

Portugal

National Child Protection Legislation

National Legislation

- Age of Child – **under 18 years**
[Civil Code](#)
Art. 122 – Minors
A minor is one who has not yet completed eighteen years of age.
 - Age of Consent – **14 years**
[Criminal Code](#)
Art. 171 – Sexual abuse of children
 - Age of Marriage – **18 years without consent; 16 with parental consent¹**
[Civil Code](#)
Art. 49 – Capacity to enter into marriage or to conclude prenuptial agreements
The capacity to contract marriage or to conclude the prenuptial agreement is regulated, in relation to each noun, by the respective personal law, which is also responsible for defining the regime of lack and vice of the will of the contractors.

[Civil Registry Code](#)
Subsection III – Consent for the marriage of minors
Art. 149 – Order
 - 1 – The minor must obtain the authorization of the parents holding the parental authority, the guardian, or their supply, with a view to the marriage that he intends to perform.
 - 2 – The document proving the authorization or its supply is attached to the preliminary marriage process.
 - Age of Criminal Responsibility – **16 years**
[Criminal Code](#)
Art. 18 – Imputability due to age
Children under the age of 16 are unimpeachable.
-
- **Extraterritoriality**

[Criminal Code](#)
Art. 5 – Facts and figures outside of the territory of Portugal
 - 1 - Except in the case of a treaty or international convention to the contrary, Portuguese criminal law shall also apply to acts committed outside the national territory:
 - (a) When they constitute the crimes provided for in articles 221, 262 to 271, 308 to 321 and 325 to 345;
 - (b) Against Portuguese, by Portuguese who live regularly in Portugal at the time of their practice and are found here;
 - (c) Where they constitute the offenses referred to in Articles 144a, 154b and 154c, 159 to 161, 171, 172, 175, 176 and 278 to 280, provided that the agent is found in

¹ [Civil Registration Online](#) lists “age less than 16 years” as an impediment to the celebration of marriage.

Portugal and cannot be extradited or surrendered as a result of execution of a European arrest warrant or other international cooperation instrument linking the Portuguese State;

- (d) When they constitute the crimes provided for in articles 144, 163 and 164, the minor being a victim, provided that the perpetrator is found in Portugal and cannot be extradited or surrendered as a result of execution of a European arrest warrant or of another instrument of international cooperation that links the Portuguese State;
 - (e) By Portuguese, or by foreigners against Portuguese, whenever:
 - (i) agents are found in Portugal;
 - (ii) are also punishable by the law of the place where they were committed, except where punishment is not exercised in that place; and
 - (iii) constitute a crime that allows extradition and cannot be granted or is decided not to surrender the agent in execution of a European arrest warrant or another instrument of international cooperation linking the Portuguese State;
 - (f) For aliens who are found in Portugal and whose extradition has been requested, when they constitute extraditable offenses and cannot be granted or if the agent is not ordered to execute a European arrest warrant or another cooperation instrument international agreement linking the Portuguese State;
 - (g) By a corporate person or against a corporate entity that has its headquarters in Portuguese territory.
- 2 - The Portuguese criminal law is also applicable to acts committed outside the national territory that the Portuguese State has been forced to judge by treaty or international convention.

- **Dual Criminality**

- [Criminal Code](#)

- **Art. 6 – Restrictions on the application of Portuguese law**

- 1 - The application of the Portuguese law to facts practiced outside the national territory only takes place when the agent has not been tried in the country of the practice of the fact or if it has subtracted from the total or partial fulfillment of the condemnation.
 - 2 - Although Portuguese law is applicable, under the terms of the previous paragraph, the fact is judged according to the law of the country in which it was practiced whenever it is concretely more favorable to the agent. The applicable penalty shall be converted into the corresponding penalty in the Portuguese system, or, if there is no direct correspondence, in the one that the Portuguese law provides for the fact.
 - 3 - The regime of the previous number does not apply to the crimes foreseen in paragraphs a) and b) of paragraph 1 of the previous article.

- **Mandatory reporting requirements**

- [Law of Protection for Children and Youth in Danger \(No. 147/99 updated by No. 23/2017\)](#)

- **Art. 64 – Communication of situations of danger by police and judicial authorities**

- 1- Police and judicial authorities shall notify the commissions for protection of the situations of children and young people in danger of being informed in the performance of their duties.
 - 2- Without prejudice to the provisions of the preceding paragraph, the judicial authorities shall adopt appropriate civil protection measures.

