with a child within the family’**

The Punishment of Incest Act, 1908, creates the crime of incest, which may be committed by a male who has carnal knowledge of a female who is his mother, sister, daughter or granddaughter. The primary purpose of the Act is to outlaw sexual intercourse between certain blood relatives within the family.

There is no specific legislation in this jurisdiction dealing with sexual intercourse with a child committed by a teacher or other person having authority over the child.

### **‘Other forms of sexual abuse’**

- (i) Section 2 of the Criminal Law (Rape) (Amendment) Act, 1990 provides for an offence known as sexual assault, which is an indecent assault upon any person.
- (ii) Section 3 of the Criminal Law (Rape) (Amendment ) Act, 1990 provides for the offence of aggravated sexual assault which is a sexual assault that involves serious violence to the person assaulted.

## **IV. Child prostitution**

Section 16 of the Children Act, 1908, as amended by Section 11 of the Criminal Law (Amendment) Act, 1935 provides that it is an offence for any person to allow a child between the ages of four (4) and seventeen (17) years to reside in or frequent a brothel.

'(i) It is an offence under Section 17 of the 1908 Act, as amended by Section 11 of the 1935 Act for a person having custody of care of a girl under the age of seventeen (17) years to cause or encourage the seduction, prostitution or unlawful carnal knowledge of her.

(ii) Section 3 of the Child Trafficking and Pornography Act, 1998, which prohibits child trafficking for the purpose of sexual exploitation, includes in the meaning of sexual exploitation, not only pornography, but also prostitution. The Act of 1998 provides that it is an offence punished by imprisonment for life, for any person to organise or knowingly facilitate the entry into, transit through or exit from the State of a child for the purpose of his or her sexual exploitation as well as the provision of accommodation for such a purpose. Any person who takes, detains, restricts the personal liberty of a child for the purpose of his or her sexual exploitation, uses a child for such a purpose, or organises or knowingly facilitates such taking, detaining, restricting or use shall be liable on conviction on indictment to imprisonment to a term not exceeding 14 years .'

## **V. Child pornography**

The Irish Constitution, Art. 40(6)(1)(i) decrees that 'the publication or utterance of indecent matter is an offence which shall be punishable in accordance with law.'

The principle act dealing with the welfare of children is the Child Care Act, 1991 which defines a child as a person under the age of eighteen (18) years other than a person who is or who has been married (s.2(1)).

The Child Trafficking and Pornography Act, 1998 is dealing specifically with the matter of child pornography. It gives in the **Section 2 ss(1)** a definition of child pornography:

'Child pornography means: a) any visual representation

1. that shows or in a case of a document, relates to person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in explicit sexual activity,

2. that shows or in the case of a document, relates to a person who is or is depicted as being a child and who is or is depicted as witnessing any such activity by any person or persons, or

3. whose dominant characteristic is the depiction, for a sexual purpose, of the genital or anal region of a child,

any audio representation of a person who is or is being represented as a child and who is engaged in or is represented as being engaged in explicit sexual activities,

any visual or audio representation that advocates, encourages or counsels any sexual activity with children which is an offence under any enactment, or

any visual representation or description of, or information related to, a child that indicates or implies that the child is available to be used for the purpose of sexual exploitation within the meaning of Section 3, irrespective of how or through what medium the representation, description or information has been produced,

transmitted or conveyed and without prejudice to the generality of the foregoing, includes any representation, description or information produced by or from

computer-graphics or by any other mechanical means but does not include:

any book or periodical publication which has been examined by the Censorship of Publications Board and in respect of which a prohibition order under the Censorship of Publications Acts, 1929 to 1967, is not for the time being in force,

any film in respect of which a general certificate or a limited certificate under the Censorship of Films Acts, 1923 to 1993, is in force, or

any video work in respect of which a supply certificate under the video recording acts, 1989 and 1992, is in force... '

In the following subparagraphs, the Act gives a list and a definition of all the mediums that could be used for representing child pornography (documents, visual representation... ).

**The section 3** is related to sexual exploitation. In this section, 1998's Act describes the actions considered as child trafficking and taking in the purpose of a sexual exploitation:

**Section 3 ss(1)** 'Any person who organises or knowingly facilitates the entry into, transit through or exit from the State of child for the purpose of his or her sexual exploitation or the provision of accommodation for a child for such a purpose while in the State, shall be guilty of an offence and shall be liable for imprisonment for life.'

**Section 3 ss(2)** 'Any person who takes, detains, or restricts the personal liberty of a child for the purpose of his or her sexual exploitation, uses a child for such a purpose, or organises or knowingly facilitates such taking, detaining, restricting or use, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for term not exceeding 14 years.'

The definition of sexual exploitation is given in **Section 3 ss(3)**. According to this subsection sexual exploitation means '... inducing or coercing the child to engage in

prostitution or the production of child pornography, using the child for prostitution or the production of child pornography, inducing or coercing the child to participate in any sexual activity which is an offence under any enactment, or the commission of any such offence against the child.'

**Section 4** deals with the liability of the persons having the custody, charge or care of a child and allowing him or her to be used for pornography:

**Section 4 ss(1)** '... any person who, having the custody, charge or care of a child, allows the child to be used for the production of child pornography shall be guilty of an offence and shall be liable on conviction of indictment to a fine not exceeding £25,000 or to imprisonment to a term not exceeding 14 years or both.'

**ss(2) §(a)** 'any person who is the parent or guardian of a child or who is liable to maintain a child shall be presumed to have the custody of the child and, as between parents, one parent shall not be deemed to have ceased to have the custody of a child by reason only that he or she has deserted, or does not reside with, the other parent and child,

**ss(2) §(b)** any person to whose charge a child is committed by any person who has the custody of a child shall be presumed to have the charge of the child, and

**ss(2) §(c)** any person exercising authority over or having actual control of a child shall be presumed to have care of the child.'

**The sections 5 and 6** concern the production, the distribution and the possession of child pornography:

**Section 5 ss(1)** '... any person who:

knowingly produces, distributes, prints or publishes any child pornography,  
knowingly imports, exports, sells, or shows any child pornography,  
knowingly publishes or distributes any advertisement likely to be understood as conveying that the advertiser or any other person produces, distributes, prints, publishes, imports, exports, sells or shows any child pornography,  
encourages or knowingly causes or facilitates any activity mentioned in a), b) or c),  
or knowingly possesses any child pornography for the purpose of distributing, publishing, exporting, selling, or showing it,  
shall be guilty of an offence and shall be liable

- i. on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or both, or
- ii. on conviction on indictment to a fine or to imprisonment for a term not exceeding 14 years or both.'

**Section 6** prohibits the possession of child pornography: '... any person who knowingly possesses any child pornography shall be guilty of an offence and shall be liable

- i. on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or both, or
- ii. on conviction of indictment to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 5 years or both.'

### **Sexual Offences (Jurisdiction) Act, 1996**

In order to extend the Criminal law of the State to sexual acts involving children done outside the State by citizens of the State or by persons ordinarily resident in the State (the conditions are to have his or her principal residence within the State for a period of 12 months immediately preceding the commission of the offence Section 2 ss 7), the Sexual Offences Act 1996 provides that a person being a citizen of the State, does an act or attempt to do an act, in a place other than the State, against or involving a child which -

- constitutes an offence under the law of the place, and
  - if done within the State, would constitute an offence under or referred to in, an enactment specified in the Schedule of this Act,
- he or she shall be guilty of the second mentioned offence.

Offences, according to this Act are:

1. to aid, to abet, to counsel or to procure, in the State or outside the State for a person being a citizen of the State, the commission of an offence (Section 2 ss 3,4).
2. to conspire, to incite, in the State or outside the State, another person to commit an offence (Section 2 ss 5,6).
3. to transport a person in the State or outside the State for purposes of enabling the commission of an offence (Section 3 ss 1,2).
4. to publish informations likely to promote, advocate or incite the commission of an offence (Section 4)

The 1996's Act includes also offences which would be committed by body corporates

(Section 5).

The penalties required for the dispositions of Section 3, 4, 5 are: for a summary conviction a fine not exceeding £1,500 or an imprisonment for a term of 12 months or both, and for a conviction on indictment, a fine not exceeding £10,000 or an imprisonment for a term not exceeding 5 years or both

## National Laws on Sexual Offences in Italy

### I. Legal Ages

#### **Age of simple majority**

The legal age of majority simply amounts to eighteen (18) years.

#### **Age of consent for sexual intercourse**

The legal age of consent to sexual intercourse in Italy is fourteen (14) years. However, it should be noted that within the Vatican State this is lowered to (12) years.

#### **Age of consent for marriage**

The legal age of consent to marriage amounts to eighteen (18) years but may be reduced to sixteen (16) years with consent of those having authority over the child.

### II. Rape

'Sexual Violence' under Article 609 of the Italian Penal Code states that anyone who uses violence or threats or abuses a position of trust or authority to compel another person to perform or undergo sexual acts would be sentenced to 5 to 10 years in prison.

#### Direct Quote:

["Celui qui, en abusant de la violence ou des menaces ou bien de son autorité, contraint une autre personne à accomplir ou subir des actes sexuels, est condamné à 5 jusqu'à 10 ans de détention.]"

The same sentence will be served by those leading someone to do or suffer the following sexual acts:

A) abuse of an inferior physical or mental condition of the victim when violence is perpetrated;

2) managing to deceive his victim by deception, namely by the fact of taking the place of another person. In less serious cases the penalty is reduced by 2 / 3 maximum.

#### 'Aggravating circumstances'

Aggravating circumstances are listed in Article 609-3 of the Italian Penal Code and carry a sentence of imprisonment ranging from 6 to 12 years. In these cases, the crimes referred to as 'aggravating circumstances' are considered to be:

- 1) the injury of a minor/child of fourteen (14) years;
- 2) the use of weapons, alcohol/drug products or other seriously harmful substances against the victim;
- 3) a person who pretends to be in a position of authority. I.e. a public officer or clerk of public office;
- 4) the prejudice to a person under the constraints of personal freedom exercised by the head of the crime;
- 5) the injury of a minor/child of sixteen (16) years or less whose father (adoptive or guardian) is guilty of the offence.

The sentence is also increased to 7-14 years for cases in which the crime was committed against a minor of 10 years.

#### 'Sexual Violence in a group', Article 609-8 of the Penal Code Italian

"Sexual violence in a group" consists of the participation of several persons having grouped in acts of violence referred to in Article 609Bis.

Whoever has committed acts of sexual violence in a group must serve a sentence from six to twelve years imprisonment. Although the penalty is increased if one of the aggravating circumstances provided by Article 609-3 is considered in the procedure.

The penalty can however be reduced if those who participated in the act of violence played a very insignificant role in the organization and accomplishment of the crime.

### III. Other forms of sexual abuse of children

#### 'Sexual acts with a minor ' under Article 609 of the Italian Penal Code

A sentence referred to in Article 609b is one that will be submitted, regardless of case specifics when the perpetrator has performed sexual acts with a person of:

- 1) less than fourteen (14) years;
- 2) less than sixteen (16) years if the culprit is the (natural or adoptive) father or guardian or another person to whom the minor has been entrusted for health issues, training, instruction, supervision or custody.

However, if a minor, regardless of the circumstances envisaged by Article 609B, performs sexual acts with a minor aged thirteen (13) years, is not likely to be punishable if the age difference between the two minors would be less than 3 years.

In less serious cases the penalty is also reduced by two thirds.

If the victim is less than ten (10) years, we must apply Article 609T paragraph 2. "



### Corruption of minors' under Article 609 of the Italian Penal Code

"Whoever performs sexual acts in the presence of a minor fourteen (14) years, so he can observe, is punishable by a sentence ranging from six months up to 3 years. "

### IV. Child prostitution

#### Article 600-b of the Penal Code

(Introduced by Law No. 269 of 03.08.1998 containing "Provisions against the exploitation of prostitution, pornography, sex tourism in relation to minors as the new form of slavery ")

Whoever instigates a person under the age of 18 years to engage in prostitution or places them in an environment which facilitates or operates in prostitution will be punished by imprisonment from 6 to 12 years with a fine of 300 million lire.

Anyone who engages in sexual intercourse with a minor between 14 and 16 years for the exchange of money or any other thing of value shall be punished by imprisonment of six months to three years or a fine of not less than 10 million lire. The punishment will be reduced by one third if the person who committed this act is under 18 years old.

#### Article 600-15 - Tourism Initiatives that aim to operate prostitution.

Whoever organizes advertisements for travel which are designed to encourage business/tourism into areas of prostitution will be punished by term of 6 to 12 years and a fine of 30 to 300,000,000 lire.

#### Article 600-16 - The mitigating and aggravating circumstances of sex offences

In the cases covered by article 600-16 paragraph 1 and Article 600 ... the penalty shall be increased by one third to one half if the act was committed against a minor under 14 years.

In the cases covered by Article 600 - a penalty will be increased by one half to two third if the act was committed by:

- a parent or adoptive parent
- or their spouse or their spouse is,
- or cousins twice removed,
- or cousins to the fourth degree collateral
- or guardian or a person to whom the minor has been entrusted reasons treatment, education, training, supervision,
- or by public officers or persons responsible for public services in performance of their official tasks,
- or if the act was committed against a minor who was in a state of reduced mental, either natural or provoked ....

The penalty is increased if the act was committed by force or by threat.  
The sentence will be reduced by one third to one half if the person who committed the act, contributes in the reconstruction of the autonomy and freedom of the minor.

#### Article 600-7 - The collateral punishment

On conviction for offences designated in Sections 600 confiscation ... (of any property used to commit the crime, or property which is a product or a profit the offence) ... .. will always be ordered.

Additionally, the closure of business will also be ordered, if said business was used in the orchestration of the offence. Licences for engaging in business will also be revoked if they relate to the offence.

#### Article 601, paragraph 1-Child trafficking

Whoever engages in trafficking or transfer of persons under 18 years for the purposes of prostitution shall be punished by imprisonment of 6-20 years.

### **V. Child pornography**

#### Article 600-3 - Child pornography

Anyone who exploits people under the age of 18 years for purposes of producing pornographic material, shall be punished by imprisonment 6-12 years and a fine of 25,000 € - 250,000 €.

The same punishment will be applied to one who sells the equipment mentioned in paragraph 1.

Whoever, (except in cases covered by paragraph 1 and 2)  
Distributes, discloses, publishes pornographic material described in paragraph 1  
Distributes, discloses information for the purpose of soliciting or sexually exploit persons under 18 years shall be punished by imprisonment from 1 to 5 years by a fine of 2,500 € - 50.000 €. This includes computer software.

Whoever, (except in cases covered by paragraph 1, 2 and 3), produces pornographic material detailing the sexual exploitation of persons under 18 years will be punished by imprisonment which may extend for up to three years and / or a fine of € 1500 - € 5000. This is the case even if these materials were made without profit or personal gain.

NB The provisions relating to mitigating and aggravating circumstances are applied also for child pornography.

#### Article 600-4 - Possession of pornographic material

Whoever, except in cases covered by Article 600-3, expressly provides or possess pornographic material which was produced by

sexual exploitation of persons under 18 years shall be punishable by imprisonment which may extend for up to three years or a fine of not less than 1,500 €.

## **VI. Internet**

Article 600-3, paragraph 3

Whoever, (except in cases covered by paragraph 1 and 2),

Distributes, discloses, publishes pornographic material described in paragraph 1

Distributes, discloses information for the purpose of soliciting or sexually exploit persons under 18 years

shall be punished by imprisonment from 1 to 5 years and a fine of 5 100 million lire. Again this also includes computer software

## **VII. The common law provisions for different types of crimes**

### **Article 604-act committed abroad**

The provisions of Articles of the Penal Code (600 - 600-7 bis, 601-paragraph 2 , 609-bis to 609 d) are also applied when the act was committed abroad by an Italian citizen, against an Italian citizen or a foreigner or the spouse of an Italian citizen. In the latter case the alien could be punished if the act constitutes an offence for which the maximum punishment provided is not less than 5 years and a request was made by the Minister of Justice.

Article 380 of the Code of Criminal Procedure is also applied for crimes of child prostitution, pornography child, tourism initiatives that aim at the exploitation of prostitution and child trafficking

# **National Laws on Sex Offences in Latvia**

Riga

## **I. Ages for legal purposes**

### **Age of majority**

The legal age of majority in Latvia is eighteen (18) years.

### **Age of consent to a sexual activity**

The legal age of consent for sexual activity is sixteen (16) years.

### **Age of consent to marriage**

The legal age of consent for marriage is eighteen (18) years.

## **II. Rape**

### **Article 159**

1) For a person who commits an act of sexual intercourse by means of violence, threats or taking advantage of the state of helplessness of a female victim, the applicable sentence is deprivation of liberty for a term not exceeding 7 years, with or without police supervision for a term not exceeding 3 years.

2) For a person who commits rape where commission is by a person who has previously committed rape or commission is by a group of persons or who commits rape of a female minor, the applicable sentence is deprivation of liberty for a term of not less than 5 years and not exceeding 15 years, with or without police supervision for a term not exceeding 3 years.

3) For a person who commits rape, if serious consequences are caused thereby, or commits rape of a female juvenile, the applicable sentence is life imprisonment, or deprivation of liberty for a term of not less than 10 years and not exceeding 20 years, with or without police supervision for a term not exceeding 3 years.

## **III. Other forms of child sex abuse**

### **Article 160- Forcible sexual assault**

1) For a person who commits pederastic or lesbian or other unnatural sexual acts of gratification, if such acts have been committed using violence or threats or by taking advantage of the state of helplessness of a person, the applicable sentence is deprivation of liberty for a term not exceeding 6 years, or custodial arrest.

2) For a person who commits the same acts, if commission thereof is on a minor, or is repeated, or by a person who has previously committed rape, or by a group of persons, the applicable sentence is deprivation of liberty for a term of not less than 3 years and not exceeding 12 years.

3) For a person who commits acts provided for in Paragraphs 1 or 2 of this Section, if serious consequences are caused thereby, or if commission thereof is on juvenile, the applicable sentence is deprivation of the liberty for a term of not less than 5 years and not exceeding 15 years.

### **Article 161- Sexual intercourse, pederasty, lesbianism with a person who has not attained the age of sixteen years**

For a person who commits an act of sexual intercourse, or pederastic, lesbian or other unnatural sexual act of gratification, with a person who has not attained the age of 16 years and who is in financial or other dependence on the offender, or if such offence has been committed by a person who has attained the age of majority, the applicable sentence is deprivation of liberty for a term not exceeding 4 years.

### **Article 162- Immoral acts with a minor**

1) For a person who commits immoral acts with a minor against the will of the minor

or if such act have been committed by a person who has attained majority, the applicable sentence is deprivation of liberty for a term not exceeding 3 years or custodial arrest.

2) For a person who commits immoral act with a juvenile, the applicable sentence is deprivation of the liberty for a term not exceeding 6 years.

### **'Sexual Abuse', Article 121 of the Penal Code**

\*For sexual Abuse committed in group or minors sexual abuse, imprisonment for five to fifteen years.

\*For sexual abuse with particularly heavy consequences or committed by an especially dangerous recidivist, as well as for child sex abuse, imprisonment for two to five years with banishment or without, or death penalty.

### **'Sexual intercourse with a person under sixteen (16) years', Article 122 of the Penal Code**

\*For sexual intercourse with a person under sixteen (16) years old, imprisonment for up to four years

### **'Inveigling persons under sixteen (16) years old into lechery', Article 123 of the Penal Code**

\*For inveigling persons under sixteen (16) years old into lechery, imprisonment for up to three years.

## **IV. Child prostitution**

### **Article 164 (3) - Compelling engaging in prostitution**

3) For a person who commits inducing or compelling a minor to engage in prostitution, or commits providing premises to minors for purposes of prostitution, the applicable sentence is deprivation of liberty for a term not exceeding 6 years with or without confiscation of property.

4) For a person who commits inducing or compelling a juvenile to engage in prostitution, the applicable sentence is deprivation of liberty for a term not less than 5 and not exceeding 12 years, with or without confiscation of the property.

### **Article 165- Living on the avails of prostitution**

1) For a person who commits taking advantage, for purposes of enrichment, of a person who is engaged in prostitution, the applicable sentence is deprivation of liberty for term not exceeding 4 years, with or without confiscation of the property.

