

Switzerland

National Child Protection Legislation

National Legislation

- Age of Child: **18 years old**
[Civil Code](#)
Art. 14 – Majority
A person is of age if he or she has reached the age of 18.
- Age of Consent: **16 years old**
[Criminal Code](#)
Art. 187 (1) - Endangering the development of minors – Sexual acts with children
Any person who engages in a sexual act with a child under 16 years of age, or, incites a child to commit such an activity, or involves a child in a sexual act, is liable to a custodial sentence not exceeding five years or to a monetary penalty.
- Age of Marriage: **18 years old**
[Civil Code](#)
Art. 94 – Capacity to Marry
To be able to marry, the prospective spouses must have reached 18 years of age and have the capacity of judgement.
- Age of Criminal Responsibility: **10 years old**
[Federal Law Governing the Criminal Status of Minors](#)
Art. 3 – Personal Conditions
This Act applies to every person who commits an act punishable between 10 and 18 years old.

- **Extraterritoriality**

- [Criminal Code](#)

- **Art. 5 – Offences against minors abroad**

- 1. This Code also applies to any person who is in Switzerland, is not being extradited and has committed any of the following offences abroad:
 - a. trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with a person incapable of proper judgment or resistance (Art. 191) or encouraging prostitution (Art. 195) if the victim was less than 18 years of age; abis.8 sexual acts with dependent persons (Art. 188) and sexual acts with minors against payment (Art. 196);
 - b. sexual acts with children (Art. 187) if the victim was less than 14 years of age;
 - c. aggravated pornography (Art. 197 para. 3 and 4) if the items or performances depict sexual acts with minors.
 - 2. Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR10, the person concerned is not liable to further prosecution in Switzerland for the offence if:
 - a. he has been acquitted of the offence abroad in a legally binding judgment;
 - b. the sentence that was imposed abroad has been served, waived, or has prescribed.

3. If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 6 – Offences committed abroad prosecuted in terms of an international obligation

Any person who commits a felony or misdemeanour abroad that Switzerland is obliged to prosecute in terms of an international convention is subject to this Code provided:

- a) the act is also liable to prosecution at the place of commission or no criminal law jurisdiction applies at the place of commission; and
- b) the person concerned remains in Switzerland and is not extradited to the foreign country.

The court determines the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

Unless the offence involves a gross violation of the principles of the Federal Constitution and of the ECHR, the person concerned is not liable to further prosecution in Switzerland if:

- a) he has been acquitted of the offence abroad in a legally binding judgment;
- b) the sentence that was imposed abroad has been executed, waived, or has prescribed.

If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 7 – Other offences committed abroad

Any person who commits a felony or misdemeanour abroad where the requirements of Articles 4, 5 or 6 are not fulfilled is subject to this Code if:

- a) the offence is also liable to prosecution at the place of commission or the place of commission is not subject to criminal law jurisdiction;
- b) the person concerned is in Switzerland or is extradited to Switzerland due to the offence; and
- c) under Swiss law extradition is permitted for the offence, but the person concerned is not being extradited.

If the person concerned is not Swiss and if the felony or misdemeanour was not committed against a Swiss person, paragraph 1 is applicable only if:

- a) the request for extradition was refused for a reason unrelated to the nature of the offence; or
- b) the offender has committed a particularly serious felony that is proscribed by the international community.

The court shall determine the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR, the person concerned is not liable to further prosecution in Switzerland for the offence if:

- a) he has been acquitted of the offence abroad in a legally binding judgment;
- b) the sentence that was imposed abroad has been served, waived, or has prescribed.