Art. 65 – Communication of dangerous situations known to entities with competence in the field of childhood and youth

- 1 - Entities with competence in matters relating to children and youth shall notify the committees of protection of any danger they may have in the course of their duties, provided that they cannot, within their Circumstances require.
- 2 - If the protection committee is not established or when it is not competent to apply the appropriate measure, in particular whenever the parents of the child or young person express their will regarding their consent or non-opposition to the future adoption, the entities Shall report the situation of danger directly to the Public Prosecution Service.
- 3 - The host institutions must communicate to the Public Prosecutor all the situations of children and young people they welcome without prior decision of the protection or judicial commission.

Art. 66 – Communication of dangerous situations by any person

- 1 - Any person who is aware of the situations provided for in article 3 may communicate them to entities with competence in matters of childhood or youth, police entities, protection commissions or judicial authorities.
- 2 - Communication is compulsory for any person who is aware of situations that endanger the life, physical or mental integrity or freedom of the child or young person.
- 3 - Where communications are addressed to the entities referred to in paragraph 1, they shall carry out a summary study of the situation and provide protection compatible with their duties, informing the protection committee of the situation whenever they consider that their intervention is not Adequate or sufficient.

[Law no. 4/2015](#)

Article 72 – Complaint

- 1 - Any person may report to the Ministry Public or the criminal police body qualified by law as a crime, regardless of its nature, practiced by a minor aged between 12 and 16 years old.
- 2 - (Repealed.)
- 3 - The denunciation shall not be subject to special formalities, but shall, whenever possible, indicate the means of proof.
- 4 - The complaint submitted to the criminal police body shall be transmitted as soon as possible to the Public.

Article 73 – Mandatory reporting

- 1 - The denunciation is mandatory:
 - (a) for criminal police bodies, as regards facts that they become aware;
 - (b) for officials, in relation to facts which they take knowledge in the performance of their duties and for from them.
- 2 - The denunciation or transmission of the denunciation made by criminal police is, wherever possible, accompanied by information it can obtain on the previous conduct of the minor and his / her family situation, educational and social. If it cannot follow the complaint, the information shall be submitted within eight days.

▪ **Obligations of Educational Institutions**

No information found.

- **Miscellaneous**

[Law of Protection for Children and Youth in Danger \(No. 147/99 updated by No. 23/2017\)](#)

The purpose of this law is the promotion of human rights and the protection of children and young people in ensure their well-being and development.

Art. 2 – Scope

This law applies to children and young people in distress that reside or are in the national territory.

Art. 3 – Legitimacy of intervention

- 1 - Intervention to promote the rights and protection of children and young people in distress takes place when the parents, legal representative or anyone who has custody jeopardizes their safety, health, education, training or development, or where such danger results from the act or omission of third parties or the child or young person himself or do not adequately oppose removing it.
- 2 - The child or young person is considered to be in danger when, in particular, he or she is in one of the following situations:
 - (a) He or she is abandoned or lives on her own;
 - (b) is **suffering physical or psychological harm or is a victim of sexual abuse;**
 - (c) does not receive adequate care or affection their age and personal situation;
 - (d) is obliged to engage in excessive work or work or inappropriate to their age, dignity and personal situation or detrimental to their training or development;
 - (e) Is subject, directly or indirectly, to behaviors that seriously affect your emotional balance;
 - (f) Assumes behaviors or engages in activities or consumptions that seriously affect health, safety, training, education or without the parents, the legal representative or appropriately remove them from this situation.

- **Prohibition to hold certain positions**

[Criminal Code](#)

Art. 46 – Prohibition of the exercise of a profession, function or activity

- 1 - The penalty of imprisonment applied for not more than three years shall be replaced by a penalty of prohibition, for a period of two to five years, of the exercise of profession, function or activity, public or private, when the crime has been committed by the defendant in the respective exercise, whenever the court concludes that by this means the purposes of the punishment are adequate and sufficient.
- 2 - In the case foreseen in the previous number, the provisions of paragraphs 3 to 5 of article 66 and article 68 will apply, with the necessary adaptations.
- 3 - The court shall revoke the penalty of prohibition of the exercise of profession, function or activity and order the fulfillment of the sentence of imprisonment determined in the sentence if the agent, after the conviction:
 - (a) Violates the prohibition;
 - (b) Commits a crime for which he is to be condemned and reveals that the purposes of the prohibition penalty of the exercise of profession, function or activity could not be reached through it.
- 4 - The provisions of Article 57 shall be applicable.