2) For a person who commits the same acts if commission thereof is by group of

persons pursuant of prior agreement, or with respect to minors, the applicable sentence is deprivation of liberty for a term not exceeding 8 years, with confiscation of the property.

3) For a person who commits the same acts if commission thereof is with respect to juveniles, the applicable sentence is deprivation of liberty for a term not less than 5 and not exceeding 12 years with confiscation of property.

#### **Article 165.1 -Sending a person for sexual exploitation**

1) For a person who commits sending a person with his or her consent to a foreign state for sexual exploitation, the applicable sentence is deprivation of liberty for a term not exceeding 4 years.

2) For a person who commits the same acts, if commission thereof is for purposes of enrichment or with respect to a minor, the applicable sentence is deprivation of liberty for a term not exceeding 10 years, with or without confiscation of the property.

3) For a person who commits the acts provided in Paragraphs 1 and 2 of this section, if commission thereof is by an organised group or if commission thereof is with respect of juvenile, the applicable sentence is deprivation of liberty for a term of not less than 8 and not exceeding 15 years, with confiscation of the property.

#### **Article 165.2- Sending to a foreign state**

Within the meaning of this section, sending shall be construed as any action that encourages legal or illegal departure from the State or entry into the State, transit or residence in a foreign state.

### **V. Child pornography**

#### **Article 166 - Violation of provisions regarding importation, production and distribution of pornographic or erotic materials.**

1) For a person who commits violation of provisions regarding importation, production, distribution, public demonstration, playing or advertising of pornographic writings, printed publications, pictures, films video and audio recordings or other pornographic materials, if commission thereof is repeated within a one year period, the applicable sentence is deprivation of liberty for a term not exceeding 1 year, or custodial arrest, or community service, or a fine not exceeding 30 times the minimum monthly wage. (*the minimum monthly wage in Latvia is approximately 116 euros*)

2) For a person who commits the importation, production, public demonstration, advertising or other distribution of such pornographic or erotic materials as relate or portray the sexual abuse of children, bestiality, necrophilia or violence of pornographic nature, or the keeping of such materials for similar purposes, the applicable sentence is deprivation of liberty for a term not exceeding 6 years, or a fine not exceeding 50 times the minimum monthly wage, with or without confiscation of the property.

3) For a person who commits procurement or utilisation of minors in the production (manufacturing) of pornographic or erotic materials, the applicable sentence is deprivation of liberty for a term not exceeding 6 years, or a fine not exceeding 80 times the minimum monthly wage, with or without confiscation of property.

4) For a person who commits procurement or utilisation of juveniles in the production (manufacturing) of pornographic or erotic materials, the applicable sentence is deprivation of liberty for a term of not less than 5 and not exceeding 12 years, with or without confiscation of property.

Possession of child pornography is an offence in Latvia. For the first time penalty is fine from 100 to 250 Latvian Lats (150 -400 USD) with confiscation. If repeatedly, penalty is 1 year imprisonment.

***The Article 50 of the Protection of the Rights of the Child Law “The Child and Games, Films and Mass Media”***

*(1) It is prohibited to show, sell, give as a gift, rent or promote to a child toys and video recordings, computer games, newspapers, magazines and other types of publications, in which cruel behaviour, violence, erotica and pornography are promoted and which pose a threat to the psychological development of a child.*

*(2) Materials, which promote cruel behaviour, violence, erotica and pornography and which pose a threat to the psychological development of a child may not be accessible to a child, irrespective of the form of expression, devices for showing and location thereof.*

*(3) Restrictions on radio and television programmes for the purposes of protection of the rights of the child shall be as determined by the Radio and Television Law.*

*(4) It is prohibited for a child to be located in places where materials of an erotic and pornographic nature are manufactured or shown.*

*(5) It is prohibited to involve a child in the manufacture, distribution and showings of materials of erotic and pornographic nature.*

*(6) The Cabinet shall determine restrictions on the importation, manufacture, distribution, public showings and advertising of materials of an erotic and pornographic nature.*

*(7) A child who has not reached 16 years of age is prohibited during school hours without the written permission of the educational institution administration and during the night to be located in internet premises, computer salons, internet cafes and other similar premises where for payment internet and computer game services are provided. The concrete time periods shall be determined by local governments.*

*(8) In accordance with the Law on Lotteries and Gambling, a child may not have access to gaming houses and a child may participate in gambling.*

*(9) The Cabinet shall determine the regulations for the distribution of computer games.*

*(10) For violation of the prohibitions and restrictions referred to in this Section, the persons at fault shall be held liable as prescribed by law.*

**VI. Internet**

There is no legislation covering 'crimes against children using the Internet' in Latvia.

# **National Laws on Sex Offences in Lithuania**

Vilnius

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activities**

Current legislation of the Republic of Lithuania states that 14 is the current age for sexual consent.

### **Age of consent for the marriage**

The age of consent for the marriage is eighteen (18) years old. The legal age could be decreased up to fifteen (15) years with decision of the court. In case of pregnancy with decision of the court, a pregnant person could be allowed for marriage being less than fifteen (15).

## **II. Rape**

### **Lithuanian Penal Code**

#### **Article 149. Rape**

3. Any person, who rapes a juvenile, shall be punished by imprisonment for a term from 3 to 10 years.

4. Any person, who rapes a young child, shall be punished by imprisonment for a term from 5 to 15 years.

## **III. Other forms of child sex abuse**

### **Lithuanian Penal Code**

#### **Article 150. Sexual Assault.**

1. Any person who, against the will of the victim, satisfies his sexual desires through anal, oral intercourse or any other physical contact by using physical force or threats of immediate violence, or in any other way depriving the victim of the possibility to show resistance, or by exploiting the helpless state of the victim, shall be punished by detention or imprisonment for a term of up to 6 years.

2. Any person, who commits the acts specified in paragraph 1 of this Article together with a group of accomplices, shall be punished by imprisonment for a term of up to 8 years.

3. Any person, who commits the actions specified in paragraph 1 of this Article in respect of a juvenile, shall be punished by imprisonment for a term from 2 to 12 years.

4. Any person, who commits the actions specified in paragraph 1 of this Article in relation to a young child, shall be punished by imprisonment for a term from 3 to 13 years.



**Article 151. Coercion into sexual relation.**

1. Any person, who by threat to use violence or using other physical force or threats or being victim dependant on him, made victim to have sexual intercourse or fulfil sexual desires with him or other person, shall be punished by detention or imprisonment for a term of up to 3 years.
2. Any person, who commits the acts specified in paragraph 1 of this Article in respect of juvenile, shall be punished by imprisonment for a term up to 5 years.

**Article 153. Depravation of Child.**

Any person, who depraves young child, shall be punished by detention or imprisonment up to two years.

**Article 157. Sale or Purchase of a Child**

1. Any person, who purchases, sells or in any other way transfers or acquires a young child, shall be punished by imprisonment for a term of up to 8 years.
2. Any person who is engaged in trafficking in young children shall be punished by imprisonment for a term from 2 to 10 years.

**IV. Child prostitution****Article 307. Earning a Profit from Prostitution by Another Person**

3. Any person, who earns a profit from prostitution by juveniles or organizes and manages juvenile prostitution or traffics a juvenile on his consent to/from the Republic of Lithuania, shall be punished by imprisonment for a term from 2 to 8 years.

**Article 308. Engagement into Prostitution**

2. Any person, who engages into prostitution another person who is dependent on him economically, through employment or in any other way, or engages another person into prostitution by using physical and psychological force or deceit, or who engages a juvenile into prostitution, shall be punished by imprisonment for a term from 2 to 7 years.

**V. Child pornography****Article 162, Sexual Child Exploitation**

Any person, who uses a child for the production of pornographic material, shall be punished by a fine or arrest or imprisonment for a term of up to 4 years.

**Article 309. The use of material of pornographic content**

2. Any person who produces, acquires, possesses, displays, advertises or distributes material of a pornographic nature, where a child or a person who looks like a child is presented, shall be punished by a fine or imprisonment for a term of up to 2 years.
- III/IV. The meaning of "young child" is addressed to a individual up to 14 years old and meaning of "juvenile" is addressed to a individual who is aged from 14 and up to 18 years old.

# **National Laws on Sex Offences in Luxemburg**

Luxemburg

## **I. Ages for Legal Purposes**

### **Age of simple majority**

In Luxemburg, the age of majority is reached when a person attains eighteen (18) years of age.

### **Age of consent for sexual activity**

The age of consent for sexual activity in Luxemburg is currently set at sixteen (16)

## **II. Rape**

### **Art. 375**

Any act of sexual penetration, of whatever nature and by any means whatsoever, committed against another person, or using violence or serious threats, or by ruse or artifice, or abusing a person incapable to give consent freely or to put up resistance, is rape and shall be punished by imprisonment of 5 to 10 years.

Rape is deemed by abusing a person incapable of giving free consent to any act of sexual penetration of any kind whatsoever, and by any means whatsoever.

If the act has been committed against a child who has not yet reached the age of 14 years. Then the offender shall be punished by imprisonment of between 10 to 15 years .\*

\* If a rape was committed against a child aged under 14 years, it is not necessary to specially determine whether consent was forced, as it is assumed under the Penal Code in Luxemburg that a child of this age is incapable of giving consent or to put up any substantial resistance, and as such, the law presumes that the victim was unable to issue a voluntary consent to the sexual act that was required of him/her.

### **Art. 376**

If the rape has caused the death of the person from whom it was committed, the guilty shall be punished by imprisonment of 15-20 years.

Additionally, a killing committed to facilitate rape or to ensure the impunity will be punished with life imprisonment.

### **Art.377**

The minimum sentence laid by the preceding articles will be high under Article 266.

If the culprits are the ancestors of the victim;

If they are the class of those who have authority over her;

If they are the victims teachers or servants;

If the attack was committed either by public officials or ministers of worship that have abused their position to commit the offence;

If the act was committed by people entrusted to the care of the victim, such as doctors, surgeons, midwives or health officers;  
Finally, if, in the execution of the crime or offence was committed by more than one person.

#### **Art. 378**

In the cases provided by this chapter, the guilty will be sentenced to the prohibition of selected civil rights.

In the cases provided for in Articles 372, paragraph 1 and 373, paragraph 1, the perpetrator may be sentenced to a ban on voting rights and the eligibility for election for a term of 5 to 10 years.

If the attack was committed by the father or mother of the victim, then the offender shall lose the rights and benefits granted to him under the Civil Code, Book I Title IX Parental authority.

### **III. Other forms of sexual abuse of children**

#### **Art. 372**

Any indecent assault without violence or threats on a person aged under 16 years will be punished by imprisonment of 1 year to 5 years

#### **Art. 373**

The indecent assault committed with violence or threats against a person who is unable to give consent freely or to put up resistance, will be punished by imprisonment of between 6 months and 5 years.

If the attack was committed against a child below the age of 14 years then the perpetrator shall be punished with imprisonment of 5 to 10 years.

### **IV. Child prostitution**

#### **Art. 379**

A punishment of imprisonment for 1 year to 5 years and a fine of 251 euros 50,000 euros will be imposed upon:

1. Anyone who has attempted to corrupt the morals of a minor below the age of 18 years old, by inciting, encouraging or facilitating, them into a position of debauchery, corruption or prostitution
2. Anyone who has operated a minor under the age of 18 years for prostitution or for the production of pornographic materials.
3. Anyone who has facilitated the entry, transit, or residence of a minor under the age of 18 for the purposes of points 1) or 2)

The attempt of any of these offences is punishable by imprisonment of six months to three years.

The fact is punishable by imprisonment of 2 years to 5 years if it was committed against a minor under the age of 14 years, and imprisonment of 5 to 10 years if was committed against a minor under 11 years.

The attempt of this offence is punishable by imprisonment of 6 months to 4 years if it has been committed against a minor under the age of 14 years and imprisonment of 6 months to 5 years, if it has been committed against a minor less than 11 years.

**Art. 379**

A punishment of imprisonment for six months to three years and a fine of 251 to 50,000 euros will be imposed upon:

1. Anyone who satisfies the passions of others through acts of the prostitution or debauchery.

If the victim has been hired, trained or diverted by fraud or by using violence, threats, abuse of authority or any other means of coercion, if she was actually engaged in prostitution or debauchery, or if the author abused the vulnerable position of a person, particularly because of an illegal immigration status, a pregnancy, illness, infirmity or physical disability/mental disability, imprisonment will be 1 year to 5 years. However, the fact will be punished by imprisonment of 5 and 10 years if committed with two of the circumstances mentioned.

2. Anyone who has facilitated the entry, transit, or residence of a person for the purposes of the crimes detailed under point 1)

3. Anyone who owns, directly or through an intermediary, manages, directs or operates a brothel or prostitution ring.

4. Any owner or landlord, or any person who knowingly sells, rents or makes available to others the use of all or part of a building, to serve as a space to facilitate the exploitation or prostitution of others.

5. Anyone who acts as a pimp

This is defined as a man or woman:

- a. who aids, assists or knowingly protects the prostitution of others in any way;
- b. who shares the proceeds taken from the prostitution of others or receives money from a person engaged in prostitution;
- c. who procures, entices or keeps, a person employed as a prostitute, even if it is done so with her consent;
- d. who acts as an intermediary in any capacity between persons engaged in prostitution or debauchery and individuals who exploit or remunerate the prostitution or debauchery of others;
- e. who, by threats, pressure, deception or other means prevents the assistance or rehabilitation undertaken by qualified organizations for persons engaged in prostitution

The attempt of the facts stated in items 1), 2) and 5) will be punished by imprisonment of between 3 months and 2 years.

The facts set out in items 1), 3), 4) and 5) of this section shall be punished by imprisonment for 1 year to 5 years and a fine of 251 euros to 50,000 euros if committed against a minor under the age of 18 years, and imprisonment of 2 years to 5 years if committed against a minor less than 14 years'

Finally, a term of imprisonment for 5 years to 10 years is in place, if the offence was committed against a minor under 11 years.

The attempt of these crimes is punishable with imprisonment for:  
6 months to 3 years if the act was committed against a minor under 18 years,  
6 months to 4 years if the act was committed against a minor under 14 years,  
6 months to 5 years if the act was committed against a minor under 11 years.

#### **Art. 379bis**

After opening an investigation, the investigating judge may order, (on State Prosecutor's request) to provisionally close any establishment or any place open to or used by the public if there are serious indications that the offences referred to in Article 379 have been committed at this location by the accused, in any capacity.

This closure will last for a duration of 3 months at the most, however, renewals can also be made in the same manner, again lasting for a period of 3 months or less each time.

#### **Art.380**

The minimum penalties provided by Articles 379 or 379bis will be higher if the culprits are the ancestors of the person who is engaged as a prostitute;  
If they are the class of those who have authority over her;  
If they are their teachers, servants or hired servants of the people designated above;  
If they are public servants or ministers of religion.

#### **Art. 381**

In the cases provided by Articles 379 or 379bis perpetrators will also be sentenced to a fine of 251 euros to 15,000 euros and the prohibition of specified rights if the offence was committed by the father or mother of the victim.

In these cases, the rights at risk would be those provided by the Civil Code, Book I, Title IX, Paternal authority

#### **Art. 382**

A person will be punished by imprisonment of eight days to six months and a fine of 251 euros to 5000 euros if they, publicly solicit people of either sex into their debauchery/prostitution.

## **V. Child pornography**

### **'Outrages public morality', Article 383, Chapter VII Penal Code**

A punishment of imprisonment from eight days to one year and a fine of 251 EUR 50000 EUR will be imposed on:

1. Anyone who has manufactured, distributed or exposed publicly; writings, drawings, engravings, paintings, pictures, posters, emblems, photographs, films or other obscene objects;
2. Anyone who has imported, transported, or exported, the above materials, (drawings, engravings, paintings, prints, pictures, posters, emblems, photographs, motion pictures) or allowed them to be circulated publicly in any way;

While a 5 years prison sentence and a fine of 251 euros to 50,000 euros will be put in place, if these materials involve minors aged under 18 or a particularly vulnerable person, particularly because of his illegal immigration status or precarious state of pregnancy, illness, infirmity or physical/mental condition.

It is considered obscene within the meaning of section 383 of the Penal Code if: "Writings and designs are likely to excite sensuality and provoke a sense of disapproval or offence in the average man who reads or watches them without seeking his very sensual excitement".

#### **Art. 384**

Any persons who knowingly possess writings, printed matter, pictures, photographs, films or other objects of a pornographic nature which depict minors under the age of 18. Will be punished by imprisonment of one month to 2 years and a fine of 251 euros to 12500 euros,

The confiscation of this property shall always be carried out in the case of a conviction, even if the sentence is pronounced invalid by the magistrate due to mitigating circumstances.

### **'Outrages of public morality', Article 385, Chapter VII - Penal Code**

Anyone who acts indecently in public and insults or hurts the modesty of others (in the case of minors it is deemed 'corruption of youth'), shall be punished with imprisonment from eight days to 3 years and a fine of 251 euros to 25,000 euros.

#### **Art. 385**

A punishment of a fine between 251 and 25,000 euros will be imposed upon a person who sells or distributes writings, pictures, figures, of an indecent purpose to disturb the imagination of children under 16 years of age.

The same penalty will also be imposed upon anyone who publicly displays these images in the vicinity of an educational/training facility frequented by children under 16 years.

The confiscation of the literature, figures or objects of an indecent nature shall always be carried out in the case of a conviction, even if the sentence is pronounced invalid by the magistrate due to mitigating circumstances.

## **VI. Internet**

The items listed above will also be applied to the sexual abuse of children via the Internet.

# **National Laws on Sex Offences in Malta**

Floriana

## **I. Ages for legal purposes**

### **Age of majority (civil)**

The age of majority is eighteen (18) years

### **Age of consent for a sexual activity**

Eighteen (18) years is the legal age of consent for sexual activity.

### **Age of consent for civil marriage**

The age of consent for civil marriage is sixteen (16) years.

## **II. Rape**

### **'Rape and carnal knowledge with violence', Article 198 Criminal Code**

'Whosoever shall, by violence, have carnal knowledge of a person of either sex, shall, on conviction, be liable to imprisonment for a term from three to nine years, with or without solitary confinement.'

### **'Presumption of violence in cases of carnal knowledge and indecent assault'**

#### **Article 201 Criminal Code**

'Unlawful carnal knowledge and any other indecent assault, shall be presumed to be accompanied with violence.

- a. when it is committed on any person under 12 years of age it is deemed indecent assault;
- b. When the person abused was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender'

### **'Aggravating circumstances' Article 202 Criminal Code**

The punishment prescribed for any of the crimes referred to in the preceding articles of this sub-title, shall be increased by one degree in each of the following cases:

- a. when the offender has availed himself of his capacity of public officer, or when the offender is a servant of the injured party, with salary or other remuneration;
- b. when the crime is committed by any ascendant, tutor, or institutor on any person under 18 years of age;
- c. when the crime is committed on any prisoner by the person charged with the custody or conveyance of such prisoner;
- d. when the offender has in the commission of the crime, been aided by one or more persons;
- e. when the offender has, in the commission of the crime, made use of any arms proper;
- f. when the person on whom the crime is committed, or any other person who has come to the assistance of that person, has sustained any bodily harm;
- g. when the person carnally known has not completed the age of 9 years.



- h. when the crime is committed on the person of: (i) the spouse; or (ii) the brother or sister; or (iii) a natural ascendant or descendant; or (iv) another person having or having had a child in common with the offender; or (v) another person living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence; or (vi) another person who is or had been formally or informally engaged with a view to get married; or (vii) other persons who are related to each other by consanguinity or affinity up to the third degree inclusively: Provided that in this paragraph "spouse" includes the person whose marriage with the offender has been dissolved or declared null;
- i. when the crime is committed in the presence of, or within hearing distance of a minor. (amendment effected on the 28/02/2006)

### **III. Other forms of child sex abuse**

#### **'Abduction', Article 199, I°, Criminal Code**

- '1) Whosoever shall, by violence, abduct any person, with intent to abuse or marry such person, shall, on conviction, be liable, in the first case, to imprisonment for a term from eighteen months to three years, with or without solitary confinement, and, in the second case, to imprisonment for a term from nine to eighteen months.'
- 2) The punishment laid down in sub-article (1) shall apply to any person who shall , by fraud or seduction, abduct any person under the age of 18 years, who is under the authority of a parent or a tutor, or under the care of another person, or in an educational establishment.

