

## National Laws

Legislation of Interpol member states on sexual offences against children

# Croatia - Croatie - Croacia

Zagreb

The information on this page is up to date as of spring 2006

## I. Ages for legal purposes

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### Age of simple majority

The legal age of majority in the Republic of Croatia is attained when a person has reached the age of eighteen (18), according to the Constitution of the Republic of Croatia, Article 45:

'All citizens of the Republic who have reached the age of eighteen (18) years shall have universal and equal suffrage...'

### Age of consent for sexual activity

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

### Age of consent for marriage

Concerning the legal age of consent for marriage, the Law on Marriage and Family Relations in its article 34 says:

'(1) The person who has not attained the age of eighteen (18) cannot enter marriage.

(2) If the reasons are justified, the court can allow the person who has attained the age of sixteen (16) to contract marriage, if that person is mentally and physically mature for marriage.

(3) The application for marriage license can be submitted only by the person from the paragraph 2 of this Article.

(4) Before reaching the decision, the court will hear the underage applicant and his parents or guardians.'

We must notice that in October 1997, the penal legislation in the Republic of Croatia was modified. Among other laws, the new Penal Law, Criminal Procedure Law on Juvenile Courts were brought and drafted. They will become effective on January 1<sup>st</sup>, 1998.

According to Article 2 of the Law on Juvenile Courts, a minor is the person who has attained the age of fourteen (14) and has not attained the age of eighteen (18) in the time of the commission of the offence. A younger adult is the person who has attained the age of eighteen (18), but has not attained the age of twenty-one (21) in the time when the offence was committed.

According to Article 89, paragraph 9 of the Penal Law of the Republic of Croatia: 'A child is a person younger than fourteen (14) years of age'. According to paragraph 10 of the same Article: 'A minor is a person younger than eighteen (18) years of age'.

## **II. Rape**

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Chapter XIV of the Penal Code relates to the criminal acts against sexual freedom and sexual morality. It includes the offence of rape, described in Article 188 of the Penal Law:

'(1) Whoever coerces another by force or by threat of immediate attack upon his/her life or limb, or the life or limb of a person close to him/her, to sexual intercourse or a sexual act of the same nature shall be punished by imprisonment for one (1) to ten (10) years.

(2) Whoever commits the criminal offense referred to in paragraph 1 of this Article in a particularly cruel or humiliating way, or if on the same occasion a number of perpetrators perform a number of acts of sexual intercourse or sexual acts of the same nature against the same victim shall be punished by imprisonment for not less than three (3) years.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of the raped person is caused, or serious bodily injury is inflicted on the raped person or his/her health is severely impaired, or the (raped) female is left pregnant, the perpetrator shall be punished by imprisonment for not less than three (3) years.

(4) If, the criminal offense referred to in paragraph 1 of this Article, is committed to the detriment of a minor, the perpetrator shall be punished by imprisonment for not less than three (3) years.

(5) If the criminal act referred to in paragraph 2 and 3 of this Article is committed to the detriment of a minor, the perpetrator will be punished by imprisonment for not less than five (5) years.

(6) If, by the criminal offense referred to in paragraph 2 of this Article, the consequences referred to in paragraph 3 of this Article are caused, the perpetrator shall be punished by imprisonment for not less than five (5) years.'

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

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#### **'Sexual Intercourse with a helpless person', Article 189 of the Penal Code**

'(1) Whoever performs sexual intercourse or a sexual act of the same nature with another person, taking advantage of his/her mental illness, temporary mental disorder, mental deficiency or some other severe mental disturbance or any other condition which prevents such a person from resisting, shall be punished by imprisonment for one (1) year to eight (8) years.

(2) Who commits the criminal act described in the paragraph 1 of this Article in a particularly cruel or humiliating way, or if more sexual intercourse or equivalent sexual acts are committed by more than one perpetrator to the detriment of the same victim, will be punished by a prison sentence lasting from one (1) to ten (10) years.

(3) If the criminal act described in the paragraph 1 of this Article has caused the death of the person or serious bodily injury, or that person 's health has been seriously damaged, or the female person has become pregnant, the perpetrator will be punished by a prison sentence lasting from one (1) to ten (10) years.

(4) If the criminal act described in the paragraph 2 of this Article has caused consequences described in the paragraph 3, the perpetrator will be punished by at least three (3) years' imprisonment.'

#### **'Coercion on criminal intercourse', Article 190 of the Penal Code**

'Who forces another person, by serious threats that something bad will happen, will be punished by a prison sentence from three (3) months to five (5) years.'

#### **'Sexual intercourse by abuse of position', Article 191 of the Penal Code**

'(1) Whoever, by abusing his/her position induces, another person to submit to sexual intercourse or a sexual act of the same nature and where that person is in a position dependent towards him/her due to harsh material, family, social, health or any other conditions or circumstances shall be punished by imprisonment for three (3) months to three (3) years.

(2) A teacher, educator, parent, adoptive parent, guardian, step-parent or other person who abuses his/her power or relationship to a minor entrusted to that person for the purposes of teaching, education, guarding or caring, to commit sexual intercourse or an equivalent sexual act with that minor, will be punished by a prison sentence lasting from six (6) months to six (6) years.'

#### **'Sexual intercourse with a child', Article 192 of the Penal Code**

'(1) Who commits sexual intercourse or an equivalent act with a child, will be punished by a prison sentence lasting from one (1) to eight (8) years.

(2) Who commits violent sexual intercourse or an equivalent sexual act with a child or a disabled child will be punished by at least three (3) years' imprisonment.

(3) Who commits sexual intercourse or an equivalent sexual act by abusing his/her power over the child will be punished by a prison sentence lasting from one (1) to ten (10) years.