- 5 - If, in cases of paragraph 3, the prisoner has to serve a sentence of imprisonment, but has already served time to prohibit the exercise of his profession, function or activity, the court deducts during the time of prison to comply with the prohibition time already fulfilled.
- 6 - For the effect of the provisions of the previous article, each day of imprisonment is equivalent to the number of days of prohibition of the exercise of profession, function or activity, which corresponds proportionally to it according to the sentence, proceeding, whenever necessary, to rounding by default of the number of days to be fulfilled.

Art. 54 – Social reintegration plan

- 1 - The plan for social reintegration contains the objectives of resocialization to be achieved by the convicted person, the activities that the condemned person must carry out, the steps to be taken and the support and surveillance measures to be taken by the social reintegration services.
- 2 - The plan of social reintegration is made known to the convicted person, obtaining, whenever possible, their prior agreement.
- 3 - The court may impose the duties and rules of conduct referred to in articles 51 and 52 and other obligations that concern the rehabilitation plan and the improvement of the feeling of social responsibility of the condemned, namely:
 - (a) To respond to calls from the magistrate responsible for the execution and the social reinsertion technician;
 - (b) To receive visits from the social reinsertion technician and to communicate to him or provide him with information and documents proving his means of subsistence;
 - (c) Inform the social reintegration technician about changes in residence and employment, as well as on any displacement of more than eight days and on the date of foreseeable return;
 - (d) Obtain prior authorization from the magistrate responsible for execution to travel abroad.
- 4 - In the cases foreseen in number 4 of the previous article, the evidence regime must aim, in particular, to prevent recidivism, and for this purpose must always include the technical follow-up of the convicted person proving necessary, namely through the frequency of rehabilitation for sexual offenders of children and young people.

Art. 100 – Interdiction of activities

- 1 - Any person who is convicted of a crime committed with a serious abuse of profession, trade or industry that he or she carries out, or grossly violates the inherent duties, or is acquitted of it only for lack of imputability, is prohibited from exercising its activity when, fact and the personality of the agent, there is a fear that he may practice other acts of the same kind.
- 2 - The interdiction period is fixed between 1 and 5 years; but may be extended for a further period of up to 3 years if, at the end of the time limit set in the judgment, the court considers that it was not sufficient to remove the danger that justified the measure.
- 3 - The period of prohibition shall be counted as from the final and unappealable decision of the decision, without prejudice to the imputation of the duration of any interdiction decreed, by the same fact, on a provisional basis.
- 4 - The period of prohibition shall be suspended during the period in which the agent is deprived of his liberty by virtue of a measure of procedural coercion, penalty or security measure. If the suspension lasts for 2 years or more, the court shall re-examine the situation which gave rise to the application of the measure, confirming or repealing it.

Law No. 113/2009

Art. 1 – Object

This law establishes measures for the protection of minors in compliance with Article 5 of the Council of Europe Convention against Sexual Exploitation and Sexual Abuse of Children.

Art. 2 – Assessment of suitability in access to functions involving regular contact with minors