#### **'Defilement of minors', Article 203 Criminal Code**

- '1) Whosoever, by lewd acts, defiles a minor of either sex, shall, on conviction, be liable to imprisonment for a term not exceeding three years, with or without solitary confinement;

Provided that the offence shall be punishable with imprisonment for a term from three to six years, with or without solitary confinement, in each of the following cases:

- a. if the offence is committed on a person who has not completed the age of twelve (12) years, or with violence;
- b. if the offence is committed by means of threats or deceit;
- c. if the offence is committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor of the minor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the minor.

#### **'Instigation, [... ]defilement of minors" Article 203A Criminal Code**

Whosoever, by any means other than those mentioned in article 203 (1), instigates, encourages or facilitates the defilement of a minor of either sex, shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and the provisions of article 203(2) and (3) shall, mutatis mutandis, apply to an offence under this article: Provided that the offence shall be punishable with imprisonment for a term not exceeding four years in any of the cases referred to in the proviso to article 203 (1).

### **'Violent Indecent Assault ' Article 207 Criminal Code**

Whosoever shall be guilty of any violent indecent assault which does not, in itself, constitute any of the crimes, either completed or attempted, referred to in proceeding articles of this sub- title, shall, on conviction, be liable to imprisonment for a term from 3 months to 1 year.

Provided the in the cases of article 202, the punishment shall be increased by one degree.

## **IV. Child prostitution**

### **Prostituting of descendant under age by ascendant 'Article 197, 1° Criminal Code**

Any ascendant by consanguinity or affinity, who, by the use of violence or by threats, compels, or by deceit, induces any descendant under age to a prostitution, shall, on conviction, be liable to imprisonment for a term from 3 to 6 years, with or without solitary confinement.

### **Prostitution of spouse under age or of minor by husband or wife or tutor', Article 197, 2°, Criminal Code**

'The same punishment (Art. 199, 1°) shall be applied to any husband or wife or tutor who, by the use of violence or by threats, compels, or, by deceit, induces to prostitution his or her spouse under age or the minor under his or her tutorship.'

### **Prostitution of descendant or spouse of age, by ascendant or husband or wife', Article 197, 3° Criminal Code**

'(3) If the ascendant or the husband or wife, by the use of violence or by threats, compels, or by deceit, induces the descendant or his or her spouse, of age, to prostitution, he or she shall, on conviction, be liable to imprisonment of a term from one to four years, with or without solitary confinement.

### **'Consequences of conviction' , Article 197, 4° Criminal Code**

(4) A conviction under this section shall entail the forfeiture of every authority and right granted to the offender over the person or property of the husband or wife or of the descendant to whose prejudice the offence shall have been committed, and, in the case of the tutor, his removal from the tutorship and his perpetual disability from holding the offence of tutor.'

### **'Inducing , etc., persons under age to prostitution', Article 204 Criminal Code**

'(1) Whosoever in order to gratify the lust of any other person, induces a person under age to practise prostitution, or instigates the defilement of such person, or encourages or facilitates the prostitution or defilement of such person, shall, on conviction, be liable to imprisonment for a term from eighteen months to four years, with or without solitary confinement.'

**It is considered as aggravating circumstances punished with imprisonment for a term from two to six years**

'a) If the offence is committed to the prejudice of a person who has not complete the age of twelve (12) years;

1. if the offence is committed by deceit;
2. if the offence is committed by any ascendant by consanguinity or affinity, by the adoptive father or mother, by the husband or tutor of the minor, or by any other person charged, even through temporality, with the care, education, instruction, control or custody of the minor;
3. if the offence is committed habitually or for gain.'

**V. Child pornography**

**'Offence relating to pornographic or obscene articles', Article 208 of the Criminal Code**

1) 'Whosoever, for gain or for distribution or for display in a public place or in a place accessible to public, manufactures, prints or otherwise makes or introduces into Malta, or acquires, keeps, puts in circulation or exports, any pornographic or obscene print, painting, photograph, film, book, card, or writing, or any other pornographic or obscene article whatsoever, whether similar the above or not, shall on conviction, be liable to imprisonment not exceeding six months or to a fine not exceeding two hundred liri, or to both.'

2) Whosoever trades in any article mentioned in sub-article (1), even if such trade is clandestine, or distributes any such article or displays any such article in public or in a place accessible to public, shall, on conviction, be liable to the punishment prescribed in sub- article (1).

3) For the purposes of this article an article shall be regarded as pornographic or obscene if it is so described or defined by regulations made under sub- article (4) or it is otherwise to be so regarded in accordance with any regulations made as aforesaid.

**'Indecent photographs, films, etc....of persons under age ' Article 208A Criminal Code**

1) Any citizen or permanent resident of Malta, whether in Malta or outside Malta, as well as any person in Malta, who takes or permits to be taken any indecent photograph, film, video recording or electronic image of a minor, or distributes or shows such indecent photograph, film, video, or recording or electronic image, or is in possession of such indecent photography, shall, on conviction, be liable to imprisonment for a term not exceeding 6 months or to a fine (multa) not exceeding 200 liri, or to both such imprisonment and fine:

Provided that for the purposes of this article the expression 'permanent resident' shall have the same meaning assigned to it by article 5 (1) (d).

2) A photograph, film, video recording or electronic image shall, if it shows a person under age and is indecent, be treated for all purposes of this article as an indecent photograph, film video recording or electronic image.

3) Where the offence referred to in sub- article (1) is committed by any ascendant to consanguinity or affinity, or by the adoptive father or mother, or by the tutor, or by other person charged, even though temporally, with the care, education, instruction, control or custody of the person under age shown in the photograph, film, video recording or electronic image, or where such person under age has not

completed the age of 9 years, the punishment shall be of imprisonment for a term from 7 months to 1 year, with or without solitary confinement, and the provisions of article 197(4) shall also apply.

4) Where a person is charged with distributing or showing, or with being in possession of any indecent photograph, film, video, recording or electronic image under sub- article (1), it shall be a defence for him to prove that he had a legitimate reason for distributing or showing, or for having in his possession, such photograph, film, video recording or electronic image, and neither knew nor had any reason to suspect them to be indecent.

5) For the purposes of article 635 (1) (a) the person under age shown in any such photograph, film, video recording or electronic image shall be deemed to be the person against whom the offence is committed.

6) In this article references to a photograph includes the negative as well as the positive version.

# **National Laws on Sex Offences in The Netherlands**

The Hague

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is currently set at (16) years.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years. When younger, the person needs a permission of the legal representative or the civil court.

## **II. Rape**

### **Article 242 of the Penal Code**

'A person who by an act of violence or another act or by threat of violence or threat of another act compels a person to submit to acts comprising or including sexual penetration of the body is guilty of rape and liable to a term of imprisonment of not more than twelve years or a fine of the fifth category.'

## **II. Other forms of child sex abuse**

### **Article 244 of the Penal Code**

'A person who, with a person who is under the age of twelve (12) performs acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than twelve years or a fine of the fifth category.'

### **Article 245 of the Penal Code**

'1. A person who, out of wedlock, with a person who has reached the age of twelve (12) but not yet sixteen (16), performs indecent acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than eight years or a fine of the fifth category.'

### **Article 246 of the Penal Code**

'A person who by an act of violence or another act or by threat of violence or threat of another act compels another person to perform or to submit to indecent acts is guilty of indecent assault and is liable to a term of imprisonment of not more than eight years or a fine of the fifth category.'

### **Article 247 of the Penal Code**

'1. A person who, with a person whom he knows to be unconscious or physically unable to resist or to be suffering from such a degree of mental defect or mental disease that he is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, performs indecent acts, or who, with a person who has not yet reached the age of sixteen (16) years, out of wedlock,

performs indecent acts, or by whom the latter is enticed into performing, or submitting to such acts, out of wedlock, with a third party, is liable to a term of imprisonment of not more than six years or a fine of the fourth category.'

#### **Article 248 of the Penal Code**

'1. Where serious bodily harm ensues as a result of any of the offences defined in articles 243 and 245-247, a term of imprisonment of not more than twelve years or a fine of the fifth category shall be imposed.

2. Where death ensues as a result of any of the offences defined in articles 242-247, a term of imprisonment of not more than fifteen years or a fine of the fifth category shall be imposed.'

#### **Article 248ter of the Penal Code**

'1. A person by whom, by means of gifts or promises of money or goods, by abusing the authority arising from an existing relationship or by misrepresentation, a minor of good reputation, whom he knows or should reasonably suspect to be a minor, is intentionally induced to engage in indecent acts with him or to submit to his performing these is liable to a term of imprisonment of not more than four years or a fine of the fourth category.'

#### **Article 249 of the Penal Code**

'1. A person who commits indecencies with his minor child, stepchild or foster-child, his ward, or with a minor, a minor servant or subordinate entrusted to his care, instruction or supervision, is liable to a term of imprisonment of not more than six years or a fine of the fourth category.

1. The punishment in section 1 is also applicable to:

2. a public servant who commits indecencies with a person submitted to his authority or entrusted or commended to his supervision;

3. a director, physician, teacher, public servant, supervisor or employee, in a prison, State workhouse, State institution for the care and protection of children, an orphanage, hospital, or a charitable institution, who commits indecencies with a person admitted to such institution;

4. a person employed in the health care or social care sector, who commits indecencies with a person who, as a patient of a client, has entrusted himself to his care or assistance.'

#### **Article 250 of the Penal Code**

'1. A person by whose agency the commission of indecencies with a third person by his minor child, stepchild or foster-child, his ward, or by a minor, minor servant or subordinate entrusted to his care, instruction or supervision is intentionally brought about or promoted is liable to a term of imprisonment of not more than four years or a fine of the fourth category;

2. Where the offender commits the serious offence by custom, the terms of imprisonment may be increased by one third.'

#### **Article 250bis of the Penal Code**

'A person who intentionally brings about or promotes, by profession or custom, the commission or indecencies by others with third parties is liable to a term of imprisonment of not more than one year or a fine of the third category.'

### **III. Child prostitution**

#### **Article 250ter of the Penal Code**

1. 'A person is guilty of traffic in persons and is liable to a term of imprisonment of six years or a fine of the fifth category where:

- a. he, by an act of violence or another act or by threat of violence of another act or by abusing the authority arising from an existing relationship or by misrepresentation, causes a person to prostitute himself or herself or undertakes any activity under any of the above circumstances where he knows or should reasonably suspect that activity to cause a person to end in prostitution;
- b. he recruits, takes with him or kidnaps another person with the object of causing that person to become involved in prostitution in a foreign country;
- c. he causes another person, where that person is a minor, to prostitute himself or herself or undertakes any activity with regard to that person where he knows or should reasonably suspect that activity to cause that person to end in prostitution;

2. A person is guilty of traffic in persons and is liable to a term of imprisonment of eight years or a fine of the fifth category:

- a. where he commits the offence jointly with one or more persons;
- b. with regard to a person who has not yet reached the age of sixteen (16);
- c. where serious bodily harm ensues as a result of an act of violence or another act as specified in section 1.

3. Two or more persons who jointly commit the offence of traffic in persons under the circumstances specified in section 2(2) or (3) are liable to a term of imprisonment of ten years or a fine of the fifth category.'

### **IV. Child pornography**

#### **Article 240a of the Penal Code**

*"Any person who delivers, distributes or shows to a minor, who is manifestly under age of sixteen, a pictorial representation or a data carrier containing a pictorial representation of an act which is seen to be damaging to persons under the age of sixteen, shall be liable to a term of imprisonment not exceeding one year or a fourth category of fine."*

#### **Article 240b of the Penal Code**

1. *"Any person who distributes, publicly exhibits, manufactures, imports, conveys in transit, exports or possess a pictorial representation of a sexual act involving a person who is manifestly under the age of eighteen shall be liable to a term of imprisonment not exceeding four years or a fifth category of fine."*

2. *"Any person who makes a profession or habit of committing one of the criminal offences described in paragraph 1 shall be liable to a term of imprisonment not exceeding six years or a fifth category fine."*

**Article 240a of the Penal Code**

*1. If one of the crimes as specified in Article 240b, 243, 245 to 247, 248a, 248b and 249 causes serious bodily harm or endangers a person's life, the offender shall be sentenced to imprisonment for a maximum of 12 years or shall receive a fifth category fine.*

*2. "If one of the crimes as specified in Article 240b, 243, 245 to 247, 248a, 248b and 249 causes death, the offender shall be sentenced to imprisonment for a maximum of 15 years or shall receive a fifth category fine.*  
*"*

**Article 253 of the Penal Code**

*'A person by whom a child under the age of twelve over whom he exercises legal authority, knowing that it will be used in or for the purpose of begging, hazardous artistic performances or work that is hazardous or deleterious to health, is surrendered to or left in the control of another is liable to a term of imprisonment of not more than three years or a fine of the fourth category.'*



# **National Laws on Sex Offences in Poland**

Warsaw

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fifteen (15) years. If a person over eighteen (18) years aged, has sexual intercourse with a person under fifteen (15) (even with his/her consent), only the person over eighteen (18) may be punished, not the juvenile.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years for women and twenty one (21) years for men. In case of important reason, the age can be lowered by the Family Court to sixteen (16) years for women and eighteen (18) years for men.

## **II. Rape**

### **Article 197:**

Paragraph 1:

'Whoever, with use of force, threat or ruse, induces another person to have sexual intercourse, may be punished with imprisonment from 1 to 10 years.'

Paragraph 2:

'If the perpetrator, as described in the first paragraph of the same article, induces an other person to submit himself to another sexual act or to complete such an act, may be punished with imprisonment from 3 months to 5 years.'

Paragraph 3:

'If the perpetrator acts with a special cruelty or commits the act of rape together with other persons, he may be punished with imprisonment from 2 years to 12 years'

## **III. Other forms of child sex abuse**

### **Article 198**

Whoever, taking advantage of the vulnerability of another person, or of the lack of ability to control his/her conduct, resulting from mental disability or disorder, subjects such a person to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

### **Article 199**

Whoever abusing a relationship of dependence or by taking advantage of a critical situation, subjects such a person to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of deprivation of liberty for up to 3 years.

#### **Article 200**

Whoever subjects a minor under 15 years of age to sexual intercourse or makes him/her submit to another sexual act shall be subject to the penalty of the deprivation of liberty for a term between 1 and 10 years.

#### **Article 201**

Whoever has sexual intercourse with an ascendant, descendant, or a person being an adopted, adopting relation or brother or sister shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

### **IV. Child prostitution**

#### **Article 203**

Whoever, by force, illegal threat or deceit, or by abusing a relationship dependence or by taking advantage of a critical situation, subjects another person to practice prostitution shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

#### **Article 204**

1. Whoever, in order to derive a material benefit, induces another person to practice prostitution or facilitates it, shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.
2. Whoever derives material benefits from prostitution practised by another person shall be subject to the penalty specified in paragraph 1
3. If the person specified in paragraph 1 or 2 is a minor, the perpetrator shall be subject to the penalty of the deprivation of the liberty for a term of between 1 and 10 years.
4. The punishment specified in paragraph 3 should be imposed to anyone who entices or abducts another person with the aim of having him/her engage in prostitution abroad.

### **V. Child pornography**

#### **Penal Code, Article 202 § 1**

##### **PUBLIC DISPLAY OF PORNOGRAPHY**

'Whoever publicly presents pornographic material in such a manner that it is imposed upon a person who may not wish so, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to one year'

#### **Penal Code, Article 202 § 2**

##### **PORNOGRAPHY AND A CHILD'S ACCESS TO IT**

'Whoever **PRESENTS** pornographic material to a minor under 15 years of age or makes available to him/her items of this nature

- will be sentenced to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years of imprisonment '

**Penal Code , Article 202 § 3**

**PORNOGRAPHY PRODUCTION**

'Whoever produces, for the purpose of dissemination, records, imports, distributes or propagates pornographic material in which minors under the age of 18 participate or pornographic material associated with the use of violence or the use of an animal  
• is liable to imprisonment for a term from 6 months to 8 years'

**Penal Code, Article 202 § 4**

**RECORDING AND POSSESSION OF CHILD PORNOGRAPHY**

'Whoever records and possesses any pornographic materials with the participation of a minor under age of 15  
• Will be sentenced to 1- 10 years ' imprisonment'

**Penal Code, Article 202 § 4a**

**IMPORTING , KEEPING AND POSSESSING CHILD PORNOGRAPHY**

'Whoever imports, keeps or possesses any pornographic materials with the participation of a minor under age of 15  
• Will be punished by a prison sentence from 3 months up to 5 years of imprisonment'

**Penal Code, article 202 § 5**

**FORFEITURE OF MATERIAL EVIDENCE**

'A court may decide upon forfeiture of means or other items, which were intended to be used or were used to commit offences described in paragraphs 1 – 4, even if they were not owned by the perpetrator himself'

# **National Laws on sexual offences in Portugal**

Lisbon

## **I. Legal Ages**

### **1-Age of majority**

Under Article 130 of the Code Civil, the majority is 18 years in Portugal.

### **2-Age of consent for sexual activity**

The age of consent to sexual activity is 16 years.

### **3-Age of consent for marriage**

According to the first paragraph of Article 1612 Civil Code, the authorization for the marriage of a minor under the age of eighteen years and over sixteen years shall be given by the parents or the person who has parental authority.

## **II. Rape**

Section 164 (rape) of the Penal Code stipulates the following:

1. He who uses force / violence or serious threat to make the victim perform with him or with others intercourse, oral or anal shall be punished with imprisonment of 3 to 8 years. This includes rendering the victim unconscious or placing them in a state which they are unable to resist/forced to submit
2. Whoever by abuse of authority, either economic or professional, forces a person by threat or use of said authority, to do or to suffer with him or with others having sex, or anal or oral intercourse shall be punished with imprisonment up to 3 years.

However when it comes to minors, the Portuguese Penal Code section defines a specific article on this matter:

### **Article 172 - Sexual abuse of children, which states:**

1. Anyone who has practiced a sexual act with or against a minor under the age of 14 years shall be punished by imprisonment of one to eight years.
2. Anyone who has practiced copulation or anal intercourse with a minor under 14 years will be punished with imprisonment of 3 to 10 years.
3. He:
  - a) who has performed an act of exhibitionism to a minor less than 14 years, or
  - b) who has acted on a minor under the age of 14, by means of obscene conversation or by means of a writing or object show porn
  - c) who has used a minor under the age of 14 years on a photo, film of a pornographic nature or
  - d) has exhibited or sold materials provided on the previous paragraph;shall be punished with imprisonment up to 3 years.
4. Anyone who has practiced the acts described in subparagraphs a), b), c) and d) to obtain profits will be punished with further imprisonment.

### **III. Other forms of sexual abuse of minors**

#### **Article 173-Sexual abuse of minors and dependent**

1. Anyone who has completed acts described in paragraphs No. 1 or 2 of Article 172 on a minor aged between 14 and 18 years and has been assigned to the education or assistance of that minor, shall be punished by a sentence of imprisonment of one to eight years.
2. Whoever has performed the acts described in subparagraphs of No. 3 of Article 172 on a minor whose age is included in the earlier issue of this section and under the conditions described, will be punished imprisonment up to one year.
3. Anyone who has completed acts described in the previous number to obtain profits, shall be punished by a sentence to 3 years imprisonment.

#### **Article 174 - Sexual acts with teenagers**

"Whoever, practices copulation with a minor of 14-16 years, abusing his inexperience will be punished up to 2 years imprisonment or a fine. "

#### **Article 175 - Homosexual acts with teenagers**

"Whoever, being major, practice homosexual acts with a minor 14-16 years or leads that these acts are performed by others, will be punished of imprisonment up to 2 years or a fine."

### **IV. Child Prostitution**

#### **Penal Code Article 176 'defilement of minors'**

1. "Anyone who promotes, encourages or facilitates the practice of prostitution by a minor aged between 14 and 16 years or accepts sexual acts from them shall be punished by imprisonment from 6 months to 5 years.
2. Whoever brings a minor under 16 years from a foreign country to solicit prostitution or sexual acts is punished with a sentence imprisonment of one (1) to eight (8) years.
3. If the agent uses violence, serious threat, deception, manipulation or fraudulent acts professionally or for the purpose of obtaining a profit, or taking advantage of the mental incapacity of the victim, or uses a minor under 14 years old for prostitution, will be punished with imprisonment of two (2) to ten (10) years. "

### **V. Child Pornography**

Child pornography is punishable by the application of Article 172 of the Penal Code mentioned in item II. Rape.