If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 66a – Expulsion – Mandatory expulsion

1. The court shall expel foreign nationals from Switzerland for a period of 5–15 years if they are convicted of any of the following offences, irrespective of the sentence imposed:
 - b. serious assault (Art. 122), female genital mutilation (Art. 124 para. 1), abandonment (Art. 127), endangering life (Art. 129), attack (Art. 134);
...
 - g. forced marriage, forced registered partnership (Art. 181a), trafficking in human beings (Art. 182), false imprisonment and abduction (Art. 183), aggravated false imprisonment and abduction (Art. 184), hostage taking (Art. 185);
 - h. sexual acts with children (Art. 187 para. 1), indecent assault (Art. 189), rape (Art. 190), sexual acts with persons incapable of judgement or resistance (Art. 191), encouraging prostitution (Art. 195), pornography (Art. 197 para. 4 second sentence);
...
2. The court may by way of exception refrain from ordering expulsion if it would cause serious personal hardship to the foreign national concerned and the public interest in expulsion does not outweigh the private interest of the foreign national in remaining in Switzerland. In such cases, account must be taken of the special position of foreign nationals who were born or have grown up in Switzerland.
3. The court may also refrain from ordering expulsion if the offence was committed in justifiable self-defence (Art. 16 para. 1) or in a justifiable situation of necessity (Art. 18 para. 1).

▪ **Dual Criminality**

[Federal Act on International Mutual Assistance in Criminal Matters](#)

Art. 1 - Subject matter

1. Unless other federal acts or international agreements provide otherwise, this Act shall govern all procedures of international cooperation in criminal matters, and in particular:
 - a) the extradition of persons who are the subject of criminal prosecution or have been convicted (Part Two);
 - b) assistance aimed at supporting criminal proceedings abroad (Part Three);
 - c) the transfer of proceedings and punishment of offences (Part Four);
 - d) the execution of foreign criminal judgments (Part Five).

This Act applies only to criminal matters in which recourse to the courts is permitted under the law of the requesting State.

This Act confers no right to international cooperation in criminal matters.

Art. 6 – Concurrence of inadmissibility and admissibility of cooperation

1. If the act of which the defendant is accused constitutes an offence under two or more provisions of Swiss criminal law, the request may be granted only in respect of those

- offences for which there are no reasons for inadmissibility and if there is a guarantee that the requesting State will respect the conditions imposed.
2. Cooperation shall not be permitted if the proceedings concern an act that constitutes an offence under two or more provisions of Swiss or foreign criminal law and if, with regard to one of these offences, which covers the act in all its aspects, a request may not be granted.

▪ **Mandatory reporting requirements**

[Civil Code](#)

Art. 443 – Notification rights and obligations

1. Any person may notify the adult protection authority if a person appears to be in need of assistance. The provisions on professional confidentiality are reserved.
2. Any person who while acting in an official capacity learns that a person needs assistance is required to notify the adult protection authority. The cantons may provide for further notification obligations.

[Federal Act on Assistance to Victims of Crime](#)

Art. 11 – Confidentiality

1. People working for a counseling center must be silent about their perceptions of authorities and private persons. The obligation of confidentiality also applies after termination of this cooperation. The duties to report according the Criminal Procedure Code remain reserved.
2. Confidentiality is waived if the person advised agrees.
3. If the physical, mental or sexual integrity of a minor victim or other minor person is seriously endangered, the counseling center may inform the Guardianship Authority or file a complaint with the law enforcement agency.
4. Those who violate the obligation of confidentiality will be punished with imprisonment of up to three years or a fine.

[Criminal Procedure Code](#)

Art. 302 – Duty to report

1. The criminal justice authorities are obliged to report to the competent authority all offences that have come to light or that have been reported to them in the course of their official activities, unless they themselves are responsible for prosecuting the offence.
2. The Confederation and the cantons shall regulate the duty to report of members of other authorities.
3. The duty to report ceases to apply for persons who have the right to remain silent or to refuse to testify in accordance with Articles 113 paragraph 1, 168, 169 and 180 paragraph 1.

There is no federal law mandating reporting of child sexual abuse. However, the legislation below allows certain professionals to report in breach of professional confidentiality in some situations.

[Criminal Code](#)

Art. 321 – Breach of professional confidentiality

1. Any person who in his capacity as a member of the clergy, lawyer, defence lawyer, notary, patent attorney, auditor subject to a duty of confidentiality under the [Code of Obligations](#), doctor, dentist, chiropractor, pharmacist, midwife, psychologist or as an auxiliary to any of

the foregoing persons discloses confidential information that has been confided to him in his professional capacity or which has come to his knowledge in the practice of his profession is liable on complaint to a custodial sentence not exceeding three years or to a monetary penalty.