- 1 - Recruitment for professions, jobs, functions or activities, public or private, although not remunerated, the exercise of which involves regular contact with minors, the recruiting entity is obliged to ask the applicant to presentation of a certificate of criminal record and to weigh the information contained in the certificate in the assessment of the candidate's suitability for the performance of his duties.
- 2 - The application for the certificate, the applicant must specify the purpose for which it is intended, indicating the profession, job, function or activity to be exercise and indicating that its exercise involves regular contact with minors.
- 3 - The certificate required by private individuals for the purpose provided for in paragraph 1 shall state that the situation functions involving regular contact with and shall contain, in addition to the information provided in article 11 of Law no. 57/98, of August 18:
 - (a) Convictions for an offense under article 152, Article 152a or Chapter V of Title I of Book II of the Criminal Code;
 - (b) Decisions imposing ancillary penalties pursuant to Articles 152 and 179 of the Penal Code or measures that prohibit activity;
 - (c) Decisions which are a consequence, complement performance of those indicated in the preceding paragraphs and have the effect of canceling registration.
- 4 - The certificate required by individuals for the purpose provided for in paragraph 1, the provisions of paragraph e) of paragraph 2 of article 12 of Law no. 57/98, of August 18.
- 5 - In the certificate required by private individuals for the purpose provided for in paragraph 1 shall also include decisions by foreign courts, equivalent to those provided for in paragraph 3.
- 6 - Paragraph 1 shall be without prejudice to the compliance with prohibitions or disqualifications arising from the application of an accessory penalty or a security measure, the violation of which shall be punished in accordance with Article 353. of the Penal Code.
- 7 - Failure to comply with the provisions of paragraph 1 by of the recruiting entity constitutes counter-ordination, with a fine whose minimum and maximum limits are provided for in Article 17 of the scheme establishing the unlawful social order and its process, approved by the by Decree-Law no. 433/82, of 27 October, and may penalties provided for in (b), (c), (e), (f) and (g) of Article 21 (1), the conditions laid down in Article 21 University Degree.
- 8 - Negligence is punishable.
- 9 - The investigation of administrative misconduct and imposition of fines and ancillary sanctions administrative authorities responsible for the of the corresponding activities, and Article 34 of the regime establishing the offense of mere social order and its process.
- 10 - The product of the fines reverts to the service and for the State, in the percentages of 40% and 60%, respectively.
- 11 - The recruiting entity shall ensure the confidentiality of information of which it has knowledge through of the criminal record certificate.

- **Employment Law**

Labor Code

Art. 351 – Notion of just cause of dismissal

- 1 - It is just cause of dismissal of the guilty behavior of the worker who, by its seriousness and consequences, makes immediate and practically impossible the subsistence of the employment relationship.
- 2 - In particular, the following acts of dismissal are a just cause of dismissal:
 - (d) Repeated disinterest for the fulfillment, with due diligence, of obligations inherent to the exercise of the position or position to which he is assigned;
 - (i) Practice, within the company, of physical violence, injuries or other offenses punishable by law on the employee of the company, element of social bodies or individual employer not belonging to them, their delegates or representatives;
 - (j) Kidnapping or in general crime against the freedom of the people mentioned in the previous paragraph;
 - (l) Failure or opposition to compliance with a judicial or administrative decision;
- ...
- 3 - When assessing just cause, the degree of damage to the interests of the employer, the nature of the relations between the parties or between the employee and his / her partners and other circumstances are relevant.

- **Private Fostering**

No information found.

- **Criminal Law – Defamation**

Criminal Code

Art. 180 – Defamation

- 1 - Any person who, acting on a third party, imputes to the other person, even in the form of suspicion, a fact, or making a judgment on it, that is offensive to his honor or consideration, or reproduces such imputation or judgment, shall be punished with imprisonment up to 6 months or a fine of up to 240 days.
- 2 - The conduct is not punishable when:
 - (a) The imputation is made to realize legitimate interests; and
 - (b) The agent proves the truth of the same imputation or has had serious grounds to, in good faith, to consider it true.
- 3 - Notwithstanding the provisions of points b), c) and d) of paragraph 2 of article 31, the provisions of the previous number do not apply when dealing with the de facto charge related to the privacy of private and family life.
- 4 - The good faith referred to in paragraph 2 (b) shall be excluded where the staff member has not complied with the duty to provide information, which the circumstances of the case required, on the truth of the imputation.

Art. 181 – Injury

- 1 - Anyone who insults another person, imputing to him facts, even in the form of suspicion, or directing words to him, offensive to his honor or consideration, shall be punished with imprisonment for up to three months or with a fine of up to 120 days.
- 2 - In the case of imputation of facts, the provisions of paragraphs 2, 3 and 4 of the previous article are applicable.

