

Translation from Finnish

Translation subject to possible revisions

Legally binding only in Finnish and Swedish

Ministry of Justice, Finland

Criminal Code (39/1889)

Chapter 20 (723/2022)

Sexual offences

Section 1 (723/2022)

Rape

A person who has sexual intercourse with a person who does not participate in it voluntarily shall be sentenced for rape to imprisonment for at least one year and at most six years.

The participation of a person in sexual intercourse shall not be considered voluntary if:

- 1) the person has not verbally, through his or her behaviour or in any other way expressed that he or she is participating in it voluntarily,
- 2) the person has been coerced into sexual intercourse by using violence against a person or by making a threat, or
- 3) the person has not been able to formulate or express his or her will due to unconsciousness, illness, disability, state of fear, state of intense intoxication, reduced consciousness, sudden nature of the situation, serious abuse of a special position of power or another comparable reason.

An attempt is punishable.

Section 2 (723/2022)

Aggravated rape

If, in rape,

- 1) serious violence against a person is used or threatened to be used or a grievous bodily injury, a serious illness or a state of mortal danger is caused to another person,

- 2) the offence is committed by more than one person,
- 3) the offence causes particularly grave mental or physical suffering,
- 4) the offence is committed in a particularly brutal, cruel or humiliating manner, or
- 5) the victim is a child under 18 years of age,

and the rape is also aggravated when assessed as a whole, the perpetrator shall be sentenced for *aggravated rape* to imprisonment for at least two and at most ten years.

An attempt is punishable.

Section 3 (723/2022)

Sexual assault

A person who, by touching or otherwise, performs a sexual act other than that referred to in section 1 on a person who does not participate in it voluntarily or gets a person to engage in such an act, and the act significantly violates the person's right to sexual self-determination, shall be sentenced for *sexual assault* to imprisonment for at least four months and at most four years.

The participation of a person in a sexual act shall not be considered voluntary if:

- 1) the person has not verbally, through his or her behaviour or in any other way expressed that he or she is participating in it voluntarily,
- 2) the person has been coerced into the sexual act by using violence against a person or by making a threat, or
- 3) the person has not been able to formulate or express his or her will due to unconsciousness, illness, disability, state of fear, state of intense intoxication, reduced consciousness, sudden nature of the situation, serious abuse of a special position of power or another comparable reason.

An attempt is punishable.

Section 4 (723/2022)

Aggravated sexual assault

If, in a sexual assault,

- 1) serious violence against a person is used or threatened to be used,

- 2) because of the number of the perpetrators or for another reason, the offence causes particularly grave mental or physical suffering or is committed in a particularly humiliating manner, or
- 3) the victim is a child under 18 years of age,

and the sexual assault is also aggravated when assessed as a whole, the perpetrator shall be sentenced for *aggravated sexual assault* to imprisonment for at least one year and at most six years.

An attempt is punishable.

Section 5 (723/2022)

Sexual abuse

A person who, by taking advantage of his or her position, gets

- 1) a person under 18 years of age who in a school, an institution, an employment relationship or free time activities is subject to the authority or supervision of the perpetrator or in another comparable manner subordinate to the perpetrator,
- 2) a person under 18 years of age whose capacity for independent sexual self-determination, due to his or her immaturity and the age difference between the parties involved, is essentially inferior to that of the perpetrator,
- 3) a person who is being treated in a hospital or another institution and whose possibilities to formulate or express his or her will are impaired due to illness, disability or other infirmity, or
- 4) a person whose possibilities to formulate or express his or her will are impaired due to the abuse of a special position of power by the perpetrator,

to participate in sexual intercourse or engage in another sexual act that significantly violates the person's right to sexual self-determination shall, unless an equally or more severe punishment for the act is provided elsewhere in this chapter, be sentenced for *sexual abuse* to imprisonment for at least four months and at most four years.

An attempt is punishable.

Section 6 (723/2022)

Sexual harassment

A person who,

- 1) by touching, or
- 2) verbally, by sending or showing a message or picture, by taking a picture, by exposing himself or herself, or in some other equivalent manner, and the act is, due to its intensity or repetition, so serious that it is comparable to touching,

performs such a sexual act on another person that is conducive to violating that person's right to sexual self-determination shall, unless a punishment for the act is provided elsewhere in this chapter, be sentenced for *sexual harassment* to a fine or to imprisonment for at most six months.

