

South Korea

National Child Protection Legislation

National Legislation

- **Age of Consent**
The age of consent in South Korea is 13. There are no provisions addressing this issue, other than making illegal any non-consensual sex, prostitution, or adults engaging in any form of sexual activity with persons under the age of 13.¹
- **Age of Criminal Responsibility**
In cases where a minor (under the age of 18) has been convicted of a crime that is otherwise punishable by life imprisonment or death, the punishment will be mitigated, to a maximum of 15 years' imprisonment.² In all other criminal cases, the age of criminal responsibility is 14.³
- **Age of Marriage**
Under the Civil Act, anyone who is over the age of 18 may enter a marriage upon receiving the consent of his/her parent or guardian, or upon receiving the consent of its family council if the person seeking to marry does not have a parent/guardian.⁴ Once a person reaches the age of 20 years and three months, parents/guardians no longer have power to prevent a marriage and their consent is no longer required.⁵
- **Criminal Act** (Act No.14178, 2016) *Partially amended*.
 - Source: https://elaw.klri.re.kr/eng_service/lawView.do?hseq=28627&lang=ENG
- **Act on the Punishment of Acts of Arranging Sexual Traffic** (Act No. 12349, 2014) *Amended*.
 - Source: http://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=22187&type=part&key=9
- **Child Welfare Act** (Act No. 12361, 2014) *Enforced: 29 Sep. 2014*.
 - Source: https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=32787&type=sogan&key=10
- **Act on the Prevention of Sexual Traffic and Protection, etc. of Victims** (Act No. 12550, 2014) *Enforced: 28 Sep. 2014*.
 - Source: <https://www.moleg.go.kr/english/korLawEng?pstSeq=58525&rctPstCnt=3&searchCondition=AllButCsfCd&searchKeyword=traffic>
- **Act on the Protection and Support of Missing Children, etc.** (Act No. 12844, 2014) *Enforced: 19 Nov. 2014*.

¹ Youngsters who need allowance, cute female student, join instantaneous chatrooms, DONGA.COM, at <http://www.shindona.donga.com/3/all/13/859543/1> (last visited Apr. 8, 2017); See also, Act on the Protection of Children and Juveniles from Sexual Abuse (Law No. 14236, 2010) Art.8, *Amended* (May 29, 2016), this article states that it is criminalized act to illicit sex with a child under the age of 13 or a juvenile with a disability.

² Juvenile Protection Act (Act No. 14067) Art. 59, *Enforced* Mar. 2, 2016.

³ Factsheet – South Korea: Definition of Youth, YouthPolicy.org, at <http://www.youthpolicy.org/factsheets/country/south-korea/> (last visited Jun. 9, 2017). See also, Criminal Act, Ch. 2, Sect. 1, Art. 9.

⁴ Civil Act Art. 801; Art. 807-808.

⁵ Civil Act Art. 819.

- Source:
https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33779&type=part&key=38
- **Act on the Protection of Children and Juveniles from Sexual Abuse** (Law No. 14236, 2010)
Amended: 29 May 2016.
 - Source: <https://www.moleg.go.kr/FileDownload.mo?fiSeq=39770>
- **Juvenile Protection Act** (Act No. 14067) *Enforced: 02 Mar. 2016.*
 - Source:
<https://www.moleg.go.kr/english/korLawEng?pstSeq=55116&rctPstCnt=3&searchCondition=AllButCsfCd&searchKeyword=juvenile>
- **Act on International Judicial Mutual Assistance in Civil Matters** (Act No. 11690, 2013)
Enforced: 23 Mar. 2013.
 - Source: http://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=29465&type=part&key=8
- **Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes** (Act No. 12341, 2014) *Enforced: 29 Sep. 2014.*
 - Source: http://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=27332&type=part&key=7
- **Sexual Violence Prevention and Victims Protection Act** (Act No. 13179, 2015) *Enforced: 03 Feb. 2015.*
 - Source: <http://www.moleg.go.kr/english/korLawEng?pstSeq=58526>
- **Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence** (Act No. 13719, 2016) *Enforced: 06 Jan. 2016.*
 - Source: http://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=28039&type=new&key=1
- **Act on Private International Law** (Act No. 13759) *Enforced: 19 Jan. 2016*
 - Source: http://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=22558&type=part&key=8
- **Special Act on Support for the 2018 *Pyeongchang* Olympics and Paralympic Winter Games** (Act No. 14622, 2017) *Enforced: 21 Mar. 2017, Partially amended.*
 - Source:
https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=38905&type=part&key=16

Extraterritoriality Provisions

Korean Criminal Act Article 3 stipulates that the Act applies to all Korean nationals who commit crimes outside the country.⁶ Hence, any activities criminalized under the Act, including engaging in indecent activities with a minor, will be penalised even if done outside Korea.⁷ Article 289 specifically applies trafficking provisions to any person whose victims are from or are brought to the Republic of Korea.⁸ Moreover, Article 296-2 states that Articles 287–292 and Article 294 expressly apply to aliens, including for crimes committed outside South Korea.⁹

⁶ Criminal Act (Act No. 14178, 2016) Art. 3 (*partially amended*).

⁷ Criminal Act (Act No. 14178, 2016) Art. 287-292, 294, 302, 303, 305, 305-2 (*partially amended*).

⁸ Criminal Act (Act No. 14178, 2016) Art. 289 (*partially amended*).

⁹ Criminal Act (Act No. 14178, 2016) Art. 296-2 (*partially amended*).

Dual Criminality Requirements

South Korea has entered into at least one multilateral agreement, in addition to several bilateral agreements, providing for dual criminality extradition.¹⁰ Korea also cooperates with other international actors regarding extradition when the accused is subject to dual criminality and the host country demands extradition for trial. When a Korean citizen is being processed for an investigation, further evidentiary requirements must be met before Korean authorities will comply with such requests.¹¹

If a Korean national were prosecuted in a country which would entrust Korean judicial proceedings and otherwise cooperate with Korean authorities, the same favour is returned reciprocally, even if no formal treaties have been executed; thus, the counterpart country's judicial proceedings will also be recognized as binding in Korean courts irrespective of formal international agreements.¹²

¹⁰ *The Legal Framework for Extradition, MLA and Recovery of Proceeds of Corruption: Korea*, ADB/OECD ANTI-CORRUPTION INITIATIVE FOR ASIA-PACIFIC, at <http://www.oecd.org/site/adboecdanti-corruptioninitiative/39984786.pdf> (last visited Apr. 7, 2017); See also, Executive summary: Republic of Korea, *Review of implementation of the United Nations Convention against Corruption*, at <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/26-27November2013/V1388003e.pdf> (last visited Apr. 7, 2017).

¹¹ *Id.*

¹² Act on international judicial mutual assistance in civil matters (Act No. 11690, 2013) Art. 3, 4 (enforced Mar. 23, 2014); Act on international judicial mutual assistance in criminal matters Art. 9, 38 (amended by act on the protection and support of missing children, etc.)