Sexual Offenses Against Children

Criminal Code

Art. 160 – Trafficking in persons

1. Whoever offers, delivers, enlists, entices, accepts, transports, lodges or accommodates a person for the purpose of exploitation, including sexual exploitation, exploitation of labor, begging, slavery, extraction of organs or exploitation of other activities criminals:
 - (a) by violence, abduction or serious threat;
 - (b) through trick or fraudulent maneuver;
 - (c) with abuse of authority resulting from a relationship of hierarchical, economic, work or family dependency;
 - (d) taking advantage of the psychological incapacity or situation of special vulnerability of the victim; or
 - (e) by obtaining the consent of the person having control over the victim;shall be punished with imprisonment from three to ten years.
2. The same penalty shall be applied to anyone who, by any means, recruits, entices, transports, accommodates or receives children, or delivers, offers or accepts them for the purpose of exploitation, including sexual exploitation, exploitation of labor, begging, slavery, extracting organs, adopting or exploiting other criminal activities.
3. In the case provided for in the preceding paragraph, if the agent uses any of the means provided in the sub-paragraphs of paragraph 1 or acts professionally or with a lucrative intention, he shall be punished with imprisonment from three to twelve years.
4. The penalties provided for in the preceding paragraphs shall be increased by one third, in their minimum and maximum limits, if the conduct referred to therein:
 - (a) has endangered the life of the victim;
 - (b) has been committed with particular violence or has caused the victim particularly serious damage;
 - (c) has been committed by an official in the performance of his duties;
 - (d) has been committed in connection with a criminal association; or
 - (e) results in the suicide of the victim.
5. Any person who, through payment or other consideration, offers, delivers, petitions or accepts a minor, or obtains or gives consent to their adoption, shall be punished with imprisonment from one to five years.
6. Who, having knowledge of the practice of crime referred to in paragraphs 1 and 2, uses the services or organs of the victim shall be punished with imprisonment from one to five years, if a more severe penalty does not fit him under another provision.
7. Any person who retains, conceals, damages or destroys identification or travel documents of a person who has been a victim of a crime, as provided for in paragraphs 1 and 2, shall be punished by imprisonment for up to three years, if a more serious penalty does not apply to him by virtue of another provision.
8. The consent of the victim of the crimes foreseen in the previous numbers does not exclude in any case the illegality of the fact.

Art. 165 – Sexual abuse of a person incapable of resistance

- 1 - Anyone who commits a sexual act of relief with an unconscious person or person otherwise unable to resist, taking advantage of his or her condition or incapacity, shall be punished with imprisonment from six months to eight years.
- 2 - If the sexual act of relief consists of sexual intercourse, anal intercourse, oral intercourse or vaginal or anal introduction of parts of the body or objects, the agent shall be punished with imprisonment from two to ten years.

Art. 171 – Sexual abuse of children

- 1 - Anyone who commits a sexual act of relief with a minor under the age of 14, or causes the minor to practice it with another person, shall be punished with imprisonment from one to eight years.
- 2 - If the sexual act of relief consists of sexual intercourse, anal intercourse, oral intercourse or vaginal or anal introduction of parts of the body or objects, the agent shall be punished with imprisonment for three to ten years.
- 3 - Who:
 - (a) Pressures a minor under the age of 14, to practice an act provided for in article 170; or
 - (b) Acts on a minor under the age of 14, by means of conversation, writing, performance or pornographic objects;
 - (c) Entices a minor under the age of 14 to participate in sexual abuse or sexual activities; shall be punished by imprisonment for up to three years.
- 4 - Those who practice the acts described in the preceding number with lucrative intent shall be punished with imprisonment from six months to five years.
- 5 - The attempt is punishable.

Art. 172 – Sexual abuse of dependent children

- 1 - Any person who practices or takes to perform an act described in paragraphs 1 or 2 of the preceding article, in relation to a minor between ages 14 and 18 who has been entrusted to him for education or assistance, shall be punished by imprisonment of one to eight years.
- 2 - Any person who performs an act described in paragraph 3 of the preceding article, with respect to a minor comprised in the preceding paragraph of this article and under the conditions described therein, shall be punished by imprisonment for up to one year.
- 3 - Those who practice the acts described in the previous number with lucrative intent shall be punished with imprisonment for up to 5 years.
- 4 - The attempt is punishable.