A student who discloses confidential information that has come to his knowledge in the course of his studies is also liable to the foregoing penalties.

A breach of professional confidentiality remains an offence following the termination of professional employment or of the studies.

2. The person disclosing the information is not liable to any penalty if he does so with the consent of the person to whom the information pertains or on the basis of written authorisation issued in response to his application by a superior authority or supervisory authority.
3. The federal and cantonal provisions on the duty to testify and on the obligation to provide information to an authority are reserved.

Art. 362 – Notification in relation to pornography

If an investigating authority establishes that pornographic articles (Art. 197 para. 4) have been produced in or imported from a foreign state, it shall immediately notify the Federal Central Office for Combating Pornography.

Title Five: Notification of Offences against Minors

Art. 364 – Right to report

Where an offence has been committed against a minor, persons bound by official and professional secrecy (Art. 320 and 321) are entitled to report the matter to the child protection authority where this is in the interests of the minor.

On 1 January 2019, new federal legislation will come into effect that will require all professionals with regular contact with children to report suspicions of child abuse to the Child and Adult Protection Authority (KESB). The law will apply to doctors, psychologists, lawyers, teachers, coaches, and others who are in regular contact with children.¹

▪ **Registry of Criminal Convictions**

[Criminal Code](#)

Title Six: Register of Criminal Convictions

Art. 365 – Purpose

1. The Federal Office of Justice, with the support of the other federal authorities and the cantons (Art. 367 para. 1), maintains a computerised register of criminal convictions and applications for extracts from the register of convictions in connection with ongoing criminal proceedings, which contains sensitive personal data and personality profiles. The data on convictions and on applications for extracts from the register of convictions in

¹ Law change: more people obliged to report child abuse, Jun. 27, 2018, SWISSINFO.CH , at <https://www.swissinfo.ch/eng/child-protection-law-change-more-people-obliged-to-report-child-abuse/44221612> (last visited Jul. 17, 2018). See also, The Federal Council, Press Release: *More child protection thanks to extended reporting rights and reporting obligations*, Apr. 5, 2015, at https://www.bj.admin.ch/bj/de/home/aktuell/news/2015/ref_2015-04-15.html (last visited Jul. 17, 2018).

- connection with ongoing criminal proceedings are processed separately in the computerised register.
2. The register serves to support the federal and cantonal authorities in the fulfilment of the following tasks:
 - a. the conduct of criminal proceedings;
 - b. international mutual assistance and extradition proceedings;
 - c. the execution of sentences and measures;
 - d. civilian and military security checks; the imposition and revocation of measures banning entry on foreign nationals under the Federal Act of 26 March 1931 on the Residence and Permanent Settlement of Foreign Nationals as well as the other forms of expulsion;
 - f. the assessment of eligibility for asylum under the Asylum Act of 26 June 1998;
 - g. naturalisation procedures;...

Art. 366 – Content

1. The register lists persons who have been convicted on the territory of the Confederation, together with Swiss nationals who have been convicted abroad.
2. The register also includes:
 - a. convictions for felonies and misdemeanours in cases where a sentence or measure has been imposed;
 - b. convictions for contraventions specified by ordinance of the Federal Council of this Code or any other Federal Act;
 - c. notifications received from abroad of convictions there that must be recorded in accordance with this Code;
 - d. information on the circumstances leading to the amendment of existing entries.
3. Convictions of juveniles are included only if the following sentences were imposed:
 - a. a custody order (Art. 25 JCLA456); or
 - b. accommodation in a secure institution (Art. 15 para. 2 JCLA); or
 - c. out-patient treatment (Art. 14 JCLA); or
 - d. an activity prohibition order or a contact prohibition and exclusion order (Art. 16a JCLA).
- 3bis. Convictions of juveniles for contraventions must be included if the penalty involves an activity prohibition order or a contact prohibition and exclusion order (Art. 16a JCLA).
4. The register also lists persons in respect of whom proceedings for felonies and misdemeanours are pending in Switzerland.