Ages for regarding sexual images of children

According to Article 172 No. 3 b) and c) of the Penal Code, the age to be considered for this purpose is 14 years or lower.

Also it should be noted that possession of child pornography does not constitute an offence under the laws in force. However there is already permission from Parliament for the development of some legislative changes on this subject.

## **VI. Internet**

The crimes committed against young children on the Internet are also sanctioned by the application of Article 172 of the Penal Code.

# **National Laws on Sex Offences in Slovenia**

Ljubljana

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fifteen (15) years.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years. Under certain conditions the age of consent is sixteen (16) years.

## **II. Rape**

### **Section 180 (Chapter 19)**

'(1) Whoever compels a person of the same or opposite sex to submit to sexual intercourse with him by force or threat of imminent attack on life or limb, shall be sentenced to imprisonment for not less than one (1) and not more than ten (10) years.

(2) If the offence under the preceding paragraph has been committed in a cruel or extremely humiliating manner or successively by at least two perpetrators or against an offender serving sentence in a closed or semi-open type of penal institution, the perpetrator (s) shall be sentenced to imprisonment for not less than three (3) years.

(3) Whoever compels a person of the same or opposite sex to submit to sexual intercourse by threatening him/her with large loss of property to him/her or to his/her relatives or with the disclosure of any matter concerning him/her or his/her relatives which is capable of damaging him/her or his/her relatives' honor and reputation shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.

(4) If offences under the first or third paragraphs of the present article have been committed against a spouse or an extra-marital partner, the prosecution shall be initiated upon a complaint.'

## **III. Other forms of child sex abuse**

### **'Sexual violence', Section 181 (Chapter 19)**

'(1) Whoever uses force or threatens a person of the same or opposite sex with imminent attack on life or limb thereby compelling that person to submit to any lewd act not covered by the preceding article or to perform such an act, shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.

(2) If the offence under the preceding paragraph has been committed in a cruel or extremely humiliating manner or successively by at least two perpetrators, the perpetrator(s) shall be sentenced to imprisonment for not less than three (3) years.

(3) Whoever compels a person of the same or opposite sex to perform or submit to any lewd act by threatening him/her with a large loss of property to him/her or to his/her relatives or with the disclosure of any matter concerning him/her or his/her relatives which is capable of damaging his/her relatives' honor and reputation shall be sentenced to imprisonment for not more than five (5) years.

(4) If offences under the first or third paragraphs of the present article have been committed against a spouse or an extra-marital partner, the prosecution shall be initiated upon a complaint.'

### **'Sexual abuse of a defenceless person', Section (Chapter 19)**

'(1) Whoever has sexual intercourse or performs any lewd act with a person of the same or opposite sex by abusing the fact of his/her mental disease temporary or graver mental disorder or sickness or any other state owing to which that person is not capable of resisting shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.

(2) Whoever, under circumstances under the preceding paragraph, violates the sexual integrity of another person in any other way, shall be sentenced to imprisonment for not more than three (3) years.'

### **'Sexual assault on a person below 15 years of age', Section 183**

'(1) Whoever has sexual intercourse or performs any lewd act with a person of the same or opposite sex under the age of fifteen (15) years where there is a marked discrepancy between the maturity of the perpetrator and that of the victim shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.

(2) Whoever has sexual intercourse with a defenceless person under the age of fifteen (15) or by threatening him/her with imminent attack on life or limb, shall be sentenced to imprisonment for not more than three (3) years.

(3) A teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of his position has sexual intercourse or performs any lewd act with a person under the age of fifteen (15) whom he is entrusted to teach, educate, protect or care for, shall be sentenced to imprisonment for not less than one (1) and not more than eight (8) years.

(4) Whoever, under circumstances under the first, second and third paragraphs, violates the sexual integrity of another in any other way, shall be sentenced to imprisonment for not more than three (3) years.'

### **'Violation of sexual integrity by abuse of position', Section 184**

'(1) Whoever, by abusing his position, induces his subordinate or a person of the same or different sex who depends on him to have sexual intercourse with him or to perform or to submit to any lewd act, shall be sentenced to imprisonment for not more than three (3) years.



(2) A teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of his position has sexual intercourse or performs any lewd act with a person above the age of fourteen whom he is entrusted to teach, educate, protect or care for, shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.'

#### **IV. Child prostitution**

##### **'Pimping', Section 185 (Chapter 19)**

'(1) Whoever engages in pimping or procures the opportunity for sexual intercourse or other lewd acts for money shall be sentenced to imprisonment for not less than three (3) months and not more than five (5) years.

(2) Whoever acts as a pimp for a minor shall be sentenced to imprisonment for not more than one (1) year and not more than ten (10) years.'

##### **'Presenting persons for prostitution', Section 186 (Chapter 19)**

'(1) whoever incites, solicits, lures or entices other persons to prostitution or is in any other way engaged in presenting these persons for prostitution to a third person, shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years.

(2) If the offence under the preceding paragraph has been committed by force, threat or deception, the perpetrator shall be sentenced to imprisonment for not less than one (1) and not more than ten (10) years.'

#### **V. Child pornography**

##### **'Presentation and manufacturing of pornographic material', Section 187 (Chapter 19)**

'(1) Whoever by sale or public exhibition provides a person under the age of fourteen (14) with access to writings, pictures, audio-visual or other objects of pornographic content or whoever presents a pornographic performance to such a person, shall be punished by a fine or sentenced to imprisonment for not more than one (1) year.

(2) Whoever abuses a minor for the production of pornographic pictures, audiovisual or other objects of pornographic content or whoever presents a pornographic performance to such a person, shall be punished by a fine or sentenced to imprisonment for not more than three (3) year.'

The possession of child pornography is not an offence in Slovenia.

#### **VI. Internet**

For the moment there are no special legal provisions for 'Sexual offences against children using the Internet'. Such offences are punishable according to Art. 187 of the Slovenian Penal Code. Currently there are efforts to change the Penal Code and it is expected that it will be amended in such a way to include provisions which cover these problems.

# **National Laws on Sex Offences in Slovakia**

Bratislava

## **I. Ages for legal purposes**

### **Age of simple majority**

The legal age of majority is eighteen (18) years.

### **Age of consent for sexual activity**

The legal age of consent for sexual activity is fifteen (15) years.

### **Age of consent for marriage**

The legal age of consent for marriage is eighteen (18) years. In exceptional cases, based upon a request of either one or both of the marrying parties, a competent court may recognise full age (meant legal age), to persons of age sixteen (16) to eighteen (18). Provided that the parents of both parties also consent.

### **Person § 127**

1. For the purpose of this Act, a child is a person younger than eighteen (18) years of age, if this person has not come into lawful age earlier

### **§ 22 Age**

1. Any person who has not been sixteen years of age at the time of committing a crime, is not criminally liable
2. Any person who has not been fifteen years of age at the time of the offence, is not criminally liable for a crime of sexual abuse according to § 201

### **§ 132 Prostitution and pornography**

1. For the purposes of this Act, prostitution means satisfying sexual needs of another person by means of intercourse, in any form, for reward.
2. For the purpose of this Act, pornography means the depiction of sexual acts, or any other form of sexual intercourse or the depiction of nude organs aimed at sexual satisfaction of another person.
3. For the purpose of this Act, children pornography means the depiction of sexual acts, or any other form of sexual intercourse with a child or depiction of nude parts of a child's body aimed at sexual satisfaction of another person.

## **§ 139 Protected person**

- I. Protected person means
  - a. a child
  - b. a pregnant woman
  - c. a close person
  - d. a person entrusted under care or charge
  - e. a person of higher age
  - f. a sick person
  - g. a person under protection according to international law
  - h. a public official
  - i. a witness, a connoisseur, an interpreter or a translator
2. Provision of section I is not applied if crime has not been committed in regard with state, position or age of a protected person.

## **II. Rape**

### **§ 199 Rape**

1. Any person, who by using violence or the threat of imminent violence, forces a woman to have intercourse with him, shall be liable to a term of imprisonment of five to ten years.
2. The offender shall be liable to a term of imprisonment of seven to fifteen years, if he commits the offence referred to in paragraph I
  - a. in more gross manner
  - b. on a protected person, or
  - c. due to a special reason
  - d. on a woman serving a sentence of imprisonment
3. The offender shall be liable to a term of imprisonment of fifteen to twenty years, if he commits the offence referred to in paragraph I, and thus causing serious bodily harm
4. The offender shall be liable to a term of imprisonment of twenty to twenty-five years, if he commits the offence referred to in paragraph I, and thus causing
  - a. death, or
  - b. during a crisis situation

## **III. Other forms of child sexual abuse**

### **§ 200 Sexual violence**

- I. Any person, who by using violence or the threat of imminent violence, forces another person to oral intercourse, anal intercourse or to other sexual activities or who makes use of vulnerability, shall be liable to a term of imprisonment of five to ten years

2. The offender shall be liable to a term of imprisonment of seven to fifteen years, if he commits the offence referred to in paragraph 1
  - a. in more gross manner
  - b. on a protected person, or
  - c. due to a special reason
  - d. on a person serving a sentence of imprisonment
3. The offender shall be liable to a term of imprisonment of fifteen to twenty years, if he commits the offence referred to in paragraph 1, and thus causing serious bodily harm
4. The offender shall be liable to a term of imprisonment of twenty to twenty-five years, if he commits the offence referred to in paragraph 1, and thus
  - a. death, or
  - b. during a crisis situation

## **§ 201 Sexual abuse**

1. Any person, who has sexual intercourse with a person less than fifteen years of age or who subjects such person to other sexual abuse, shall be liable to a term of imprisonment of three to ten years.
2. The offender shall be liable to a term of imprisonment of seven to twelve years, if he commits the offence referred to in paragraph 1
  - a. in more gross manner
  - b. on a protected person, or
  - c. due to a special reason
  - d. on a person serving a sentence of imprisonment
3. The offender shall be liable to a term of imprisonment of twelve to fifteen years, if he commits the offence referred to in paragraph 1, and thus causing serious bodily harm
4. The offender shall be liable to a term of imprisonment of fifteen to twenty years, if he commits the offence referred to in paragraph 1, and thus
  - a. death, or
  - b. during a crisis situation

## **§ 202**

1. Any person, who makes a person less than fifteen years of age have extramarital intercourse or who abuses that person in any other sexual way
  - a. if this person has been given into his custody or it is a dependant person, or
  - b. for reward, shall be liable to a term of one to five years
2. The offender shall be liable to a term of imprisonment of two to eight years, if he commits the offence referred to in paragraph 1 on a person younger than eighteen years of age who has been forced to this activity under threat of violence

## **IV. Child prostitution**

### **§ 367 Procurement**

1. Any person who arranges for, entices, lures, uses, obtains or offers another person for purpose of prostitution, or who plunders from prostitution carried out by someone else or enables its execution, shall be liable to a term of imprisonment of up to three years.
2. The offender shall be liable to a term of imprisonment of one to five years, if he commits this crime in more serious manner
3. The offender shall be liable to a term of imprisonment of three to ten years, if he commits the offence referred to in paragraph 1 on a protected person
4. The offender shall be liable to a term of imprisonment of seven to twelve years if he commits the offence referred to in paragraph 1
  - a. and thus receiving for himself/herself or for someone else notable benefit
  - b. as a member of a dangerous group
  - c. on a person younger than fifteen years of age
5. The offender shall be liable to a term of imprisonment of ten to fifteen years if he commits the offence referred to in paragraph 1, and thus causing grievous bodily harm or death

## **V. Child pornography**

### **§ 368 Production of children pornography**

1. Any person who makes use, obtains, offers or abuses a child in another way for production of children pornography or enables this abuse, or participates on this production shall be liable to a term of imprisonment of four to ten years.
2. The offender shall be liable to a term of imprisonment of seven to twelve years if he commits the offence referred to in paragraph 1
  - a. on a child younger than twelve years of age
  - b. in more gross manner, or
  - c. in public
3. The offender shall be liable to a term of imprisonment of ten to fifteen years if he commits the offence referred to in paragraph 1
  - a. and thus causing serious bodily harm or death, or
  - b. and thus obtaining imminent benefit
4. The offender shall be liable to a term of imprisonment of twelve to twenty years if he commits the offence referred to in paragraph 1
  - a. and thus causing serious bodily harm to more persons or death of more persons,
  - b. and thus causing imminent benefit, or
  - c. as a member of a dangerous group

### **§ 369 Distribution of children pornography**

1. Any person who reproduces, transports, obtains, or diffuses children pornography shall be liable to a term of imprisonment of one to five years.
2. The offender shall be liable to a term of imprisonment of three to eight years if he commits the offence referred to in paragraph 1
  - a. in more serious manner, or
  - b. in public
3. The offender shall be liable to a term of imprisonment of four to ten years if he commits the offence referred to in paragraph 1, and thus obtaining imminent benefit.
4. The offender shall be liable to a term of imprisonment of seven to twelve years if he commits the offence referred to in paragraph 1, and thus obtaining very imminent benefit.

### **§ 370 Receiving and possession of children pornography**

Any person who receives and possesses children pornography shall be liable to a term of imprisonment of up to two years.

# **National Laws on Sex Offences in Spain**

Madrid

## **I. Ages for Legal Purposes**

### **Age of simple majority**

The legal age of majority is regulated by article 12 of the Spanish Constitution, which states that a person is no longer a minor after they have reached age eighteen (18).

### **Age of consent for sexual activity**

The Penal Code of Spain, recently renovated several times, provides the age of sexual consent at 13 years.

Sexual Abuse of a Minor is defined as non-consensual contact perpetrated on a person below thirteen years (Article 181). However, there are also legal provisions in place under Article 183 of the Penal Code for sexual abuse committed on a person over thirteen years but below sixteen. (Details on this act can be found on the following page).

### **Age of consent for marriage**

The statutory age for marriage is set at 18 years along with the age of majority. However, art. 46 of the Civil Code, states that unemancipated minors' may enter into a marriage contract with just cause. However, this is at the discretion of the court, and only applies to minors from fourteen (14) years and above (Art. 48.)

## **II. Rape**

### **Article 181. Assumptions**

1. Sexual molestation without violence or intimidation but also without consent, is against sexual freedom and the perpetrator responsible for the abuse, shall face imprisonment of one to three years or a fine.
2. In addition, any act perpetrated upon a person below the age of thirteen is automatically deemed sexual abuse, as is any sexual act committed against those suffering from a mental disorder. As such, any person convicted of these charges will face the higher terms of imprisonment for sexual crimes.
3. The same penalty shall be imposed when consent is obtained by taking advantage of a position of superiority (i.e. parent or teacher) which restricts the freedom of the victim.

**Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999, 1115).**

### **Article 182. Object and penetration. Aggravated Types**

1. If a person commits sexual molestation of the vagina, anus or mouth, or introduces members of their body or any other objects into the vagina or anus, then the perpetrator will be punished with imprisonment from four to 10 years.

### **Article 183. Sexual contact with a person more than thirteen years and under sixteen**

1. Anyone who commits an act of sexual abuse upon a minor aged between thirteen and under sixteen, shall be punished with imprisonment for two years or a fine.

2. When the act of abuse is vaginal, anal or oral, or through the introduction of bodily members or objects into the vagina or anus, then the punishment shall be imprisonment from two to six years.

### **Sexual harassment**

**Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999, 1115).**

Article 184. Supposed

1. Anyone who has sought favours of a sexual nature for themselves or a third party within an employment relationship or in the provision of educational services, and such behaviour provokes the victim through seriously intimidating, hostile or humiliating behaviour, will be punished as the perpetrator of sexual harassment, this charge carries a term of imprisonment ranging from three to five months or a fine.

2. If the offender had committed sexual harassment by taking advantage of a position of hierarchical superiority (possibly through employment or educational) shall face imprisonment from five to seven months or a fine.

3. When the victim is particularly vulnerable because of their age, disease or physical/mental condition, the penalty shall be imprisonment from five to seven months or a fine, in the cases referred to in paragraph 1, and imprisonment from six months to a year in the cases referred to in paragraph 2 of this article.

### **III. Other forms of child sexual abuse**

'Sex with minors without the use of violence (or threat or surprise)' is regulated in Chapter II, art. 181 "sexual abuse carried out without violence or intimidation".

In paragraph 2, it has been established that 'there is no consent when the victim is under thirteen (13). Therefore, any sexual acts made with a victim below the age of 13 is automatically deemed rape.

Article 183 in the Criminal Code (Title VIII.) Also has a stipulation regarding sexual abuse of those between thirteen years and under sixteen ... ' and the Spanish courts can also deem crimes in this category as being sexual abuse of a minor even though the age of consent is currently set at 13. More details on these acts can be found in the following paragraphs.

### **Of the crimes of exhibitionism and sexual provocation**

#### **Article 185. Exhibitionism**

**Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999, 1115).**

Anyone who performs or causes another person to execute acts of lascivious exhibition to a minor or incompetent, shall be punished with imprisonment of six months to a year or a fine

#### **Article 186. Sexual provocation to minors and the disabled**

**Amended by Art.68 of November 25 (RCL 2003 2744)**

Anyone who sells, disseminates or exhibits material of a pornographic nature which shows a person who is underage or incompetent, shall be punished with a penalty of imprisonment from six months to a year or a fine.



#### **IV. Child prostitution**

Of crimes related to prostitution and the corruption of minors.

##### **Article 187. Prostitution of minors or incapacitated**

**Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999.1115)**

1. Anyone who promotes, encourages or facilitates in the prostitution of a person who is a minor or incompetent, shall be punished with imprisonment from one to four years and a fine.

2. Higher penalties are imposed to the extent provided in paragraph above in respect to cases where the offender belongs to a organization or association that engages the undertaking such activities.

##### **Article 188. Coercion, deception or abuse of a position of need or superiority**

**Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999.1115)**

1. Anyone who, through the use of violence, intimidation or deception, or abuse of a position of superiority or of the need/vulnerability of the victim, places an adult person into a position of prostitution or who forces them to remain in such a position, will be punishable by a prison sentences of between two to four years and a fine. The same penalty shall be incurred by those profiting from the exploiting of prostitutes, even if the person acting as a prostitute consents to it

2. If the above acts were committed on a minor or any person who is deemed incompetent, then the party responsible shall face the higher penalty corresponding to the relevant charges as noted in the preceding paragraphs.

4. The penalties prescribed shall be imposed in their cases without prejudice when they apply to assault or sexual abuse during prostitution.

#### **V. Child pornography**

##### **Article 189. Exhibition of minors or incompetents. Non-compliance**

**Amended by Art. 1. Nine of Organic Law 11/2003 of September 29.**

1. The punishment of imprisonment from one to four years shall be imposed upon:

a. Any person who organises performances, both public and private or who makes any kind of pornographic material of whatever medium open to public view;

b. A person who produces, sells, or distributes pornographic material which features a minor or incompetent, or possesses such materials for these purposes.

2. He who possesses (for his own use) pornographic material which features a minor or incompetent, shall be punished with three months to one year imprisonment or a fine.

3. The punishment of imprisonment of four to eight years will be imposed on any person that performs the acts referred to in paragraph 1 of this article upon the occurrence of any of the following circumstances:

a. When used in children younger than 13 years.

b. When the materials are of a particularly degrading or vexatious nature.

c. When pornographic material featuring children or those deemed incapable also displays acts of physical or sexual violence.

d. When the offender belongs to an organization or association which engages in the conduct of such activities. (i.e. a paedophile network creating or sharing material of this nature)

e. When the charge is place against an ascendant, guardian, conservator, teacher or

any other person who, is entrusted with the care of the minor or incompetent.

5. Anyone who places a minor or incompetent in a situation of a sexual nature that adversely affects their personality or development shall be punished with imprisonment from six months to a year.

6. Anyone who has authority, or guardianship over a minor or incompetent person, and is aware of them being placed in a state of prostitution or corruption, but does not take action to prevent the continuation of this abuse and does not report it to a relevant authority, shall be deemed negligent in their duty of care and punished with imprisonment of three to six months or a fine.

