

[National Laws](#)

Legislation of Interpol member states on sexual offences against children

Malta - Malte - Malta

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

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;
- 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, 1°, 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, etc ...of defilement of the 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 that 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 office 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 completed 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 temporarily, 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.