▪ **Obligations of Educational Institutions**

[Child and Youth Promotion Act](#)

Art. 1 - Subject

This law regulates:

- a. the support of private sponsors, who are dedicated to the extra-curricular work with children and adolescents;
- b. the support of the cantons and municipalities for temporary projects in the field of extracurricular work;
- c. cooperation between the Confederation and the cantons in the area of child and Youth Policy; and, the promotion of information and experience exchange and competence development in the field of child and youth policy.

[Criminal Code](#)

Art. 219 – Neglect of duties of care, supervision or education

1. Any person who violates or neglects his or her duties of supervision and education towards a minor and thus endangers the minor's physical or mental development, is liable to a custodial sentence not exceeding three years or to a monetary penalty.
2. If the person concerned acts through negligence, a fine may be imposed instead of a custodial sentence or a monetary penalty.

▪ **Prohibition to hold certain positions**

[Criminal Code](#)

Art. 67 – Prohibition from carrying on an activity, contact prohibition and exclusion order

1. If a person has committed a felony or misdemeanour in the course of carrying on a professional activity or an organised non-professional activity, and has as a result received a custodial sentence in excess of six months, and if there is a risk that he will abuse his activity in order to commit a further felony or misdemeanour, the court may prohibit him totally or partially from carrying on this activity or comparable activities for a period of six months to five years.
2. If a person has committed a felony or misdemeanour against a minor or another especially vulnerable person and if there is a risk that in the course of carrying on a professional activity or an organised nonprofessional activity that involves regular contact with any minors or with other especially vulnerable persons he will commit further offences of this nature, the court may prohibit him from carrying on the activity concerned for one to ten years.
3. If a person is sentenced to a custodial sentence of more than six months or a measure in accordance with Articles 59–61 or 64 for any of the following offences, the court shall prohibit him from carrying on any professional activity or organised non-professional activity that involves regular contact with any minors for ten years:
 - a. trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with persons incapable of judgement or resistance (Art. 191), sexual acts with persons in institutional care, prisoners and persons on remand (Art. 192), exploitation of a person in a position of need or dependency (Art. 193) or encouraging prostitution (Art. 195), provided the offence is committed against a minor;
 - b. sexual acts with children (Art. 187) or sexual acts with dependent persons (Art. 188);
 - c. aggravated pornography (Art. 197 No 377), provided the content of the items or performances involved sexual acts with children.
4. If a person is sentenced to a custodial sentence of over six months or a measure in accordance with Articles 59–61 or 64 for committing any of the following offences against an especially vulnerable adult person, the court shall prohibit him from carrying on any professional activity or organised non-professional activity that involves regular contact with especially vulnerable adult persons for ten years: trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with persons incapable of judgement or resistance (Art. 191), sexual acts with persons in institutional care, prisoners and persons on remand (Art. 192), exploitation of a person in a position of need or dependency (Art. 193) or encouraging prostitution (Art. 195).
5. If the offender receives a sentence or is made subject to a measure for two or more offences in the same proceedings, the court shall specify what portion of the sentence or which measure applies to an offence that entails an activity prohibition order. This portion of the sentence, the measure and the offence are decisive in determining whether an

- activity prohibition order under paragraph 1, 2, 3 or 4 is imposed. The sentence portions for two or more relevant offences are added together. More than one activity prohibition order may be imposed.
6. The court may impose lifelong prohibition orders under paragraphs 2, 3 and 4 if it is probable that a term of ten years is insufficient to guarantee that the offender will no longer represent a risk. On application from the executive authority, it may extend limited prohibition orders under paragraphs 2, 3 and 4 by a maximum of five years in each case if this is necessary to prevent the offender from committing further felonies and misdemeanours of the type that gave rise to the prohibition order.
 7. The court may order probation assistance for the duration of the prohibition orders. It shall order probation assistance in every case in which a prohibition order has been imposed for an offence under paragraph 3 or 4.