(4) Who commits the criminal act described in paragraph 1 of this Article in a particularly cruel or humiliating way, or if more sexual intercourse or equivalent sexual acts are committed by more than one perpetrator to the detriment of the same victim, will be punished by at least five (5) years' imprisonment.

(5) If the criminal act described in the paragraph 1 of this Article has caused the death of the child or serious bodily injury, or the child's health has been seriously damaged, or the female child has become pregnant, the perpetrator will be punished by at least five (5) years' imprisonment or long-term imprisonment.'

#### **'Incest', Article 198 of the Penal Code**

'(1) Who commits sexual intercourse or an equivalent sexual act with a blood relative of the same level or a brother or a sister, will be fined or imprisoned for a term not exceeding one (1) year.

(2) Who commits the criminal act described in the paragraph 1 of this Article with a minor, will be punished by a prison sentence lasting from six (6) months to five (5) years.

(3) Who commits the criminal act described in the paragraph 1 of this Article with a child, will be punished by prison sentence from one (1) to eight (8) years.'

#### **'Lewd acts', Article 193 of the Penal Code**

'(1) Whoever in cases under articles 188 and 191 of this Code when there is no attempt to commit those crimes, commits only lewd act will be punished for three (3) months to three (3) years of imprisonment

(2) Whoever in case referred to in Article 192 of this Code when there is no attempt committed, commits only lewd act, or crime from paragraph 1 of this Article to the detriment of a child or a minor will be punished for six (6) months to five (5) years of imprisonment.'

#### **'Gratifying lust in front of a child or a minor', Article 194 of the Penal Code**

'Whoever commits actions designed to gratify his /her own or any other person's lust in front of a child or a minor ; and whoever induces the child to do such actions in front of any person, will be punished by a prison sentence lasting from three (3) months to three (3) years.'

## **IV. Child prostitution**

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### **'Pandering', Article 196 of the Penal Code**

'(1) Whoever panders child or a minor will be punished for three (3) months to three (3) years of imprisonment.

(2) Whoever for profit organizes or enables other person giving sexual services will be punished by the sentence from paragraph 1 of this Article.

(3) Whoever, for profit, by force, or by threat to use force, or by deceit forces or induces another to offer sexual services shall be punished by a fine or imprisonment from six (6) months to five (5) years.

(4) If the crime under paragraphs 2 and 3 of this Article is committed to the detriment of a minor the perpetrator will be punished for one (1) to eight (8) years of imprisonment.

(5) Whoever organizes or enables a child giving sexual services will be punished for three (3) months to three (3) years of imprisonment.

(6) If the crime from paragraph 3 of this Article is committed with a child, perpetrator will be punished for one (1) to ten (10) years of imprisonment.

(7) The fact whether the person who is procured has already been engaged in prostitution is of no relevance on the existence of the criminal offence referred to in this Article.'

### **'International prostitution', Article 178 of the Penal Code**

'(1) Whoever tempts, recruits or instigates the other person to provide sexual services for profit in a country other than the one whose resident or citizen that person is, will be punished by a prison sentence lasting from three (3) months to three (3) years.

(2) Who compels another person by using physical force, or induces that person using threats, or by deceit to go to a country other than the country of that person's residence or citizenship, to provide sexual services for money, will be punished by a prison sentence lasting from six (6) months to five (5) years.

(3) If the criminal act described in the paragraph 1 and 2 of this Article was committed to the detriment of a child or a minor, the perpetrator will be punished by a prison sentence lasting from one (1) to ten (10) years.

(4) The fact whether the person who is being induced, recruited, instigated, forced or induced by deceit to be engaged in prostitution has been involved in it before, has no bearing on the existence of the criminal act described in this article.'

## V. Child pornography

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### **'Criminal act of abuse of children or juveniles in pornography', Article 196 of the penal Code**

'(1) Whoever uses a child or a juvenile for the purpose of making pictures, audiovisual material or other objects of a pornographic content, or who sells, distributes, or shows such material or induces a child to take part in a pornographic show shall be punished by imprisonment for one (1) to five (5) years.

(2) The objects and means who were designed for or used for commission of a crime referred to in paragraph 1 of this Article shall be forfeited and objects which were made by commission of a crime referred to in paragraph 1 of this Article will be seized and destroyed.'

### **'Introducing pornography to children', Article 197 of the Penal Code**

'(1) Every person who sells, gifts, displays, or makes accessible by public presentation or in any other way anything written or printed or any picture, drawing, audio and video production or any other things of pornographic content to a child, or shows a pornographic performance to a child, will be fined or imprisoned for a term not exceeding one (1) year.

(2) The objects and means who were designed for or used for commission of a crime referred to in paragraph 1 of this Article shall be forfeited and objects which were made by commission of a crime referred to in paragraph 1 of this Article will be seized and destroyed.'

## VI. Internet

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*The Republic of Croatia has signed the Convention on Cybernetic Crime that came into power on 01/07/2004. According to a/m, amendments have been made in the Criminal Act and a new criminal offence has been added in Article 197A "Child Pornography on Computer System or Network";*

*"(1) Whoever by using a computer system or network, offers, distributes, obtains for himself or for someone else, or whoever in a computer system or in the media for storage of computer data possesses pornographic contents that shows children or juveniles in a sexually explicit behaviour or that are focused on their sexual organs shall be punished by imprisonment from one to ten years*

*(2) Whoever, through a computer system, network or media for storage of computer data, makes available to a child, pictures, audio-visual contents or other objects of pornographic content, shall be punished by a fine or by imprisonment not exceeding three years.*

*(3) Special devices, means, computer programs or data used for or adjusted for the perpetration of the criminal offence as stated in Article 1 and 2 of this Article shall be forfeited."*