7. The prosecution will promote relevant actions in order to deprive custody, guardianship, or foster care, if necessary, to any person who commits any of the acts described in the paragraph above.

8. The punishment of imprisonment from three months to one year or a fine will be imposed upon anyone who produces, sells, distributes, or exhibits pornographic material featuring children in an indirect manner, (i.e. the use of their voice or an altered/modified image).

9. In the cases mentioned in the preceding paragraphs, the court may impose measures under Article 129 of the Code if the offender belongs to an organization or association, which engages in the conduct of such activities. (such as a paedophile network).

## **VII. Extra-territorial legislation**

### **Article 190. Recidivism: foreign convictions**

The conviction of a foreign judge or court imposed for crimes falling within this chapter shall be treated as judgments of the Spanish Courts for the purposes of applying the aggravating circumstance of recidivism.

Amended by Art. 2 of Law 11/1999 of 30 April (RCL 1999, 1115)

## **National Laws on Sex Offences in Sweden**

Stockholm

These articles are extracted from the Swedish Penal Code, Chapter six (6), 'On Sex Offences', which deals with sex crimes perpetrated against both children and adults.

### **I. Ages for legal purposes**

#### **Age of majority**

In Sweden the age of majority is eighteen (18) years.

#### **Age of consent for sexual activity**

In Sweden the age of consent for sexual activity is fifteen (15) years.

#### **Age of consent for marriage**

The age of consent for marriage is the majority: eighteen (18) years.

### **II. Rape**

A person committing **rape** (sexual intercourse or other comparable sexual act forced by violence or serious threat) can be sentenced to imprisonment for at least two and at most six years. If the rape is considered as aggravated rape the offender can be sentenced to imprisonment for at least four and at most ten years. Rape perpetrated against a child is normally considered as **aggravated rape**.

#### **Section 1 of the Swedish Penal Code**

'A person who, by violence or threat involving or appearing to the threatened person as imminent danger, forces the latter to have sexual intercourse or to engage in a comparable sexual act, shall be sentenced for rape to imprisonment for at least two and at most six years. Rendering the person unconscious or otherwise placing the person in a similarly helpless state shall be regarded as equivalent to violence. If in view of the nature of the violence or the threat and the circumstances in other respects the offence is considered less serious, a sentence to imprisonment for at most four years shall be imposed.

If the offence is grave, a sentence to imprisonment for at least four and at most ten years shall be imposed for aggravated rape. In judging whether the offence is grave, special consideration shall be given to whether the violence involved a danger to life or whether the person who had committed the act had inflicted serious injury or serious illness or, having regard to the method used or the victim's youth or otherwise, exhibited particular ruthlessness or brutality.'

### **III. Other forms of child sex abuse**

A person committing **sexual coercion** (sexual act forced by unlawful coercion that is not considered as rape) can be sentenced to imprisonment for at most two years. If the crime is considered as **aggravated sexual coercion** the offender can be sentenced to imprisonment for at least six months and at most four years.

## **Section 2 of the Swedish Penal Code**

'A person who, under circumstances other than those mentioned in Section 1, by unlawful coercion makes someone engage in a sexual act shall be sentenced for sexual coercion to imprisonment for at most two years.

If the person who committed the act exhibited particular ruthlessness or if the offence is otherwise considered grave, a sentence of at least six months and at most four years shall be imposed for grave sexual coercion.'

A person committing **sexual exploitation** (sexual act induced by gross abuse of the victim's dependency or by improperly taking advantage of the fact that the victim is unconscious or in other helpless state or is suffering from a mental disturbance), can be sentenced to imprisonment for at most two years. If the crime is considered as **aggravated sexual exploitation** with a minor the offender can be sentenced to imprisonment for at least six months and at most six years.

## **Section 3 of the Swedish Penal Code**

'A person who induces another to engage in a sexual act by gross abuse of his or her dependency shall be sentenced for sexual exploitation to imprisonment for at most two years. This also applies to a person who engages in a sexual act with another by improperly taking advantage of the fact that the latter is unconscious or in another helpless state or is suffering from a mental disturbance.

If the person who has committed the act has exhibited particular ruthlessness or if the offence is otherwise considered to be grave, a sentence to imprisonment for at least six months and at most six years shall be imposed for grave sexual exploitation.'

A person committing **sexual exploitation of a minor** (sexual act with someone under eighteen (18) years who is the offender's offspring or stands under his responsibility or, otherwise than as previously stated, a sexual act with someone under fifteen (15) years, can be sentenced to imprisonment for at most four years. If the crime is considered as **aggravated sexual exploitation** with a minor, the offender can be sentenced to imprisonment for at least two and at most eight years.

## **Section 4 of the Swedish Penal Code**

'A person who engages in a sexual act with someone under eighteen (18) years of age and who is that person's offspring or for whose upbringing he is responsible, or whose care or supervision he is responsible for by decision of a public authority, shall be sentenced for sexual exploitation of a minor or imprisonment for at most four years. This also applies if a person, in circumstances other than those mentioned previously in this Chapter, engages in a sexual act with a child under fifteen (15) years.

If the person who committed the act exhibited particular lack of regard for the minor if the offence by reason of the minor's young age or otherwise is regarded as grave, a sentence of imprisonment for at least two and at most eight years shall be imposed for grave sexual exploitation of a minor.'

A person, otherwise than as previously stated, committing **sexual intercourse with an offspring**, can be sentenced to imprisonment for at most two years. A person committing **sexual intercourse with a sibling**, can be sentenced to imprisonment for at most one year.

### **Section 6 of the Swedish Penal Code**

'If a person, otherwise than as previously stated in this chapter, has sexual intercourse with his or her own child or its offspring a sentence of imprisonment for at most two years shall be imposed for sexual intercourse with an offspring. A person who has sexual intercourse with his or her sibling of the whole blood shall be sentenced to imprisonment for at most one year for sexual intercourse with a sibling.

The provisions of this section do not apply to a person who has been made to commit the act by unlawful coercion or other improper means.'

A person committing **sexual molestation** (to sexually touch a child under fifteen (15) years or induce the child to undertake or take part in an act with sexual implications, inter alia to participate in producing pornographic material, or with improper influence induce a person fifteen (15) to seventeen (17) years old to take part in pornographic posing or in producing pornographic material) can be sentenced to pay a fine or imprisonment for at most two years.

### **Section 7 of the Swedish Penal Code**

'A person who, otherwise than as previously stated in this Chapter, sexually touches a child under fifteen years of age or induces the child to undertake or participate in an act with sexual implication shall be sentenced to a fine or imprisonment for at most two years for sexual molestation.

A sentence for sexual molestation shall also be imposed on a person who by coercion, seduction or other improper influence induces a person who has attained the age of fifteen (15) years but not the age of eighteen (18) years to undertake or participate in an act with sexual implication if the act is part of the production of pornographic pictures or constitutes pornographic or constitutes pornographic posing in circumstances other than those relating to the production of a picture. This shall also apply if a person exposes himself to another in a manner apt to give offence or otherwise behaves indecently toward the latter by word or deed that flagrantly violates a sense of decency.'

A person committing **seduction of youth** (by promising or giving compensation to obtain or try to obtain casual intercourse with someone under eighteen (18) years) can be sentenced to pay a fine or imprisonment for at most six months.

### **Section 10 of the Swedish Penal Code**

'A person who, by promising or giving compensation, obtains or tries to obtain casual sexual relations with someone under eighteen (18) years of age, shall be sentenced for seduction of youth to pay a fine or to imprisonment for at most six months.'

### **Section 11 of the Swedish Penal Code**

'Liability prescribed by this chapter for an act committed against someone under a given age shall be imposed even on a person who did not realise but had reasonable grounds for assuming that the other had not attained such age.'

### **Section 12 of the Swedish Penal Code**

'Liability shall be imposed as provided in Chapter 23 for attempt to commit rape, aggravated rape, sexual coercion, aggravated sexual coercion, sexual exploitation, aggravated sexual exploitation, sexual exploitation of a minor, aggravated sexual exploitation of a minor, procuring and aggravated procuring. This also applies to preparation for and conspiracy to commit rape, aggravated rape, aggravated sexual exploitation of a minor and aggravated procuring.'

### **Section 13 of the Swedish Penal Code**

'When, in the case of sexual exploitation of a minor as under Section 4, first paragraph, second sentence or attempt to commit such an offence, or in the case of sexual molestation as under Section 7, first paragraph, there is little difference in age and development between the offender and the child, public prosecution shall not occur unless it is called for in the public interest.'

## **IV. Child prostitution**

### **'Procuring', Section 8 of the Swedish Penal Code**

'A person who promotes or in an improper way exploits the fact that someone has casual sexual relations for payment shall be sentenced for procuring to imprisonment for at most four years.'

If a person grants the right to enjoy premises to another and knows that the premises are wholly or to a substantial extent used for casual sexual relations for payment and omits to do what can reasonably be expected to terminate the occupation, and if the activity continues or is resumed at the premises, he shall be considered to have promoted the activity and shall be sentenced in accordance with the first paragraph.'

### **'Aggravated procuring', Section 9 of the Swedish Penal Code**

'If the offence mentioned in Section 8 is grave, imprisonment for at least two and at most six years shall be imposed for aggravated procuring.'

In judging whether the offence is grave, special consideration shall be given to whether the offender has promoted casual sexual relations for payment on a large scale or has ruthlessly exploited another.'

## **V. Child pornography**

A person producing or **distributing child pornography** can be sentenced to pay a fine or imprisonment for at most two years according to the Penal Code, Chapter 16, Section 10 a (child pornography offence).

### **Section 10 a of the Swedish Penal Code**

'The person who

1. depicts children in a pornographic picture,
  2. distributes, transfers, shows, puts such a picture of a child at another person's disposal or in another way makes such a picture available for another person,
  3. acquires or offers such a picture of a child for sale,
  4. procures contacts between buyers and sellers of such picture of children or takes another similar measure with the view to promoting trafficking in such pictures, or
  5. has such a picture of children in his possession
- is convicted of child pornography crime and sentenced to imprisonment for not more than two years or, if it is a petty crime, is fined or sentenced to imprisonment for no more than six months.

Child refers to a person whose puberty development is not completed or who, when it appears from the picture or the circumstance in it, is under the age of 18.

The person who professionally or in another way for the purpose of making money through negligence distributes such a picture that is referred to in the first paragraph, is convicted as it is said there.

If a person has committed a crime, referred to in the first paragraph, that is considered to be serious, he shall be convicted of serious child pornography crime and sentenced to imprisonment for a minimum of six months and not more than four years.

When judging whether a crime is serious it is to be especially taken into consideration if it has been committed professionally or for the purpose of making profits, has formed part of criminal activities that have been carried on methodically or to a great extent, has concerned an especially large number of pictures or has concerned pictures where children are subjected to especially ruthless treatment. The prohibitions of depiction and possession do not concern the person who draws, paints or in another similar craftsmanlike way makes such picture referred to in the first paragraph, if the picture is not meant to be distributed, transferred, shown or in another way put at other persons disposal. Also in another cases an act shall not constitute a crime if special circumstances make the act obviously justified.'

### **Section 17 of the Swedish Penal Code**

'A person is convicted of responsibility, according to what is said in chapter 23, for preparation for or conspiracy to or failure to reveal mutiny. The same applies to attempt to or preparation for grave gambling, attempt to such child pornography crime that is referred to in the first paragraph of article 10a, if it is not a petty crime, and attempt to or preparation for serious child pornography crime.'

## **Criminal Record Bureau Contacts:**

### **Albania:**

Applicants seeking a Criminal Record Certificate should contact the Albania Embassy at 2nd Floor, 24 Buckingham Gate, London SW1E 6LB (020 7828 8897)

### **Austria:**

Application forms can be found at <http://www.help.gv.at/documents/strafreg.pdf>

### **Australia:**

Police checks can be applied for through the Australian Federal Police website, [www.afp.gov.au](http://www.afp.gov.au).

### **Belgium:**

Applications to the Service Federal de la Justice, Service du Casier Judiciaire Centre, Porte de Hal 5, Brussels. Alternatively assistance can be sought from the Belgian Embassy at 103 Eaton Square, London SW1W 9AB. 020 7470 3700

### **Bosnia and Herzegovina:**

Criminal Record Certificates can be obtained on request from the Police Headquarters in Banja Luka or Sarajevo. Assistance from the Embassy at 5-7 Lexham Gardens, London W8 5JJ 02073730867.

### **Canada:**

Information is available at [http://www.rcmp-grc.gc.ca/crimrec/finger\\_e.htm](http://www.rcmp-grc.gc.ca/crimrec/finger_e.htm)  
Fingerprints are required. The site suggests processing time is in excess of 120 days.

### **Colombia:**

Colombian citizens should contact Head of Identification Group of the Security Administrative Department, Cerrera 28 No. 17 A 00, Bogota DC, Colombia.

### **Cyprus:**

Any individual can apply to the Criminal Record Office at the Cyprus Police HQ in Nicosia to obtain a copy of his or her own criminal record. Application forms available at [www.police.gov.cy/](http://www.police.gov.cy/). A photocopy of the individual's passport or identity card must be submitted with the application. Cost £16. Applications processed on the day of receipt in Nicosia.

### **Czech Republic:**

An individual can apply for an extract of their criminal record at any of the regional public prosecutors offices within the Czech Republic or via the Embassy of the Czech Republic at 30 Kensington Palace Gardens, London W8 4QY. Further information available at <http://www.crb.gov.uk/Default.aspx?page=2322>

### **Denmark:**

The Danish police provide individuals with an extract from their Danish criminal record free of charge. These certificates are known as Penal Certificates. Applications must be made in writing requesting a 'Straffeattest' to Rigspolitichefen, Afdeling D, Kriminal Registeret, PO Box 93, 2650 Hvidovre, Denmark. Further information at <http://www.crb.gov.uk/Default.aspx?page=2323>



**Estonia:**

Application forms obtainable at [www.pol.ee](http://www.pol.ee) Note that the site and application form are in Estonian. Completed form to be sent to Punishment Register, Estonian Police Board, Pagari 1, 15060 Tallinn, Estonia. If the punishment register is clear the certificate will be in English. If a criminal record is detected, the certificate will be in Estonian. Assistance from the Embassy, 16 Hyde Park Gate, London SW7 5DG. 0207589 3428.

**Finland:**

Applications to the Oikeusrekisterikeskus on the form available at [www.oikeus.fi/oikeusrekisterikeskus/18619.htm](http://www.oikeus.fi/oikeusrekisterikeskus/18619.htm) . Application must include Finnish ID Code. The individual must specify the reason for the request and the applicant must sign the form. Further information at <http://www.crb.gov.uk/Default.aspx?page=2324>

**France:**

French nationals must apply on line at [www.cjn.justice.gouv.fr/cjn/be/eje20](http://www.cjn.justice.gouv.fr/cjn/be/eje20). There is no charge. Alternatively a form can be requested at [cjn@justice.gouv.fr](mailto:cjn@justice.gouv.fr) which can then be completed by the applicant and posted. Online applications get priority. Further details available at <http://www.crb.gov.uk/Default.aspx?page=2325>

**Germany:**

The Federal Central Register issues 'Certificates of Good Conduct' at the request of the individual. There is no application form but the request is best made through German Embassy who will confirm the identity of the individual having seen the necessary documentation. Further details available at: <http://www.crb.gov.uk/Default.aspx?page=2326>

**Ghana:**

Applicants should contact Passport and Immigration Section, Ghana High Commission, 104 Highgate Hill, London N6 5HE (020 8342 7555) (e-mail [enquiries@ghana-com.co.uk](mailto:enquiries@ghana-com.co.uk) ) to obtain an application form. The form together with fingerprints and photograph (and fee) and then sent to Accra and if suitable a Police Clearance Certificate will be issued to the applicant.

**Greece:**

Applicants should contact the Ministry of Justice, Criminal Records Department, 96 Messoghion Street, 115 27 Athens. Alternatively assistance could be sought from the Embassy of Greece, 1A Holland Park, London W11 3TP. 02072216467 ([www.greekembassy.org.uk](http://www.greekembassy.org.uk) ).

**Hungary:**

The Interior Ministry of the Republic of Hungary will provide criminal record certificates to individuals. An individual living in UK can obtain an application form from the Hungarian Consulate at 35 Eaton Place, London SW1X 8BY (0207 235 5218). Applicants applying in person should take a valid passport as proof of their identity. Postal applications must include a photocopy of the individuals passport. Cost £24 payable by postal order.

**India:**

Applicants should contact the local police station for the area where they have lived. Assistance can be sought from the High Commission of India. India House, Aldwych, London WC2B 4NA 02078368484 or [www.hcilondon.net](http://www.hcilondon.net)

**Italy:**

CRB equivalent is the Penal Certificate, which must be requested from the Castellario (criminal records office) nearest to the individual's last place of residence in Italy. Requests must be made in writing and include, parents' particulars (name, address and dob). Payment (3.10 Euro at the time of writing) must be made by postal order made payable to "*Ufficio locale del casellario guidiziale presso ill tribunale di* (name of location)" No website address available.

**Jamaica:**

Police records (Criminal Clearance Certificate) should be obtained by the individual. They need to get fingerprinted by their local Police or Scotland Yard both of whom will provide the service. The fingerprints then need to be notarised by the Jamaican High Commission – [www.jhcuk.com](http://www.jhcuk.com) . They then need to be sent with a covering letter stating date they left Jamaica and last address in Jamaica, why the police record is required and where the police record is to be sent accompanied by a copy of passport and photographs and postal order for £20 to Jamaica Constabulary Force, Records and Identifications Division, 34 Duke Street, Kingston, Jamaica W.I.

**Latvia:**

Certificates of good conduct can be obtained via the Embassy of the Republic of Latvia at 45 Nottingham Place, London W1U 5LR. Application forms obtainable at the same address. Cost approx £3 but certificates will be issued in Latvian and translation costs a further £2. There is also an unspecified consular fee for applicants applying in the UK. The certificate will show current criminal convictions; individuals must specifically request information, which may have been deleted from the record. Further info at <http://www.crb.gov.uk/Default.aspx?page=2556>

**Malaysia & Singapore:**

The Royal Malaysian Police issue Letters of Good Conduct however it must be noted that if there is a criminal conviction, the actual details such as the type of crime involved are not disclosed. Applications must be made through the High Commission of Malaysia, 45 Belgrave Square, London SW1X 8QT (020 7235 8033.) who will forward the completed application to Kuala Lumpur and in all may take up to 6 months. The application requires 2 passport photographs, 2 photocopies of identity card and 2 photocopies of passport.

**Malta:**

Individuals can apply for a copy of their own Conduct Certificate by writing to The Commissioner of Police, Malta Police Force, Police Headquarters, Floriana CMR 02 Malta. They will need to provide parents names, mother's maiden name, in the case of a married women her husband's name and her maiden name. In addition an authenticated (by a Notary Public) photocopy of their passport must be included. Further details at <http://www.crb.gov.uk/Default.aspx?page=2558>

**Netherlands:**

Certificates of Good Conduct are available from Netherlands Ministry of Justice. Applications must be made in writing and signed by the individual requesting the certificate. The application must specify the job details and the employer's thoughts on the potential risks associated with the post. Applications must go to Ministerie van Justitie, Dienst Justis, Afdeling COVOG, Postbus 16115, 2500 BC Den Haagm, together with a good quality photocopy of a passport or Euro ID card (not driving licence). Further info at [www.justitie.nl/themas/vog](http://www.justitie.nl/themas/vog)

**New Zealand:**

Individuals are able to obtain a copy of their own criminal records free of charge from the NZ Ministry of Justice. Forms are available from [www.justice.govt.nz/privacy](http://www.justice.govt.nz/privacy) Applications must be accompanied by good quality photocopies of Passport and Driving Licence.