Section 7 (723/2022)

Non-consensual dissemination of a sexual image

A person who unlawfully presents or disseminates an image or a visual recording that factually or realistically depicts another person in a sexual manner, so that the act significantly violates the person's right to sexual self-determination, shall be sentenced for *non-consensual dissemination of a sexual image* to a fine or to imprisonment for at most two years.

An image or a visual recording is factual in the manner referred to in subsection 1 if it has been produced in a situation where the person in actual fact appears in the image or visual recording referred to in subsection 1, and realistic if it is deceptively similar to an image or a visual recording produced through photography or in another equivalent manner in a situation where the person in actual fact appears in the manner referred to in subsection 1.

Section 8 (723/2022)

Abuse of a person subject to sex trade

A person who, by promising or providing payment of direct economic value, gets a person who is the object of an offence referred to in section 10 or 11 of this chapter or in chapter 25, section 3 or 3a to engage in sexual intercourse or another comparable sexual act shall, unless the act is punishable under section 9, be sentenced for *abuse of a person subject to sex trade* to a fine or imprisonment for at most six months.

A person who, by taking advantage of payment referred to in subsection 1 promised or provided by a third party, engages in sexual intercourse or another comparable sexual act with a person who is the object of an offence referred to in the said subsection shall also be sentenced for abuse of a person subject to sex trade.

Furthermore, a person who commits an act referred to in subsection 1 or 2 even though he or she has had reason to suspect that the person referred to in subsection 1 or 2 is the object of an offence referred to in section 10 or 11 of this chapter or in chapter 25, section 3 or 3a shall also be sentenced for abuse of a person subject to sex trade.

An attempt at an intentional offence is punishable.

Section 9 (723/2022)

Offering payment for a sexual act on a young person

A person who, by promising or providing payment, gets a person under 18 years of age to engage in sexual intercourse or another sexual act shall be sentenced for *offering payment for a sexual act on a young person* to a fine or to imprisonment for at most two years.

A person who, with a person under 18 years of age, participates in sexual intercourse or another sexual act for which another person has promised or provided payment shall also be sentenced for offering payment for a sexual act on a young person.

An attempt is punishable.

Section 10 (723/2022)

Pandering

A person who, to obtain economic benefit for himself or herself or for another person,

- 1) provides a room or other premises for the purpose of sexual intercourse or a comparable sexual act to be performed in return for payment, for the purposes of sexual intercourse with a child under 18 years of age, or for the purposes of such a sexual act with a child under 18 years of age that is conducive to endangering the child's development,
- 2) as an established part of his or her business activities provides accommodation for a person engaging in such an act and thus substantially contributes to such an act,

- 3) by providing contact information or otherwise, markets another person's engagement in such an act, knowing that his or her actions will substantially contribute to the commission of such an act,
- 4) otherwise takes advantage of the fact that another person engages in such an act, or
- 5) entices another person to engage in such an act,

shall be sentenced for *pandering* to a fine or imprisonment for at most three years.

An attempt is punishable.

Section 11 (723/2022)

Aggravated pandering

If, in pandering,

- 1) considerable economic benefit is sought,
- 2) the offence is committed in a particularly premeditated manner, or
- 3) the victim is a child under 18 years of age,

and the offence is also aggravated when assessed as a whole, the perpetrator shall be sentenced for *aggravated pandering* to imprisonment for at least four months and at most six years.

An attempt is punishable.

Section 12 (723/2022)

Rape of a child

A person who has sexual intercourse with a child under 16 years of age shall be sentenced for *rape of a child* to imprisonment for at least two and at most ten years.

A person who has sexual intercourse with a child who has reached the age of 16 years but not the age of 18 years shall also be sentenced for rape of a child, if the perpetrator is the child's parent or in a position comparable to that of a parent.

An attempt is punishable.

Section 13 (723/2022)

Aggravated rape of a child

If, in rape of a child,

- 1) serious violence against a person is used or threatened to be used or a grievous bodily injury, a serious illness or a state of mortal danger is caused to another person,
- 2) the offence is committed by more than one person,
- 3) the offence causes particularly grave mental or physical suffering,
- 4) the offence is committed in a particularly brutal, cruel or humiliating manner,
- 5) the victim is a child whose age or level of development is such that the offence is conducive to causing particular damage to the child, or
- 6) the offence is conducive to causing particular damage to the child due to the special trust the child has placed in the perpetrator or another particularly dependent position of the child in relation to the perpetrator,

and the rape of a child is also aggravated when assessed as a whole, the perpetrator shall be sentenced for *aggravated rape of a child* to imprisonment for at least four and at most twelve years.

An attempt is punishable.