Art. 67a – Content and scope

1. Professional activities within the meaning of Article 67 are activities in exercise of a principal or secondary profession or trade or of a commercial enterprise. Organised non-professional activities are activities that are not or not primarily carried on for pecuniary gain and which are carried on in the context of an association or other organisation.
2. The prohibition from carrying on an activity under Article 67 includes activities that the offender carries on a self-employed basis, as a governing officer of a legal entity or commercial enterprise, or as the agent or representative of another person or which he arranges to be carried on by a person dependent on his instructions.
3. If there is a risk that the offender will also misuse his activity in order to commit offences if he is subject to the orders and control of a superior or supervisor, he shall be totally prohibited from carrying on the activity.
4. Prohibition orders under Article 67 paragraphs 3 and 4 always apply to the entire activity.

Art. 67b – Contact prohibition and exclusion order

1. If a person has committed a felony or misdemeanour in the course of carrying on a professional activity or an organised non-professional activity, and has as a result received a custodial sentence in excess of six months, and if there is a risk that he will abuse his activity in order to commit a further felony or misdemeanour, the court may prohibit him totally or partially from carrying on this activity or comparable activities for a period of six months to five years.
2. If a person has committed a felony or misdemeanour against a minor or another especially vulnerable person and if there is a risk that in the course of carrying on a professional activity or an organised nonprofessional activity that involves regular contact with any minors or with other especially vulnerable persons he will commit further offences of this nature, the court may prohibit him from carrying on the activity concerned for one to ten years.
3. If a person is sentenced to a custodial sentence of more than six months or a measure in accordance with Articles 59–61 or 64 for any of the following offences, the court shall prohibit him from carrying on any professional activity or organised non-professional activity that involves regular contact with any minors for ten years:
 - a. trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with persons incapable of judgement or resistance (Art. 191), sexual acts with persons in institutional care, prisoners and persons on remand (Art. 192), exploitation of a person in a position of need or dependency (Art. 193) or encouraging prostitution (Art. 195), provided the offence is committed against a minor;
 - b. sexual acts with children (Art. 187) or sexual acts with dependent persons (Art. 188);

- c. aggravated pornography (Art. 197 No 377), provided the content of the items or performances involved sexual acts with children.
4. If a person is sentenced to a custodial sentence of over six months or a measure in accordance with Articles 59–61 or 64 for committing any of the following offences against an especially vulnerable adult person, the court shall prohibit him from carrying on any professional activity or organised non-professional activity that involves regular contact with especially vulnerable adult persons for ten years: trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with persons incapable of judgement or resistance (Art. 191), sexual acts with persons in institutional care, prisoners and persons on remand (Art. 192), exploitation of a person in a position of need or dependency (Art. 193) or encouraging prostitution (Art. 195).
5. If the offender receives a sentence or is made subject to a measure for two or more offences in the same proceedings, the court shall specify what portion of the sentence or which measure applies to an offence that entails an activity prohibition order. This portion of the sentence, the measure and the offence are decisive in determining whether an activity prohibition order under paragraph 1, 2, 3 or 4 is imposed. The sentence portions for two or more relevant offences are added together. More than one activity prohibition order may be imposed.
6. The court may impose lifelong prohibition orders under paragraphs 2, 3 and 4 if it is probable that a term of ten years is insufficient to guarantee that the offender will no longer represent a risk. On application from the executive authority, it may extend limited prohibition orders under paragraphs 2, 3 and 4 by a maximum of five years in each case if this is necessary to prevent the offender from committing further felonies and misdemeanours of the type that gave rise to the prohibition order. The court may order probation assistance for the duration of the prohibition orders. It shall order probation assistance in every case in which a prohibition order has been imposed for an offence under paragraph 3 or 4.

▪ **Employment Law**

[Federal Act on the Amendment of the Swiss Civil Code: The Code of Obligations](#)

Art. 337 – Termination with immediate effect

1. Both employer and employee may terminate the employment relationship with immediate effect at any time for good cause; the party doing so must give his reasons in writing at the other party's request.
2. In particular, good cause is any circumstance which renders the continuation of the employment relationship in good faith unconscionable for the party giving notice.
3. The court determines at its discretion whether there is good cause. However, under no circumstances may the court hold that good cause is constituted by an employee being prevented from working through no fault of his own.