**Pakistan:**

Criminal Record Certificates or Certificates of Good Behaviour can be obtained from the Pakistan High Commission in London who will forward any application to the relevant authorities in Pakistan. Contact the Pakistan High Commission 35-36 Lowndes Square, London SW1X 9JN (02076649200) for further help and information. Email [informationdivision@highcommission-uk.gov.pk](mailto:informationdivision@highcommission-uk.gov.pk)

**Philippines:**

Before a Filipino worker is issued with an entry visa to the UK, they must be in position of a valid UK work permit and to receive a work permit the individual must be issued with a certificate from the Philippine Overseas Employment Agency which includes a National Bureau of Investigation clearance certificate in the process. In theory therefore a Filipino worker should be in possession of a clearance certificate from the Philippines which they will be able to provide. If further clarification is required an application form can be obtained from the Embassy of the Republic of the Philippines, 9a Palace Green, London W8 4QE (020 7937 1600 x235). A full set of fingerprints will be required and the Embassy is able to provide that service for a fee. Further info <http://www.crb.gov.uk/Default.aspx?page=2566>

**Poland:**

Individuals can obtain copies of their own criminal records. Forms available from [www.ms.gov.pl/](http://www.ms.gov.pl/) The Polish system deletes records of convictions after 10 years if there have been no further convictions – there do not appear to be any exceptions to that rule.

**Portugal:**

It is possible to obtain criminal record certificates from the Criminal Identification Services Directorate. It is quite a complex process and is best initiated through the Portuguese Embassy at 11 Belgrave Square, London SW1X 8PP (020 7235 5351).

**Republic of Ireland:**

Individuals are able to obtain a copy of their own criminal record.

Requests in writing to Inspector in Charge, Garda Central Vetting Unit, Racecourse Road, Thurles, Co. Tipperary. Cheques (6.35 Euro at the time of writing) made payable to Department of Justice'

**Romania:**

Criminal record certificate can be obtained from the General Inspectorate of the Romanian Police in Bucharest. You should seek assistance from the Embassy of Romania, Arundel House, 4 Palace Green, London W8 4QD (020 7937 9666)

**Russia:**

Applicants should go to the legalisation Department at the Russian Consulate and present their original Russian passport. The Consulate will initiate the search on behalf of the applicants by sending the request back to Russia who will reply in 4-6 months. There is a fee for this service. The Certificate will be returned in Russian and the Consulate will translate it for a fee. Consulate of the Russian Federation, 5 Kensington Palace Gardens, London W8 4QS.

**Serbia and Montenegro:**

Applications have to be made to the main police station in the previous place of residence. Help can be obtained from the Embassy of Serbia and Montenegro, 25 Belgrave Square, London SW1X 8QB (020 7235 9049).

**Slovakia:**

Certificates can be obtained from the General Prosecutor's Office of the Slovak Republic. Applications must include a Slovak identity card. Contact Register Trestov, Generálna Prokuratúra, Kvetná 13, 814 21 Bratislava 1, Slovakia. Alternatively seek help from Embassy of the Slovak Republic, 25 Kensington Palace Gardens, London W8 4QY (020 7313 6470).

**South Africa:**

South Africa Police Clearance Certificates are available through the South Africa High Commission. Details available at [http://www.southafricahouse.com/OS\\_Administration.htm](http://www.southafricahouse.com/OS_Administration.htm) or telephone 020 7451 7299.

**Spain:**

The Spanish authorities provide, on application, extracts of criminal records to the individual to which the record relates. The extracts detail only those convictions considered 'unspent' under the Spanish equivalent of ROA. Applications can only be made in Spain but it is possible for the individual to authorise a member of their family or a professional person (lawyer, doctor etc) to apply on their behalf and they should contact their Spanish Consulate for advice – Spanish Embassy, Consular Section, 20 Draycott Place, London SW3 2RZ. Applications must be submitted in English and Spanish with the original passport, full birth certificate and other details. Further details at <http://www.crb.gov.uk/Default.aspx?page=2563>

**Sweden:**

Police checks can be applied for through [www.polisen.se/](http://www.polisen.se/). Click on the UK flag and "register extract". The form then needs to be sent in the post to the address provided. You will need the individuals Swedish National Registration Number. The Swedish system deletes convictions from their records after 5 years for a minor offence and 10 years for other offences.

**Switzerland:**

Criminal Record Certificates can be obtained from the Swiss Criminal Records Office. Application forms must be requested in writing from the Federal Office of Justice, Bundesrain 20, 3003 Berne, Switzerland.

**Turkey:**

Requests should be made to the Consulate General in London who will contact Turkey and undertake a criminal history check. The Consulate will verify the information before returning an English translated document. There is a charge for this service. Consulate General for the Republic of Turkey, Rutland Lodge, Rutland Gardens, London SW7 1BW (020 7591 6900) or [turkishconsulate@btconnect.com](mailto:turkishconsulate@btconnect.com)

## **Additional EU Countries and their Criminal Background Checks**

### **Bulgaria**

Unable to find any details on Bulgarian police checks or certificates of good conduct. However, the Bulgarian embassy in the UK can provide some assistance in dealing with the local police authorities in Bulgaria. The Embassy is located at:

186-188 Queen's Gate  
London  
SW7 5HL  
Tel: 020 7584 9400  
Fax: 020 7584 9433

### **Greece**

Applicants can apply for a Greek Criminal Background Check. In order to do so they must contact the Ministry of Justice, Criminal Records Department, 96 Messoghion Street, 115 27 Athens. Alternatively assistance could be sought from the Embassy of Greece, which is located at 1A Holland Park, London, W11 3TP. Tel: 020 722 16467

### **Lithuania**

Police records are available from the Ministry of Internal Affairs, Ŗ ventaragio 2, Vilnius.

Applicants must submit a statement with their name, date and place of birth, and address. Applicants can also send the statement by mail and address it to the Office of Informatics of the Ministry of Internal Affairs, or they can bring the statement to the reception room of the Ministry of Internal Affairs. A prison record will be noted on the police certificate if applicable. The Ministry prepares the record in two weeks.

Further contact details:

#### **EMBASSY OF THE REPUBLIC OF LITHUANIA TO THE UNITED KINGDOM**

84 Gloucester Place  
London W1U 6AU , UNITED KINGDOM  
Tel.+44 20 7486 64 01  
Fax.+44 20 7486 64 03  
E-mail: amb.uk@urm.lt

### **Luxembourg**

Police records are available. Police and prison records ('Extrait de Casier Judiciaire') are available. Records are issued upon application at the Palais de Justice, Parquet General, 12, Cote d'Eich, L-1450 Luxembourg, Tel: +(352) 47-59 81-436. Opening hours are 8:30 - 11:30 and 2:00 - 5:00 p.m. Monday through Friday. Records are issued immediately and are free of charge if the record is negative. Individuals outside of Luxembourg can request records by mail.

The letter should state the purpose for which the record is being requested along with a copy of the applicant's identification card or passport.

Further contact details:

**Luxembourg Embassy**

27 Wilton Crescent  
London SW1X 8SD

Telephone: (020) 7235 6961

Fax: (020) 7235 9734

**Portugal**

Police records (Certidao de Registo Criminal) are issued by the Direccao Geral de Administracao da Justica, Avenida 5 de Outubro 125, 1050, Lisbon, to people 16 years of age or over, regardless of their place of birth or residence. Requests are processed and available immediately. Validity is for three months as of the date of issuance. If the above record reveals conviction, a complete record may be obtained from the Presiding Judge of the Court where the fine or sentence was imposed. The procedure is the same for resident non-nationals. Former residents and Portuguese nationals applying from abroad should submit their requests through the nearest Portuguese Embassy or Consulate. Processing time for out of country requests is approximately one month.

However, one source has stated that obtaining criminal records from the Criminal Identification Services Directorate is 'a complex process' and best initiated through the Portuguese Embassy.

Portuguese Embassy  
11 Belgrave Square  
London  
SW1X 8PP

**Romania**

Police certificates are issued by the local police authorities.

Individuals residing in Romania may apply for a police certificate in person in Bucharest at the Police General Inspectorate (Inspectoratul General al Politiei), or at their local police station. Local police stations only issue police certificates for individuals born or residing in their jurisdiction. The processing time for an application is ten to thirty days. Police certificates may be requested in person or by another person with power of attorney from the applicant. Romanian citizens residing abroad and aliens who lived in Romania for more than a year may apply for a police certificate in one of two ways. They may apply at the Romanian Embassy in the country of their residence by filling out an application form, submitting a copy of the applicant's passport, and paying a 30 USD consular fee. The processing time for

this is 30 days. Alternatively, they may sign a power of attorney at the Romanian Embassy for another person to apply in person on their behalf at the Inspectoratul General al Politiei in Bucharest. If notarized by a notary public in a member country of the Hague Convention on Legalization of Foreign Public Documents, the power of attorney must bear the Hague Convention Apostille.

The Inspectoratul General al Politiei also offers an express service for obtaining police certificates. For a nominal fee (5 Lei and the purchase of a fiscal stamp, 1 Leu) an applicant in Bucharest can receive the police certificate in three to five working days.

If you are attempting to acquire a criminal record certificate from the General Inspectorate of the Romanian Police in Bucharest whilst living in the UK, it is again advised that you begin by contacting the Romanian Embassy in London.

Embassy of Romania,  
Arundel House,  
4 Palace Green,  
London,  
W8 4QD  
020 7937 9666

## **Slovakia**

Police clearance is available and reliable in Slovakia. Application for police clearance must be accompanied by an identification document, birth certificate and fee. The records are indexed by name, date and place of birth. An application may be filed either in Slovakia or at the Slovak Embassy abroad, and is issued to each applicant over 15 years of age. Processing time for foreign nationals in Slovakia is approximately one week. If the application is filed from abroad, it takes longer.

Police clearances are issued by local regional branches of the Slovak General Prosecution, located in each regional city. Purge of records is possible upon request, based on conditions specified in the criminal act.

Contact details for the Slovak General Prosecutor's Central Office:

Register Trestov  
Generaina Prokuratura  
Kvetna 13  
814 21 Bratislava I  
Slovakia

Alternatively you can seek help from the Slovakian embassy in the UK:

Embassy of the Slovak Republic,  
25 Kensington Palace Gardens,  
London,  
W8 4QY  
Tel: 020 7313 6470



## **Slovenia**

No information is available on Slovenian police checks at this time. However, the Slovenian Embassy will help you acquire the relevant details from local police authorities.

### **Slovenian Embassy in London**

10 Little College Street,  
London SW1P 3SJ.

Tel: 020 7222 5400

Fax: 020 7222 5277

# The Age of Consent In Europe

## Austria

The general age of consent in Austria is **14**, as specified by Section 206 of the penal code. Paragraph 4 of Section 206 defines a close-in-age exception of max. three years.

Additionally, Section 207b of the penal code contains an exception to the general age of consent: if one of the partners is younger than 16 years of age and “not sufficiently mature to understand the significance of the act”, then the act is punishable.

### History

The Austrian Criminal Code previously specified 18 as the age of consent for homosexual sex in which the other partner was aged 14–18, while no equivalent provision existed for heterosexual sexual conduct; this was Section 209 of the Criminal Code. In November 1996, an amendment was put before the Austrian Parliament to remove Section 209; but the vote ended in a draw, and the amendment failed to pass. In July 1998, a similar amendment was put forward; it was voted down by the conservative majority. Section 209 came into force when homosexuality between males became legal in 1971.

On 24 June 2002, the Austrian Constitutional Court ruled that Section 209 was unconstitutional. The Section was later repealed on 14 August 2002. On 9 January 2003, the European Court of Human Rights held, in *L & V v Austria*, that Section 209 violated Articles 8 and 14 of the European Convention on Human Rights.

## Belgium

The age of consent in Belgium is **16**, as specified by Article 372, which reads:

*"All indecent assaults on modesty committed without violence or threat, by a person or by aiding the person, of a child of either sex, **aged less than sixteen**, will be punished by imprisonment (of five years to ten years).*

### History

The Belgian Criminal Code previously specified an age of consent of 18 for homosexual sex. This provision - Article 372(2) - was repealed in 1985.

## Bulgaria

The age of consent in Bulgaria is **14**, as specified by Articles 149 and 151 (1). However Article 151(2) has a provision for those who are over 14 and do "not understand the characteristics or the importance of the act."

Art. 151. (1) Who copulates with a person who **has not accomplished 14 years of age**, inasmuch as the act does not constitute a crime according to art. 152, shall be punished by imprisonment of two to five years.'

Art. 149. (1) Who commits an act in order to arouse or satisfy a sexual desire without a copulation regarding a person who **has not accomplished 14 years of age** shall be punished for fornication by imprisonment of up to five years.

## **Cyprus**

The age of consent for all sexual conduct in Cyprus under the 2002 *Criminal Code* is **17**, regardless of sexual orientation and/or gender.

### **History**

Until 1998, homosexual acts between men were entirely forbidden under Section 171 (1929). In 1989, Alecos Modinos, president of the Cypriot Gay Liberation Movement, brought a case to the European Court of Human Rights. In 1993, the Court held that the prohibition of homosexual acts was a violation of Article 8. In January 1995, the Cypriot Government introduced a Bill in the Cypriot Parliament which would have abolished the ban. Strong opposition from the Church meant the Bill stalled when referred to the Parliament's Legal Affairs Committee. The European Commission repeated its warning that Cyprus must follow the Court's ruling. In May 1997, again a government measure to repeal the ban failed because of the strength of the opposition. In April 1998, the Council of Europe set a deadline for compliance of 29 May 1998 and on 21 May 1998, the House of Representatives voted 36 to 8 in favour legalising homosexual acts. However it was set at 18 while heterosexual acts remained at 16.

In 2002, under pressure from the EU the parliament finally ended the disparate provisions and changed the age of consent to 17 for both hetero and homosexual acts, under a new *Criminal Code*.

### **Northern Cyprus**

Unilaterally declared Turkish Republic of Northern Cyprus has the age of consent for females at **16** as designated in the Penal Code (*Ceza Yasası*, Art. 154). Sexual contact with a female between 13 and 16 years of age is considered a misdemeanour (*Ceza Yasası*, Art. 153). There is no age of consent determined for males and Northern Cyprus maintains sodomy laws abolished in the Republic of Cyprus, making sexual contact between males illegal and perpetrators of "sexual acts against the order of nature" (both penetrating and receiving) are punished with up to 5 years of imprisonment (*Ceza Yasası*, Art. 171; cf. Section 171 of the Criminal Code of Cyprus).

## Czech Republic

The age of consent in the Czech Republic is **15**, as specified by the Czech Penal Code, Section 242, which reads: "A person who has sexual intercourse with a **child under fifteen (15) years** of age or who sexually abuses such a person by other way shall be sentenced to imprisonment for at least one and at most eight years."

### History

Until 1961, homosexual acts were illegal. The new Penal Code, introduced in that year, decriminalised homosexual acts but specified an age of consent for such acts of 18. In 1990, this, and other discrepancies, were removed and the age of consent was reduced to 15, in line with heterosexual acts.

## Denmark

The age of consent in The Kingdom of Denmark is **15** as specified by Section 222, which reads: "Any person who has sexual intercourse with any child **under the age of fifteen** will be liable to imprisonment for any term not exceeding eight years."

### History

Male homosexual acts were legalised in Denmark (lesbianism was never illegal) with an age of consent set at 18, after a major reform of the Penal Code in 1930; At the same time the age of consent for heterosexual acts were raised from 12 to 15. In 1976, the age of consent was equalised at 15 for all acts. But sex with a child under the age of 12 gives double punishment, and sex with a child at 15, 16 and 17 is illegal for a person in charge of this child.

Until 1866, interaction "against nature" [anal intercourse] was punishable with the stakes. However, until the late 1700s the rule was never used and when it came into rule, the convicts were always pardoned to 7 years in jail - exactly the punishment introduced in the Penal Code 1866 but now only for homosexual acts.

## Faroe Islands

The age of consent in the Faroe Islands is **15**, the legal guidelines are as follows:

(Translated: "The person, who has sexual intercourse with a child **under the age of 15**, will be punished with up to six years in jail.")

However it is 18 for those in a position of trust (E.g. teachers)

("The person, who has sex with a person below 18 years who is an adopted child, a stepchild, or a foster-child; or whose teaching or upbringing they have been trusted with, will be punished with up to 4 years in jail.")

## Estonia

The age of consent in Estonia is **14**, as specified by Section 145 (Sexual intercourse with a child) which reads: "*An adult person who engages in sexual intercourse with a person of **less than 14 years** of age shall be punished by up to 3 years' imprisonment.*"

### History

Until 1992, male homosexual sex was illegal, the Estonian Penal Code, Article 118, forbidding "anal intercourse between men". Due to regaining independence from USSR in 1991, the age of consent for male homosexual intercourse was fixed at 16, whereas the age for heterosexual intercourse was 14. The age of consent was equalised in 2001 when the law was amended, specifying an age of 14 for sexual intercourse.

## Finland

The age of consent in Finland is **16**, as specified by Section 6(1) (Sexual abuse of a child) which reads: "*A person who has sexual intercourse with a **child younger than sixteen years** of age ... shall be sentenced for sexual abuse of a child to imprisonment for at most four years.*"

The sexual act may not be punishable if "there is no great difference in the ages or the mental and physical maturity of the persons involved".

### History

Until 1971, homosexual acts were prohibited. After decriminalisation, the age of consent was set at 18 for homosexual acts, and 16 for heterosexual acts. In 1998, the age of consent was equalised to 16 for all sexual acts; although the Finnish Government had proposed an age of consent of 15, the Parliament chose an age of consent of 16 instead.

## France

The age of consent in France is **15**, as specified by Article 227-25, which reads: "The commission without violence, constraint, threat or surprise of a sexual offence by an adult on the person of a **child under fifteen years** of age is punished by five years' imprisonment and a fine of €75,000."

### History

Male homosexual acts were illegal until 1791, when the ancient sodomy laws were dropped from the Criminal Code of that year. This continued to be the case under the Napoleonic Code of 1810. In 1942, the age of consent for homosexual acts was set at 21, while that for heterosexual acts was 13. The latter was increased to 15 in 1945. In 1978, the age for homosexual acts was lowered to 18. In 1981, it was lowered to 15, in line with that for heterosexual acts.

However, between 1977 and 1979, while a change in the French Penal Code was under discussion in the Parliament of France, a number of French intellectuals, including prominent names, signed petitions and open letters defending either the abolition of age of consent laws or the release of individuals arrested under charges of statutory rape.

## Germany

The age of consent in Germany is **14**, *as long as* a person over the age of 21 does not exploit a 14–15 year-old person's lack of capacity for sexual self-determination. In this rare and special case, a conviction on an individual over the age of 21 requires a complaint from the younger individual; being over 21 and engaging in sexual relations with a minor of that age does not constitute an offense in and of itself. Otherwise the age of consent is **16**, although provisions protecting minors against coercion apply until the age of 18.

As specified by Sections 176 (Sexual abuse of children) and 182 (Sexual abuse of youths), which read:

§ 176: "(1) Whoever commits sexual acts on a person **under fourteen (14) years of age** (a child) or allows them to be committed on himself by the child, shall be punished by imprisonment from six months to ten years [...]"

§ 182: "(2) A person over twenty-one years of age who abuses a person **under sixteen years of age**, in that he: 1. commits sexual acts on the person or allows them to be committed on himself by the person; or 2. induces the person to commit sexual acts on a third person or to allow them to be committed on the person by a third person, and thereby exploits the victim's lack of capacity for sexual self-determination, shall be punished with imprisonment for not more than three years or a fine. [...] **the act shall only be prosecuted upon complaint**, unless the prosecuting authority considers ex officio that it is required to enter the case because of the special public interest therein. [...] the court may dispense with punishment pursuant to these provisions if, in consideration of the conduct of the person against whom the act was directed, the wrongfulness of the act is slight."

## History

The current ages of consent of 14 and 16 in Germany were set following a post-reunification penal law reform in 1994. While sexual acts with children under 14 had long been illegal both in West Germany and the German Democratic Republic, as far as minors above 14 were concerned, the penal code in West Germany merely defined sexual acts with an **unblemished girl under the age of 16** as punishable. In the GDR, by contrast, sexual acts with **persons of the opposite sex** between the ages of 14 and 16 were punishable if their *moral immaturity* was exploited by using *gifts, the promise of benefits or similar methods of persuasion to initiate intercourse or actions similar to intercourse*. As a compromise to unite and keep with legal traditions of both countries, the current minimum age of 14 for all of Germany was introduced, and sexual acts committed by a person above 21 with a minor under 16 involving exploitation of the minor's individual lack of capacity for sexual self-determination were made punishable.