Art. 173 – Sexual acts with adolescents

- 1 - Anyone who, being an adult, practices a sexual act of relief with a minor between the ages of 14 and 16, or causes it to be practiced by him with another, abusing his or her inexperience, shall be punished with imprisonment for up to two years.
- 2 - If the sexual act of relief consists of sexual intercourse, oral intercourse, anal intercourse or vaginal or anal introduction of parts of the body or objects, the agent shall be punished with imprisonment for up to 3 years.
- 3 - The attempt is punishable.

Art. 174 – Recourse to prostitution of minors

- 1 - Those who, being an adult, practice a sexual act of relief with a minor between the ages of 14 and 18, by means of payment or other consideration, shall be punished with imprisonment for up to two years.
- 2 - If the sexual act of relief consists of sexual intercourse, oral intercourse, anal intercourse or vaginal or anal introduction of parts of the body or objects, the agent shall be punished with imprisonment for up to 3 years.
- 3 - The attempt is punishable.

Art. 175 – Pimping of minors

- 1 - Any person who encourages, favors or facilitates the practice of prostitution of minors or encourages minors for this purpose shall be punished with imprisonment from 1 to 8 years.
- 2 - If the agent commits the crime foreseen in the previous number:
 - (a) by violence or serious threat;

- (b) through trick or fraudulent maneuver;
 - (c) with abuse of authority resulting from a family relationship, guardianship or custody, or hierarchical, economic or work dependency;
 - (d) acting professionally or for profit; or
 - (e) taking advantage of the psychological incapacity or situation of special vulnerability of the victim;
- shall be punished with imprisonment from two to ten years.

Art. 176 – Pornography of minors

1 - Who:

- (a) Uses a minor in a pornographic show or entices him to this end;
 - (b) Uses a minor in pornographic photography, film or recording, regardless of its form, or entices him for that purpose;
 - (c) Produces, distributes, imports, exports, publishes, exhibits or transfers, under any title or by any means, the materials provided for in the previous paragraph;
 - (d) Acquires or possesses materials provided for in item b) for the purpose of distributing, importing, exporting, publishing, exhibiting or transferring;
- shall be punished with imprisonment from one to five years.

- 2 - Those who practice the acts described in the preceding number professionally or with lucrative intent shall be punished with imprisonment from one to eight years.
- 3 - Those who practice the acts described in paragraphs a) and b) of paragraph 1 using violence or serious threat shall be punished with imprisonment from 1 to 8 years.
- 4 - Those who practice the acts described in paragraphs c) and d) of paragraph 1 using pornographic material with a realistic representation of a minor shall be punished with imprisonment up to two years.
- 5 - Whoever intentionally acquires, possesses, accesses, obtains or facilitates access by computer system or any other means to the materials referred to in paragraph 1 (b), shall be punished by imprisonment for up to two years.
- 6 - Any person, whether in person or through a computer system or any other means, who is a minor, attending or facilitating access to a pornographic performance involving the participation of minors of 16 years of age shall be punished by imprisonment for up to 3 years.
- 7 - Those who practice the acts described in paragraphs 5 and 6 with lucrative intention shall be punished with imprisonment up to 5 years.
- 8 - The attempt is punishable.

Art. 176A – Enticement of minors for sexual purposes

- 1- Who, being an adult, by means of information and communication technologies, entices a minor, for the purpose of meeting in order to practice any of the acts included in paragraphs 1 and 2 of article 171 and in paragraphs a), b) and (c) of paragraph 1 of the preceding article, shall be punished by imprisonment for up to one year.
- 2- If this enticement is followed by material acts leading to the encounter, the agent shall be punished with imprisonment for up to two years.

- **Female Genital Mutilation (FGM)**

[Penal Code](#)

Art. 118 – Limitation periods

- 5 - In crimes against freedom and sexual self-determination of minors, as well as in the crime of female genital mutilation when the victim is a minor, the criminal procedure is not extinguished, due to prescription, before the victim reaches 23 years.

Art. 144a – Female Genital Mutilation

1. Whoever genitally mutilates a female totally or partially by a clitoridectomy, infibulation, excision or any other harmful practice of the female genital tract for non-medical reasons shall be punished by imprisonment for 2 to 10 years.
2. The preparatory acts of the crime provided for in the preceding paragraph shall be punished by imprisonment for up to 3 years.