▪ **Criminal Law – Defamation**

[Criminal Code](#)

Art. 173 – Offence against personal honour - Defamation

1. Any person who in addressing a third party, makes an accusation against or casts suspicion on another of dishonourable conduct or of other conduct that is liable to damage

- another's reputation, any person who disseminates such accusations or suspicions, is liable on complaint to a monetary penalty.
2. If the accused proves that the statement made or disseminated by him corresponds to the truth or that he had substantial grounds to hold an honest belief that it was true, he is not liable to a penalty.
 3. The accused is not permitted to lead evidence in support of and is criminally liable for statements that are made or disseminated with the primary intention of accusing someone of disreputable conduct without there being any public interest or any other justified cause, and particularly where such statements refer to a person's private or family life.
 4. If the offender recants his statement, the court may impose a more lenient penalty or no penalty at all.
 5. If the accused is unable to prove the truth of his statement, or if it is shown to be untrue, or if the accused recants his statement, the court must state this in its judgment or in another document.

Art. 174 – Wilful defamation

1. A person in addressing a third party, and knowing his allegations to be untrue, makes an accusation against or casts suspicion on another of dishonourable conduct, or of other conduct that is liable to damage another's reputation, any person who disseminates such accusations or suspicions, knowing them to be untrue, is liable on complaint to a custodial sentence not exceeding three years or to a monetary penalty.
2. If the offender has acted systematically to undermine the good reputation of another, he is liable to a custodial sentence not exceeding three years or to a monetary penalty of not less than 30 daily penalty units.
3. If the offender recants his statement before the court on the grounds that it is untrue, the court may impose a more lenient penalty. The court must provide the person harmed with a document confirming the recantation.

Art. 176 – General provision

Verbal defamation, whether willful or not, is regarded as the equivalent of defamatory statements made in writing, in pictures, by gestures or in any other manner.

Sexual Offenses Against Children

Swiss Federal Constitution

Art. 11 – Protection of children and young people

1. Children and young people have the right to the special protection of their integrity and to the encouragement of their development.
2. They may personally exercise their rights to the extent that their power of judgement allows.

Criminal Code

Art. 182 – Trafficking in human beings

1. Any person who as a supplier, intermediary or customer engages in the trafficking of a human being for the purpose of sexual exploitation, exploitation of his or her labour or for the purpose of removing an organ is liable to a custodial sentence or to a monetary penalty. The soliciting of a person for these purposes is equivalent to trafficking.
2. If the victim is a minor or if the offender acts for commercial gain, the penalty is a custodial sentence of not less than one year.
3. In every case, a monetary penalty must also be imposed.

4. Any person who commits the act abroad is also guilty of an offence. Articles 5 and 6 apply.

Art. 187 – Endangering the development of minors – Sexual acts with children

1. Any person who engages in a sexual act with a child under 16 years of age, or, incites a child to commit such an activity, or involves a child in a sexual act, is liable to a custodial sentence not exceeding five years or to a monetary penalty.
2. The act is not an offence if the difference in age between the persons involved is not more than three years.
3. If the offender has not reached the age of 20 at the time of the act or the first of the acts, and if there are special circumstances, or if the child is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.
4. If the offender acts under the misconception that the child is 16 years of age or older, but he would not have made this error had he exercised due care, the penalty is a custodial sentence not exceeding three years or a monetary penalty.

Art. 188 – Sexual acts with dependent persons

1. Any person who commits a sexual act by exploiting his or her relationship with a minor over the age of 16 who is dependent on him due to a relationship arising from the minor's education, care or employment or another form of dependent relationship, any person who encourages such a minor to commit a sexual act by exploiting such a relationship, is liable to a custodial sentence not exceeding three years or to a monetary penalty.
2. If the minor is the spouse or registered partner of the offender, the responsible authority may dispense with prosecution, referral to the court or the imposition of a penalty.