Homosexuality was illegal in West Germany until 1973 under §175 of the country's criminal code; following two penal law reforms in 1969 and 1973, only male homosexual acts were punished, if they were performed with a minor under the age of 18. §175 was abolished in 1994 in favor of the above mentioned, gender-neutral uniform ages of consent. In the GDR, homosexual acts among both male and female adults over 18 were legalized in 1968; homosexuality was completely legalized in 1988, when § 151 of East Germany's criminal code was repealed.

## **Greece**

The age of consent in Greece is **15**.

The general provision for age of consent in Greece is 15 as specified by Section 339(1) of the Penal Code, which reads:

*"One who commits an indecent act with a person under fifteen years of age, or causes this person to commit or undergo such an act through deception, is punished as follows..."*

However, Article 347 holds a further prohibition of "seducing" a young male person if the actor is an adult (amongst other prohibitions regarding positions of authority and acts of lewdness). In Greek law the age of majority is set at 18. This effectively sets the age of consent for male homosexual activity to 17, with a close in age exception for those older than 15 and younger than 18.

## **Hungary**

The age of consent in Hungary is **14** as specified by Section 201 (Seduction), which reads: *"The person who has sexual intercourse with a person who has not yet completed his 14th year, as well as the person who has completed his 18th year and engages in fornication with a person who has not yet exceeded his 14th year of age, commits a felony and shall be punishable with imprisonment from 1 to 5 years."*

## **History**

Until 1961 homosexual acts were illegal. After decriminalisation the age of consent for homosexual acts was 20 and remained so until 1978. From then until 1999 the age of consent for such acts was 18, as specified by Section 199. In 2002 the Hungarian Constitutional Court repealed Section 199 and the age of consent for homosexual acts was lowered to 14 in line with heterosexual acts.

## **Ireland**

The age of consent in Ireland is **17** for carnal contact, with non-carnal contact being allowed at **15**, regardless of sexual orientation and/or gender (although this relies on an interpretation of what "carnal contact" and "non-carnal contact" refers to). Sex with a minor over the age of 15 carries a lower sentence than that for when the

minor is below 15, although the punishments were raised in the *Criminal Law (Sexual Offences) Act 2006*.

### **History**

The heterosexual age of consent was set in the *Criminal Law Amendment Act 1935*. Homosexuality was decriminalised in 1993, following the ruling of the European Court in *Norris v. Ireland* with the *Criminal Law (Sexual Offences) Act 1993*.

## **Italy**

The age of consent in Italy is **14** years, with a close-in-age exception that allows those aged 13 to engage in sexual activity with partners who are less than 3 years older. The age of consent rises to 16 if one of the participants has some kind of influence on the other (e.g. teacher, tutor, adoptive parent). Not knowing the fact that the victim is underage is not a legal defense. It is also illegal to perform sexual acts in the presence of a minor with the intent of allowing the minor to witness the acts, even if they do not take an active part.

## **Latvia**

The age of consent in Latvia is **16**. Sexual activities that do not involve vaginal intercourse can occur from age 14 (including same sex acts). Under some conditions a kind of close in age exception for those between 14 and 16 exists for vaginal intercourse.

The main legislation is specified by the Latvian Criminal Law, Section 161 (Sexual Intercourse, Pederasty and Lesbianism with a Person who has not Attained the Age of Sixteen Years), which translated reads: "*For a person who commits an act of sexual intercourse, or pederastic, lesbian or other unnatural sexual acts of gratification, with a person who has not attained the age of sixteen years and who is in financial or other dependence on the offender, or if such offence has been committed by a person who has attained the age of majority, the applicable sentence is deprivation of liberty for a term not exceeding four years.*"

### **History**

Until 1992, male homosexual acts were illegal under Section 124.1 of the Latvian Criminal Code. This provision was repealed by the Latvian Parliament in 1992 and the age of consent for male homosexual acts was set at 18. In 1998, the Latvian Parliament adopted a new Criminal Code which contained a complex system of sexual offences: the age of consent for all sexual acts other than vaginal intercourse was 14; for vaginal intercourse it was 14 if the other person was under 18, and 16 if the other person was over 18. In 2001, the law was amended to clarify the situation and confirm that the age of consent was 14 (or 16 if the person was older than 18) for all acts.



## **Lithuania**

The age of consent in Lithuania is **14**, as specified by the Lithuanian Criminal Code §153, according to which any sexual molestation or sexual relationships with a minor under 14 years are prohibited. The age of consent (14) is not set directly in this article of the Lithuanian criminal code, though. It was established by the Lithuanian case law. This means that both heterosexual and homosexual acts are allowed once a child has reached the age of 14. There is an exception to this rule: §151(1)-2 of the Lithuanian criminal code prohibits parents, guardians, conservatives or other people who are ex officio directly responsible for the upbringing and supervision of a child to have any relationships of sexual kind with the child, if he or she has not yet reached the age of 18.

### **History**

Until 1993, male homosexual acts were prohibited under the Lithuanian Criminal Code, Article 1221, which was repealed in that year. The new law set an age of consent of 17 for male oral and anal intercourse, 16 for other male homosexual acts, and 14 for lesbian and heterosexual acts. In 2004, the law was amended to equalise the age of consent at 14 for all sexual acts.

## **Luxembourg**

The age of consent in Luxembourg is **16**, as specified by the Luxembourgish Penal Code, Article 372, which reads: "*All indecent assaults on modesty committed without violence or threat, by a person or by aiding the person, of a child of either sex, aged less than sixteen, will be punished by imprisonment of one to five years.*"

*The penalty will be imprisonment of five to ten years if the child was less than eleven years old."*

## **Malta**

The age of consent in Malta is **18**. Sexual activity - typically by people over 18 - with people between 12 and 18 can be considered *defilement of minors by lewd acts* or *corruption of a minor*, which, at the discretion of prosecutors and the courts, depending on the circumstances, may result in a conviction.

Art 201 of Chapter 9 of the Laws of Malta (*Presumption of violence in cases of carnal knowledge and indecent assault*) states:

*201. Unlawful carnal knowledge and any other indecent assault, shall be presumed to be accompanied with violence -*

*(a) when it is committed on any person under twelve years of age;*

*(b) when the person abused was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender.*

The punishment is imprisonment from three to nine years, with or without solitary confinement, as described in Art. 198 (*Rape or carnal knowledge with violence*). The punishment can be increased in certain cases described in Art. 202, such as when the person has not attained the age of nine years.

Art. 204 of Chapter 9 of the Laws of Malta (*Defilement of minors*) reads:

*203. (1) Whosoever, by lewd acts, defiles a minor of either sex, shall, on conviction, be liable to imprisonment for a term not exceeding three years, with or without solitary confinement:[]*

A number of aggravating circumstances exist to this blanket provision including: Abuse of parental authority or tutorship, where the victim is under the age of 12 and if the offence is committed by means of threats or deceit. There is no definition of how old the offender must be: Even another minor can be guilty of this crime, although there is no evidence that any such case has ever been prosecuted.

The age of majority is defined in Art 188 of Chapter 16 of the Civil Laws of Malta:

*188. (1) Majority is fixed at the completion of the eighteenth year of age.*

To apply Art. 203, there are requirements:

*For the completed offence and apart from the formal element of the offence, there must be the lewd act (atto di libidine) and the actual defilement. The lewd act may be committed either on the person or in the presence of the minor. All acts which, either by their very nature or of the circumstances in which they are performed, either are directed to the indulgence of the sexual appetite, either of the agent or of the victim, and are capable of arousing sexual interest of the victim, are lewd acts for the purposes of the offence in question.*

It is not necessary to have sexual intercourse or even sex to be prosecuted and convicted under this article; even a kiss has been deemed by the Maltese criminal courts as amounting to a 'lewd act', or sending SMS messages with sexual connotations.

The term "defile" must be put in context. In example: If a person is sexually mature (even if minor) then he/she cannot be defiled. In 2008 two brothers, aged 19 and 20, were found not guilty of defiling a girl, then aged 16. Their sexual encounters were consensual, and it was clear that the girl had had several previous sexual adventures with several youths. In 2007 a man of 30 was found guilty of defiling a boy, then aged 14. He had set up a situation in which the boy came to his apartment; as a result of both childish curiosity and what the court deemed to be the guile of the adult man, the boy remained in the apartment even while man first showered and then committed the lewd acts. There are also other cases, where offenders have been found guilty even though the circumstances were not clear, such as the case of a hotel manager aged 35 with a 14 year old girl on holiday, three boys aged 18, 19 and 20 with three 14-year-old girls or another hotel manager of 46 and a boy of 14, who had encounters over a longer time.

In the wording of the law there is no discrimination on the basis of sexual orientation. However, discrimination can result from selective enforcement with regard to individual cases. "This may therefore lead to a higher incidence of cases in which the minor and the perpetrator are of the same sex, given that there may be parents who would not resort to legal proceedings should their 17-year old child have sexual relations with another person of the opposite sex but would do so if the person is of the same sex."

Marriage is allowed as early as the age of 16, which would, in theory, allow a case to arise in which a wife (or husband) they press charges under this article. In practice, this problem has never arisen.

The concept of age-banding employed in for example Canada is not present in the Maltese legal system and sexual activity between one partner who is 17 years old and another who is 18 years old can constitute defilement of minors, depending on the circumstances, with no exception being allowed purely on the basis of the proximity of their ages.

## **Netherlands**

The age of consent in the Netherlands is **16**, as specified by the Dutch Criminal Code, Articles 245 and 247, which read: (Art 245) *"A person who, out of wedlock, with a person who has reached the age of twelve but has not reached sixteen, performs indecent acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than eight years or a fine of the fifth category.";* and (Art 247) *"A person who, with a person whom he knows to be unconscious or physically unable to resist or to be suffering from such a degree of mental defect or mental disease that he is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, performs indecent acts, or who, with a person who has not yet reached the age of sixteen (16) years, out of wedlock, performs indecent acts, or by whom the latter is enticed into performing, or submitting to such acts, out of wedlock, with a third party, is liable to a term of imprisonment of not more than six years or a fine of the fourth category."*

Sexual acts between persons who have reached the age of 12 years, however, are widely tolerated by the courts and the Dutch Public Prosecution Service if the difference in age between the two partners isn't too great. The latter is determined at the discretion of the court, though usually three years is deemed acceptable.

## **Norway**

The age of consent in Norway is **16**, as specified by the Norwegian General Civil Code §196 which reads: *"Any person who commits or is accessory to another person's committing an act of indecency with any person who is under 16 years of age shall be liable to imprisonment for a term not exceeding five years."* Aggravating circumstances such as recidivism, multiple perpetrators, and unusual degree of degradation and pain, or physical harm may raise the maximum penalty to 15 years.

The sexual act may not be punishable if those involved are of a "similar age or development".

## **Poland**

The age of consent in Poland is **15**, as specified by the Polish Criminal Code, Article 200, which reads:

*"Article 200. § 1. Whoever subjects a minor under 15 years of age to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years."*

*"§ 2. The same punishment shall be imposed on anyone, who records pornographic material with the participation of such a person."*

### **History**

Poland never imposed laws against homosexuality. However, in 1876 homosexuality was criminalised by the laws of occupying countries (see Partitions of Poland). In 1932 the first Polish Criminal Code after regaining independence was introduced, making the age of consent of 15 for all sexual acts, regardless of sexual orientation.

## **Portugal**

Since September 2007, the age of consent laws of Portugal states **14**, regardless of sexual behaviour, gender and/or sexual orientation, as a result of the constitutional court of Portugal ruling on constitutional protection that explicitly includes "sexual orientation", formally into the Constitution of Portugal back in 2004. Since September 2007, the age of consent was formally equalised as part of the Penal Code of September 2007. Although the age of consent is stipulated at 14 in Portugal, the legality of a sexual act with a minor between 14 and 16 is open to legal interpretation since the law states that is illegal to perform a sexual act with an adolescent between 14 and 16 years old "by taking advantage of their inexperience".

### **History**

Homosexual acts were legalised for the first time in Portugal in 1852, with an equal age of consent at that time - although homosexuality was again re-criminalised in 1912. They were decriminalised a second time in 1945 and an age of consent was set at 16, in line with heterosexual activities. In 1995, a new Penal Code was introduced with "different circumstances" for different sexual behaviours. Since September 2007 the age of consent regardless of sexual behaviour, gender and/or sexual orientation is **14**.

## **Romania**

The age of consent in Romania is **15**, as specified by the Romanian Criminal Code, Article 218 (Sexual intercourse with a minor), which reads: *"Sexual intercourse, of any nature, with a person of the other sex or of the same sex, who has not reached the age of*

*15, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights."*

Having sex with a minor over the age of 15 until the age of 18 is statutory rape if the sexual act is done by two categories: I. The person abused his or her authority or influence over the victim or the victim's trust. II. The person is the tutor, curator, supervisor, providing care, medication or education and using that capacity over the victim to gain consent.

## **Slovakia**

The age of consent in Slovakia is **15**, as specified by the Slovak Criminal Code, Section 201.

### **§ 201 Sexual abuse**

*1. Any person, who has sexual intercourse with a person **less than fifteen years** of age or who subjects such person to other sexual abuse, shall be liable to a term of imprisonment of three to ten years.*

### **History**

Until 1961, homosexual acts were prohibited, however the new Criminal Code of that year decriminalised such behaviour. However, under Paragraph 244, the age of consent for homosexual acts was set at 18, whereas it remained 15 for heterosexual acts. In 1990, the Penal Code was amended to treat hetero- and homosexual acts equally; Paragraph 244 was repealed and the age of consent became 15 for all.

## **Slovenia**

The age of consent in Slovenia is **15**, as specified by the Slovenian Penal Code, Article 183, Section 1, which reads: "*(1) Whoever has sexual intercourse or performs any lewd act with a person of the same or opposite sex under the age of fifteen (15) years where there is a marked discrepancy between the maturity of the perpetrator and that of the victim shall be sentenced to imprisonment for not less than six (6) months and not more than five (5) years. "*

### **History**

Until 1959, male homosexual acts were prohibited, as was the case in all of former Yugoslavia. A new Penal Code was introduced in 1977 which decriminalised homosexual acts and all discriminatory provisions were removed. In 1995, the age of consent was set at 14 for all acts. In 1999, the code was amended to raise the age of consent to 15 years and added the condition for "*a marked discrepancy between the maturity of the perpetrator and that of the victim*".

## Spain

The age of consent in Spain is **13**, as specified by the Spanish Penal Code, Article 181(2). However, if deceit is used in gaining the consent of a minor under 16 years an individual can be charged under Article 183(1) upon parental complaint.

*"181(1) El que, interviniendo engaño, cometiere abuso sexual con persona mayor de trece años y menor de dieciséis, será castigado con la pena de prisión de uno a dos años, o multa de doce a veinticuatro meses.*

*(Approximate translation: An individual who, by use of deceit, commits sexual abuse with a person over thirteen years and under sixteen years, will be punished with imprisonment for one or two years, or a fine equivalent to twelve to twenty-four months...)*

*(2) A los efectos del apartado anterior, se consideran abusos sexuales no consentidos los que se ejecuten sobre menores de trece años, sobre personas que se hallen privadas de sentido o de cuyo trastorno mental se abusare."*

*(Approximate translation: To the effects of the previous section, it is considered unconsenting sexual abuse if sexual acts are committed against persons under thirteen years, unconscious persons or persons whose mental illness is taken advantage of....)"*

## History

Homosexual acts had been legal in Spain from 1822 to 1933, (with the exception of the offence of "habitual homosexual acts" in the years 1928-32) and even not specifically mentioned there, some homosexuals were arrested under the "Ley de Vagos y Maleantes" (Law against the Lazy and common delinquents) during the 2nd Spanish republic. Homosexual acts were illegal during Francisco Franco's regime, which created a specific law against them (Ley de Peligrosidad Social). A new Criminal Code was introduced in 1995 which specified an age of consent of 12 under Article 181f for all sexual acts; and this was raised to 13 in 1999.

## Sweden

The age of consent in Sweden is **15**, as specified by the Swedish Penal Code, Chapter 6 (On Sexual Crimes). The age of fifteen is referred to several times, for example in Section 4, which reads: "A person who has sexual intercourse with a child under fifteen years of age or who with such a child carries out another sexual act that, having regard to the nature of the violation and the circumstances in general, is comparable to sexual intercourse, shall be sentenced for rape of a child to imprisonment for at least two and at most six years."

There is a *position of trust* rule in which the age of consent is raised to 18. The section mentioned above continues: "The same applies to the person who carries out an act referred to in the first paragraph to a child more than fifteen years of age but less than eighteen years of age and who is offspring to the perpetrator or in the perpetrator's care or in a similar relationship to the perpetrator, or for whose care or guardianship the perpetrator is responsible due to the decision of a government agency."

There is also a *close in age exception* (Chapter 6, Section 14) "*...not sentenced if it is obvious that the act is no violation of the child considered the small difference in age between the person who carries out the act and the child and other circumstances.*" In a verdict of March 30, 2007, the Supreme Court found that a 17 year old boy had not committed a criminal act by having sexual intercourse with a girl 14 years and 7 months old. (Case B 415-07)

### **History**

Homosexual acts between men were prohibited in Sweden since 1864, then in 1944 homosexual acts between men became legal - but with a higher age of consent of 20 than for heterosexual/lesbian acts which was always set at 15. The age of consent for gay men got lowered again in 1966 to 18 (still 15 for lesbians and heterosexuals). Then the age of consent was finally equalized to 15 regardless of sexual orientation and/or gender in 1978.

## **Switzerland**

The age of consent in Switzerland is **16**, as specified by the Swiss Federal Criminal Code, Article 187(1). However, there exists a close in age exception if the difference between the ages of the participants is three years or less {Art 187(2)}.

## **Turkey**

The age of consent in Turkey is the age of majority (set at **18**), as specified by the 2004 Turkish Penal Code (*Türk Ceza Kanunu*, Art. 103 & 104). The breach is punishable from 6 months to 22.5 years of imprisonment depending on the age of the minor, age of the perpetrator and whether the perpetrator is a parent, guardian, caregiver or tutor. The legislation applies to all, regardless of sexual orientation and/or gender.

### **History**

The former Turkish Penal Code of 1927 punished having sex with a minor as statutory rape.

## **United Kingdom (and dependencies)**

The United Kingdom of Great Britain and Northern Ireland is a sovereign state consisting of the jurisdictions of England and Wales, Scotland and Northern Ireland. UK national age of consent legislation does not apply to its dependencies.

### **England and Wales**

The age of consent in England and Wales is **16**, as specified by the Sexual Offences Act 2003 (section 9). However it is illegal for a person to engage in sexual activity with an individual under the age of 18 if they are in a position of trust in relation to that individual (teacher, warder, carer, guardian, etc).(section 16)

## History

The age of consent for heterosexual acts in England was set at 12 in 1275. It was lowered to 10 in the latter part of the 16th century. The wording was along the lines of "It shall be deemed illegal to ravage a maiden who is not of age" - at the time "of age" being 12. Therefore, there was, and is, technically no age of consent for the male participant - unless the female participant is an adult in which case laws pertaining to sex with a minor and so on come into force. The English law became applicable in Wales following the Acts of Union (1536 and 1543). In medieval Welsh law there was no actual equivalent of the concept of the age of consent as such, but a girl was marriagable at 12-14 (the onset of puberty) and a fine was payable for the taking of a girl's maidenhood by force; the rules varied according to status and may not have been applied rigidly to commoners.

A concern that young girls were being sold into brothels led Parliament to raise the age of consent to 13 in 1875 under the Offences against the Person Act 1875. After W. T. Stead's *Maiden Tribute* articles, the Criminal Law Amendment Act 1885 raised the age of consent to 16.

Male-male homosexual activity had been illegal since the Buggery Act 1533 and this was reinforced in the Offences against the Person Act 1861 and the Criminal Law Amendment Act 1885 extended buggery laws to include any kind of sexual activity between males. It is common folklore that an amendment that would have criminalised lesbian acts was rejected by Queen Victoria because she refused to believe that some women did such things; but it is likelier that those presenting the amendment excluded it (as did the House of Lords 40 years later) on the assumption that it would give women ideas.

