

### What is Minor's Pornography?

Minor's Pornography include, even not confining to, any representation, using any method, of a minor involved in a pornographic show, real or simulated explicit sexual activities or any representation of any of the minor's sexual members for sexual purposes and also by the exploration of the minor to create this representation.

In generic terms, the "Pornografia de menores" crime includes, among other forms, the dissemination, usage, production, distribution and exhibition of pornographic photographs, movies or recordings in which a minor takes part. It also includes the buying or ownership of any of the mentioned materials. The foreseen penalties for this crime topology are aggravated if, for example there is a family relationship or any hierarchic dependence between the victim and the agent.

### How is Minor's Pornography criminalized?

*Article number 176 of the Penal Code*  
*Minor's Pornography*

1 – Who:

- a) Uses a minor in a pornographic show or seduces him for those activities;
  - b) Uses a minor in a pornographic picture, movie or recording, independently of its support, or seduces him for those activities;
  - c) Produces, distributes, imports, exports, broadcasts, exhibits or gives, by any reason or mean, the materials mentioned in b);
  - d) Acquires or withholds the materials mentioned in b) with the intent to distribute, import, export, broadcast, exhibit or give them;
- will be punished with imprisonment for a term from 1 year up to 5 years.

2 – Who practices professionally or with a profit making intention any of the actions described in 1 will be punished with imprisonment for a term from 1 year up to 8 years.

3 – Who practices the acts described in 1.c) and 1.d) using pornographic material with a realistic representation of a minor will be punished with imprisonment for a term up to 2 years.

4 – Who acquires or withholds any of the materials described in 1.b) will be punished with imprisonment for a term up to 1 year or with a fine.

5 – The intent is also punishable.

*Article 177*

*Aggravation*

1 – The penalties foreseen in the articles 163 to 165 and 167 to 176 will be aggravated in one third of their maximum and minimum penalties if the victim:

- a) Is an ascending, descending, adoptante, adoptee, relative or with a familiar relation up to second degree of the agent; or
- b) Is in a familiar relation, of guardianship or guardianship, or hierarchic, economic or work dependence with the agent and the crime was practiced with the exploitation of this relation.

2 – The aggravations mentioned in the previous point are not applicable in the cases described by the number 2 of the article 163, number 2 of the article 164, number 2.c) of the article 169 and the number 2.c) of the article 175

3 – The penalties foreseen in the articles 163 to 167 and 171 to 174 will be aggravated in one third of their maximum and minimum penalties if the agent has any sexually transmitted disease.

4 – The penalties foreseen in the articles 163 to 168 and 171 to 174 will be aggravated in one half of their maximum and minimum penalties if the consequence of the behaviors described are pregnancy, severe physic integrity offense, transmission of a pathogenic agent that induces life danger, suicide or death of the victim.

5 – The penalties foreseen in the articles 163, 164, 168, 174, 175 and the number 1 of article 176 will be aggravated in one third of their maximum and minimum penalties if the victim is less than 16 years old.

6 – The penalties foreseen in the articles 163, 164, 168, 174, 175 and the number 1 of article 176 will be aggravated in one half of their maximum and minimum penalties if the victim is less than 14 years old.

7 – If in the same behavior there is more than one of the circumstances previously mentioned it is only taken into consideration when calculating the penalty the one that has a more severe aggravation. The other or other will be taken into consideration when calculating the penalty length.

### *Article 179*

#### *Inhibition of the paternal power and prohibition of the exercise of functions*

A person who is condemned by crime foreseen in articles 163<sup>o</sup> to 176<sup>o</sup> can, with relation to the crime severeness and the relation to the agent's function, be:

- a) Inhibited of the exercise of the paternal power, the guardianship or the guardianship; or
- b) Forbidden to exercise of profession, function or activity that imply to have minors under its responsibility, education, treatment or monitoring;  
within a period from 2 years to 15 years.

### **Documents:**

- [Convenção dos direitos da criança](#)
- [Protocolo facultativo à Convenção dos Direitos da Criança, relativos à venda de crianças, à prostituição das crianças, e à pornografia que põe em cena crianças](#)
- [Convenção sobre o cibercrime](#)