Art. 189 – Offences against sexual liberty and honour – Indecent assault

1. Any person who uses threats, force or psychological pressure on another person or makes that other person incapable of resistance in order to compel him or her to tolerate a sexual act similar to intercourse or any other sexual act is liable to a custodial sentence not exceeding ten years or to a monetary penalty

Art. 190 – Rape

Any person who forces a person of the female sex by threats or violence, psychological pressure or by being made incapable of resistance to submit to sexual intercourse is liable to a custodial sentence of from one to ten years

Art. 191 – Sexual acts with persons incapable of judgement or resistance

Any person who, in the knowledge that another person is incapable of judgement or resistance, has sexual intercourse with, or commits an act similar to sexual intercourse or any other sexual act on that person is liable to a custodial sentence not exceeding ten years or to a monetary penalty.

Art. 193 – Exploitation of a person in a position of need or dependency

Any person who induces another to commit or submit to a sexual act by exploiting a position of need or a dependent relationship based on employment or another dependent relationship is liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 195 – Exploitation of sexual acts – Encouraging prostitution

Any person who:

- a) induces a minor into prostitution or encourages a minor in his or her prostitution with the intention of securing a financial advantage,
- b) induces a person into prostitution by exploiting his or her dependence or a financial advantage,
- c) restricts the freedom to act of a prostitute by supervising him or her in the course of his or her

activities or by exercising control over the location, time, volume or other aspects of his or her work as a prostitute or,

- d) makes a person remain a prostitute against his or her will, is liable to a custodial sentence not exceeding ten years or to a monetary penalty.

Art. 196 – Sexual acts with minors against payment

Any person who carries out sexual acts with a minor or induces a minor to carry out such acts and who makes or promises payment in return is liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 197 – Pornography

1. Any person who offers, shows, passes on or makes accessible to a person under the age of 16 pornographic documents, sound or visual recordings, depictions or other items of a similar nature or pornographic performances, or broadcasts any of the same on radio or television is liable to a custodial sentence not exceeding three years or to a monetary penalty.
2. Any person who exhibits in public items or performances as described in paragraph 1 above or shows or otherwise offers the same unsolicited to others is liable to a fine. Any person who, in advance, draws the attention of visitors to private exhibitions or performances to their pornographic character does not commit an offence.
3. Any person who recruits or causes a minor to participate in a pornographic performance is liable to a custodial sentence not exceeding three years or to a monetary penalty.
4. Any person who produces, imports, stores, markets, advertises, exhibits, offers, shows, passes on or makes accessible to others, acquires, or procures or possesses via electronic media or otherwise items or performances as described in paragraph 1 above that contain sexual acts involving animals, acts of violence involving adults or non-genuine sexual acts with minors is liable to a custodial sentence not exceeding three years or to a monetary penalty. If the items or performances contain genuine sexual acts with minors, the penalty is a custodial sentence not exceeding five years or a monetary penalty.
5. Any person who consumes or who for his or her own consumption produces, imports, stores, acquires or procures or possesses via electronic media or otherwise items or performances as described in paragraph 1 above that contain sexual acts involving animals, acts of violence involving adults or non-genuine sexual acts with minors is liable to a custodial sentence not exceeding one year or to a monetary penalty. If the items or performances contain genuine sexual acts with minors, the penalty is a custodial sentence not exceeding three years or a monetary penalty.
6. In the case of offences under paragraphs 4 and 5, the items shall be forfeited.
7. If the offender acts for financial gain, the custodial sentence must be combined with a monetary penalty.
8. Minors over the age of 16 are not liable to any penalty if by mutual consent they produce items or performances as described in paragraph 1 above that involve each other, or possess or consume such items or performances.
9. Items or recordings as described in paragraphs 1–3 above are not regarded as pornographic if they have a cultural or scientific value that justifies their protection by law.

Art. 198 – Contraventions against sexual integrity – Sexual harassment

Any person who causes offence by performing a sexual act in the presence of another who does not expect it, any person who sexually harasses another physically or through the use of indecent language, is liable on complaint to a fine.

Art. 213 – Incest

1. Any person who has sexual intercourse with a blood relative in direct line or with a brother or sister, or a half-brother or half-sister is liable to a custodial sentence not exceeding three years or to a monetary penalty.
2. Minors are not liable to any penalty provided they have been induced to commit the act.