Male homosexual acts were decriminalised under the Sexual Offences Act 1967, Section 1, although the age of consent for such acts was set at 21, whereas the age of consent for heterosexual acts was 16. However, the legislation applied only in England and Wales.

In 1994, on the second reading of the Criminal Justice and Public Order Act 1994, the Conservative Member of Parliament Edwina Currie introduced an amendment to lower the age of consent for homosexual acts to 16, in line with that for heterosexual acts; the amendment was defeated by 308 votes to 280. A compromise amendment that lowered the age of consent to 18 was accepted by 427 votes to 162. Also during the readings were motions to equalise the age of consent to 17 for all, to maintain the age of consent for homosexual acts to 21, and a further attempt to lower the age of consent to 16, all of which were rejected.

In 1997, the European Court of Human Rights case of *Sutherland v the United Kingdom* held that a higher age of consent for homosexuals than for heterosexuals was a breach of Article 14 in conjunction with Article 8 of the Convention. In response, the Government introduced the Crime and Disorder Bill which contained a provision lowering the age of consent for homosexual acts to 16. Though accepted by the House of Commons, the provision was rejected by the House of Lords. The Sexual Offences (Amendment) Bill, introduced in 1998, contained a similar provision, but once again it was rejected by the House of Lords. The Bill was reintroduced in



2000 and, despite opposition from the House of Lords, was passed under the Parliament Act 1911 (which allows the House of Commons to overrule the House of Lords under certain circumstances). As the Scottish Parliament had been established prior to the reintroduction of the Bill, and the relevant legislation was a devolved issue, the consent of that Parliament under the Sewel Convention was required – had that consent not been granted, the Scottish provisions would have had to be removed and it would not have been possible to use the Parliament Act. The Sexual Offences (Amendment) Act 2000 thus equalised the age of consent at **16** for all sexual acts (including, for the first time, lesbian acts).

## **Scotland**

The age of consent in Scotland is **16**, regardless of sexual orientation and/or gender, as specified by the **Sexual Offences (Scotland) Act 2009**

### **History**

Male homosexual acts were illegal in Scotland until 1980 when they were decriminalised by the Criminal Justice (Scotland) Act 1980, Section 80, which specified an age of consent of 21. The Criminal Law (Consolidation) (Scotland) Act 1995 lowered the age of consent of 18 and this was further lowered to 16 by the Sexual Offences (Amendment) Act 2000 described above. Male rape is recognised along with a complete range of sexual offences under the **Sexual Offences (Scotland) Act 2009** effective from 1 September 2010 - until then current laws still apply and sexual offences in Scotland are still a form of common law sexual assault.

## **Northern Ireland**

The age of consent in Northern Ireland is **16**, regardless of sexual orientation and/or gender, as specified by the *Sexual Offences (Northern Ireland) Order 2008*. The reason the age of consent was lowered to 16 in 2008 with the **Order** was to bring it in line with the rest of the UK; Criminal Justice Minister Paul Goggins said there was no compelling reason for the age to be different in Northern Ireland than elsewhere.

### **History**

Gay male sexual conduct was illegal in Northern Ireland until 1982, when they were decriminalised by the *Homosexual Offences (Northern Ireland) Order 1982*, which specified an age of consent of 21 - in line with the rest of the UK at the time. The change was a result of the judgement in the European Court of Human Rights case of *Dudgeon v United Kingdom* (1981) in which the ECHR held that a prohibition on homosexual acts was a breach of Article 8 of the Convention. The age of consent for gay male sexual conduct was lowered to 18 in 1994 when the *Criminal Justice and Public Order Act 1994* was implemented (as to be in line with England and Wales). The age of consent in 2001 was then lowered to 17 for gay male sexual conduct - so that was in line with heterosexual and lesbian sexual conduct, by the *Sexual Offences (Amendment) Act 2000*, Section 1. Then in 2008 the age of consent for all individuals under an **Order** (mentioned above) was lowered to 16 so it was inline with the rest

of the UK. Prior to 2008, the age of consent in Northern Ireland was always 17 for heterosexuals and lesbian sexual conduct.

## **Gibraltar**

In Gibraltar, a British overseas territory, the age of consent is **16** for heterosexual and female homosexual acts, while the age of consent for male homosexual acts is maintained at **18**.

### **History**

Male homosexual acts have been decriminalised in Gibraltar since 1993, where the above conditions were set. An equal age of consent of 16 for all may be coming soon.

### **Current developments**

The "equal" or "uniform" age of consent legislation in Gibraltar is awaiting a "requête". In the past four years very fierce debates have been held in Gibraltar regarding a "uniform" age of consent of 16, even from the Council of Europe and Gordon Brown in the UK supporting an equal age of consent for all regardless at 16 in all UK Territories. Since 2001, a proposed law has been introduced into the Gibraltar Parliament everytime to equalize the age of consent to 16 for everyone regardless. A "requête" called the *Sexual Offences (Equal Age Of Consent) Bill 2010* was introduced and has always failed to pass or get an approval, in 2010 it maybe likely to be passed by the middle or the end of the year. Currently under all these; Intervention by the Prime Minister of the UK, constitutional mandates, court cases, treaties with the EU, the Council of Europe, law(s) or legislation under investigation, intervening, reviewing, accessing and maybe getting equalised very soon.

## **Guernsey**

The age of consent in the Bailiwick of Guernsey (a Crown Dependency including Alderney, Herm and Sark) is **16**, regardless of gender and/or sexual orientation since March 2010 by a law that was passed.

### **History**

In 1983, male homosexual acts were decriminalised with the age of consent set at 21. In 1999 the age of consent for male homosexual acts was lowered to 18. The age of consent for male homosexual acts was equalised at 16 for everyone in March 2010 by a recently passed law.

### **Current developments**

The age of consent legislation in the Bailiwick of Guernsey (including Alderney, Herm and Sark) has only just recently been made equal. A new age of consent law at 16 for everyone has been debated by the local parliament and recently passed into law in March 2010

## **Isle of Man**

The age of consent in the Isle of Man, a Crown Dependency, is **16**, last amended in September 1, 2006.

### **History**

Prior to September 1992, sodomy was illegal, then since 1 October 1992 under the *Sexual Offences (Isle Of Man) Act 1992* (after assent) the age of consent was set at 21 for sodomy (in line with the UK at that time). Then in 2001, the age of consent for male homosexual acts was lowered to 18 under the *Criminal Justice Act 2001*. In 2006, under the *Sexual Offences (Amendment) Act 2006* the age of consent was lowered to **16**, became gender-neutral for all sexual conduct, regardless of sexual orientation and/or gender.

## **Jersey**

The age of consent in the Bailiwick of Jersey, a Crown Dependency, is **16**, last amended in 2007.

### **History**

Prior to 1990, sodomie (sodomy) was illegal in Jersey for both men and women until 1990 although the age of consent for homosexual acts other than sodomy was the same as for heterosexual acts. In 1990 the age of consent for sodomy between consenting males was set at 21 (the UK at that time maintained the age of consent of 21 for all homosexual acts between males). In 1995, the sodomie AoC became 18 (under the *Sexual Offences (Jersey) Law 1995*). In 2007, the age of consent was lowered to **16**, became gender-neutral for all sexual conduct (including sodomie); regardless of sexual orientation and/or gender.

## **Vatican State**

There is an equal age of consent set at **12** years of age in *Art. 331 (1)*. When there is a relationship of dependence (like teacher/student, pastor/altar-boy, etc.) the age of consent is 15 years in *Art. 331 (2)*.

The criminal law was introduced 1929 and was the same law as the *Codice Penale* in Italy on 8 June 1929. Because of the death penalty, reintroduced in 1926 in Italy, the reference point was changed in 1969 to 31 December 1924, but this has no effect on the age of consent laws. The age of consent in the *Codice Penale* from Italy was changed in 1930, but this no longer had any effect on Vatican City. Vatican law provides that criminal suspects arrested in Vatican City are to be tried under Vatican law in Italian courts, while those who escape to Italy before their arrest are to be tried under Italian law, even if their alleged crime occurred on Vatican territory.

## **National Security Vetting (NSV)**

Above the CRB check (and advanced CRB) there is also the NSV vetting system, this is used for areas of work which are considered to be linked to National Security. The system applies to people in the following categories whose employment involves access to sensitive Government assets, Crown servants, members of the security and intelligence agencies; members of the armed forces; the police; employees of certain other non-government organisations that are obliged to comply with the Government's security procedures; employees of contractors providing goods and services to the Government. The NSV procedure ensures that anyone who goes through the process can be trusted with sensitive government information or property.

*NOTE: The NSV system is not used by other nations or as an EU wide checking system nor is it a replacement to the CRB, it is simply a higher level of vetting for used in Government issued work. However, it does prove that more detailed checks can effectively be carried out.*

### **How does the vetting system work?**

Candidates for jobs that provide access to sensitive information or sites are asked to complete one or more security questionnaires, which invite them to provide the personal details needed to enable the necessary checks to be carried out. Interviews may also be carried out. The depth of checks varies according to the level of regular access to sensitive information that the job entails.

### **How confidential is the vetting process?**

All personal information gathered during the vetting process is handled in the strictest of confidence by the vetting agencies. These bodies include The Defence Vetting Agency (DVA), The Foreign and Commonwealth Office (FCO) and the Metropolitan Police Service (MPS). In a very small number of cases, where serious risks have been identified, a case may be discussed with the Ministry of Defence, security and personnel authorities. In an even smaller number of cases, and only where the person being vetted agrees, line management may be given some relevant information and be asked to help manage the risk. There is an extremely remote possibility of disclosure of vetting information in connection with criminal or civil proceedings.

### **How do I get a security clearance?**

However, individuals and companies cannot ask for a Security Clearance unless they are sponsored, and you will not be sponsored unless they are contracted (or are in the process of being contracted) to work on one or more specific MOD / Government classified projects. For large contracts, an officer in the Defence Procurement Agency (DPA) or Defence Logistics Organisation (DLO) - typically a Project Officer will be your sponsor. For staff in sub-contracted organisations, sponsorship will be provided through the prime contractor.

### **Why can't I just apply for a security clearance?**

Security Clearance provides a certain level of assurance, at a point in time, as to an individual's suitability to have trusted access to sensitive information. It does not provide a guarantee of future reliability, and all security clearances are kept under review to ensure that the necessary level of assurance is maintained. This review is carried out by Government Departments and Government-sponsored contractors, who are responsible for the oversight and aftercare of individuals, granted a security clearance. This would not be possible in the case of private individuals. Security Vetting / Security Clearance is carried out to the following levels by approved government bodies.

Security Vetting / Security Clearance is carried out to the following levels by approved government bodies.

Levels of UK Clearance:

- DV / Developed Vetting
- SC / Security Check
- CTC / Counter Terrorist Check
- EBS / Enhanced Baseline Standard
- BPSS / Basic Personnel Security Standard
- NATO / NATO Cleared
- MPS / Metropolitan Police Service
- SIA / Security Industry Authority
- ECRB / Enhanced Criminal Records Bureau
- CRB / Criminal Records Bureau

## **FCO Services - National Security Vetting**

FCO Services are one of the contractors which provide various NSV checks. Their services include:

### **Developed Vetting (DV)**

This is the most comprehensive form of vetting and is aimed at personnel who require unrestricted or substantial access to Top Secret assets or secure environments. The checks include a number of in-depth personal interviews and references from people who are familiar with the character of the person being vetted.

We also offer Enhanced Developed Vetting, adding an additional level of interviews to the Developed Vetting process where customers require a more in-depth check of their potential or current employees.

### **Security Check (SC)**

This check is for personnel who require substantial access to Secret assets or occasional controlled access to Top Secret assets. This process involves security checks and credit referencing.

We also offer an Enhanced Security Check adding an additional level of investigation to the Security Check process where customers require more in-depth information on potential or current employees.

### **Counter - Terrorist Check (CTC)**

This check is for personnel employed in posts with proximity to public figures, access to information or material assessed to be of value to terrorists. Checks are made on criminal records and other security information.

### **Reviews**

Reviews are carried out on personnel who have been vetted previously. The process offers the opportunity to recheck personnel or to reconfirm the suitability of an individual who has previously held a security cleared role.

## **NATO Research**

NATO's recruitment procedure will employ people from numerous European countries, as such they carry out their own security vetting system.

**NATO** has four levels of security classification:

NATO RESTRICTED (NR)

NATO CONFIDENTIAL (NC)

NATO SECRET (NS)

COSMIC TOP SECRET (CTS).

NATO's clearance levels function independent of any clearance levels for other nations. However, it is understood that for most NATO nations, granting of a NATO security clearance is handled in a similar manner to that of obtaining a national security clearance. To this end we can see some areas in which a security vetting system can be implemented to include overseas workers, however, at this stage it is very small scale system undertaken solely by NATO. In order to further this research project I have included a copy of NATO's Security Questionnaire as it does provide us with a possible system for furthering this project.

## **NATO recruitment overview**

There are 169 British nationals directly employed at NATO (outside the UK's own Delegation to NATO) at the organisation's Headquarters in Brussels. This figure includes seconded military staff and civilians.

### **How UK Nationals can obtain security clearance for posts within NATO**

Everyone who works at NATO is security cleared. Security clearance is not required when you first apply to NATO, but before you can be formally offered a post in NATO you will need to have completed the comprehensive vetting process. This is vital to keep NATO secure.

UK nationals who have received a letter (from NATO Recruitment) saying they have been selected for further consideration for a NATO Grade A job should follow the process below to obtain this clearance.

### **Candidates for Grade A posts who have UK government security clearance at the correct level:**

1. ensure that you have put the level of your valid security clearance on your NATO application form (if you are unsure about this please contact NATO Recruitment); and
2. inform the UK Delegation to NATO of the following details:
3. your full name;
4. your place and date of birth;

5. details of your current employer (if seconded, your home Government department).
6. The UK Delegation Security Officer will then verify your current security clearance.

**Candidates for Grade A posts who do not have an existing UK government security clearance:**

1. If you do not have a current security clearance at the level required you will need to complete a Security and Financial Questionnaire. Using the links below you can access copies of these forms which you should print, complete by hand, and sign (using black ink).

**Important Notes**

In addition to this it is not possible to initiate the completion of this or any other security screening form unless and until you have received a formal nomination letter from NATO saying that the Secretary General has decided to give further consideration to your application for a post and directed you to this website.



Country	Population	Age of Consent	Rape	Rape of a Minor	Child Prostitution	Owning Child Pornography	Producing Child Pornography for Profit
Austria	8,372,930	14	1 – 10 years imprisonment Forced labour for 10 – 15 years	1 – 10 years imprisonment Forced labour for 15 – 20 years	1 – 10 years imprisonment 10 – 15 years imprisonment	Up to 2 years imprisonment	6 months – 5 years imprisonment
Belgium	10,827,519	16				1 month – 1 year imprisonment and a fine of 1 hundred – 1 thousand euros.	6 months – 2 years imprisonment and a 1 – 5 thousand euro fine.
Bulgaria	7,576,751	14	2 – 8 years imprisonment	10 – 20 years imprisonment	Up to 5 years imprisonment and 'public reprobation'	Up to 1 year imprisonment or a fine.	Up to 5 years imprisonment and a fine.
Cyprus	801,851	17	Life imprisonment	Life imprisonment	Up to 20 years imprisonment	Up to 10 years imprisonment	Up to 10 years imprisonment
Czech Republic	10,512,397	15	2 – 8 years imprisonment	5 – 12 years imprisonment	2 – 8 years imprisonment	Up to 1 year imprisonment and a fine	Up to 1 year imprisonment and a fine
Denmark	5,547,088	15	Up to 8 years imprisonment	Up to 12 years imprisonment	Up to 5 years imprisonment	Up to 1 year imprisonment or a fine	2 – 6 years imprisonment
Estonia	1,340,274	14	1 – 5 years imprisonment	6 – 15 years imprisonment	Up to 3 years imprisonment	Up to 1 year imprisonment	Up to 1 year imprisonment
Finland	5,350,475	16	1 – 6 years imprisonment	2–10 years imprisonment	Up to 1 year imprisonment or fine	Up to 6 months imprisonment or a fine	Up to 2 years imprisonment or a fine
France	64,709,480	15	Up to 20 years imprisonment	Up to 20 years imprisonment	10 years imprisonment and a 1.5 million euro fine	2 years imprisonment and a fine of 30,000 euros	3 – 5 years imprisonment and a fine between 45,000 – 75,000 euros
Germany	81,757,595	14	No less than 1 year imprisonment	6 months – 10 years imprisonment	Up to 5 years imprisonment or a fine	3 months – 5 years imprisonment	6 months – 10 years imprisonment
Greece	11,125,179	15	Up to 10 years imprisonment	10 years –life imprisonment	1 – 3 years imprisonment	At least 1 year imprisonment and a fine	At least 1 year imprisonment and a fine
Hungary	10,013,628	14	2 – 8 years imprisonment	5 – 10 years imprisonment	2 – 8 years imprisonment	Up to 3 years imprisonment	2 – 8 years imprisonment
Ireland	4,450,878	17	Life imprisonment	Life imprisonment	Up to 14 years imprisonment	12 months to 5 years imprisonment or a fine of 1,500 – 5,000 pounds or both	Up to 14 years imprisonment or a fine of 25,000 or both

Italy	60,397,353	14	5 – 10 years imprisonment	6 – 12 years imprisonment	6 – 12 years imprisonment or a fine	Up to 3 years imprisonment or a fine	6 – 12 years imprisonment or a fine.
Latvia	2,248,961	16	Up to 7 years imprisonment	Life imprisonment	Up to 6 years imprisonment with the possible confiscation of any property used in the offence (i.e a premises used as a brothel)	First time offence is a small fine (100 – 275) GBP. If repeated then the term is 1 year imprisonment	Up to 6 years imprisonment or a fine of up to 50 times the minimum monthly wage and the possible confiscation of any property used in the offence
Lithuania	3,329,227	14	1 – 8 years imprisonment	3 – 15 years imprisonment	2 – 8 years imprisonment	Up to 2 years imprisonment or a fine	Up to 4 years imprisonment or a fine
Luxembourg	502,207	16	5 – 10 years imprisonment	10 – 15 years imprisonment	1 – 5 years imprisonment and a fine of 251 – 50,000 euros	One month – 2 years imprisonment and a fine of 251 – 50,000 euros	5 years imprisonment and a fine of 251 – 50,000 euros
Malta	416,333	18	3 – 9 years imprisonment	No less than 9 years imprisonment	3 – 6 years imprisonment, with or without solitary confinement	Up to 6 months imprisonment and a small fine.	7 months – 1 year imprisonment
Netherlands	16,576,800	16	Up to 12 years imprisonment	Up to 12 years imprisonment	Eight years imprisonment and a fine	4 – 6 years imprisonment or a fine	4 – 6 years imprisonment or a fine.
Poland	38,163,895	15	1 – 10 years imprisonment	2 – 12 years imprisonment	1 – 10 years imprisonment	3 months – 5 years imprisonment	1 – 10 years imprisonment
Portugal	10,636,888	14	3 – 8 years	1 – 10 years	6 months – 5 years	No offence (although	1 – 8 years imprisonment

				imprisonment	imprisonment	imprisonment	imprisonment	legislation in this area is subject to change)	
Romania	21,466,174	15		3 – 7 years imprisonment	10 – 20 years imprisonment	3 – 10 years imprisonment	2 – 7 years imprisonment	2 – 7 years imprisonment	
Slovakia	5,424,057	15		5 – 10 years imprisonment	5 – 10 years imprisonment	7 – 12 years imprisonment	4 – 10 years imprisonment		
Slovenia	2,054,119	15		1 – 10 years imprisonment	1 – 10 years imprisonment	1 – 10 years imprisonment	Up to 3 years imprisonment		
Spain	46,087,170	13		1 – 3 years imprisonment	No less than 3 years imprisonment	1 – 4 years imprisonment	3 months – 1 years imprisonment		
Sweden	9,347,899	15		2 – 6 years imprisonment	4 – 10 years imprisonment	2 – 6 years imprisonment	Up to 2 years imprisonment		
United Kingdom	62,041,708	16		Life imprisonment	Life imprisonment	6 months – 14 years imprisonment	6 months – 14 years imprisonment		