Section 14 (723/2022)

Sexual assault of a child

A person who, by touching or otherwise, performs such a sexual act other than that referred to in section 12 on a child under 16 years of age that is conducive to causing damage to the child's development, or gets the child to engage in such an act, shall be sentenced for *sexual assault of a child* to imprisonment for at least four months and at most six years.

A person who performs an act referred to in subsection 1 on a child who has reached the age of 16 years but not the age of 18 years shall also be sentenced for sexual assault of a child, if the perpetrator is the child's parent or in a position comparable to that of a parent.

An attempt is punishable.

Section 15 (723/2022)

Aggravated sexual assault of a child

If, in a sexual assault of a child,

- 1) serious violence against a person is used or threatened to be used,
- 2) because of the number of the perpetrators or for another reason, the offence causes particularly grave mental or physical suffering or is committed in a particularly humiliating manner,
- 3) the victim is a child whose age or level of development is such that the offence is conducive to causing particular damage to the child, or
- 4) the offence is conducive to causing particular damage to the child due to the special trust the child has placed in the perpetrator or another particularly dependent position of the child in relation to the perpetrator,

and the offence is also aggravated when assessed as a whole, the perpetrator shall be sentenced for *aggravated sexual assault of a child* to imprisonment for at least two and at most ten years.

An attempt is punishable.

Section 16 (723/2022)

Sexual abuse of a child

If, in view of the age and maturity of the child and the perpetrator, the relationship between the parties and the other circumstances in which the offence was committed, rape of a child or sexual assault of a child is, when assessed as a whole, committed under circumstances that reduce the seriousness of the offence, the perpetrator shall be sentenced for *sexual abuse of a child* to imprisonment for at least four months and at most six years.

An attempt is punishable.

What is provided in subsection 1 does not apply if the act has been committed in the manner referred to in section 1, subsection 2, paragraphs 1–3 or section 3, subsection 2, paragraphs 1–3.

Section 17 (723/2022)

Restrictive provision

An act shall not be deemed rape of a child, sexual assault of a child or sexual abuse of a child, if it does not violate the right to sexual self-determination of the person at whom the act is directed and if there is no great difference in the age and maturity of the parties involved.

Section 18 (723/2022)

Solicitation of a child for sexual purposes

A person who suggests a meeting or another contact with a child so that it is apparent from the contents of the suggestion or otherwise from the circumstances that the person's intention is to produce, in the manner referred to in section 19, subsection 1, an image or a visual recording that depicts the child in a sexual manner, or to commit any of the offences referred to in sections 12–16 of this chapter against the child, shall be sentenced for *solicitation of a child for sexual purposes* to a fine or to imprisonment for at most one year.

Unless a more severe punishment for the act is provided elsewhere by law, a person who solicits a person under 18 years of age to engage in sexual intercourse or another sexual act in the manner referred to in section 9 or to perform in an organised performance presenting a child in a sexual manner shall also be sentenced for solicitation of a child for sexual purposes.

An attempt at an offence referred to in subsection 2 is punishable.

Section 19 (723/2022)

Distribution of an image depicting a child in a sexual manner

A person who produces, offers for sale or for rent or otherwise offers or makes available, keeps available, exports from, imports to or transports through Finland to another country, or otherwise distributes an image or a visual recording that depicts a child in a sexual manner, either factually or realistically, shall be sentenced for *distribution of an image depicting a child in a sexual manner* to a fine or to imprisonment for at most two years.

An attempt is punishable.

What is provided in subsection 1 does not apply if the production or distribution of an image or a visual recording referred to in the said subsection is to be deemed justifiable because of the informative nature or manifest artistic value of the image or visual recording.

In this section, a child is defined as a person under 18 years of age and a person whose age cannot be determined but who is, on justified grounds, assumed to be under 18 years of age. An image or a visual recording is factual in the manner referred to in subsection 1 if it has been produced in a situation in which the child has, in actual fact, been portrayed in a sexual manner, and realistic, if it is deceptively similar to an image or visual recording produced through photography or in another equivalent manner in a situation in which the child has been portrayed in a sexual manner.

Section 20 (723/2022)

Aggravated distribution of an image depicting a child in a sexual manner

If, in distribution of an image depicting a child in a sexual manner,

- 1) the child is particularly young,
- 2) the image also depicts serious violence against the child or particularly humiliating treatment of the child,
- 3) the offence is committed in a particularly premeditated manner, or
- 4) the offence is committed as part of the activities of an organised criminal group referred to in chapter 6, section 5, subsection 2,

and the offence is also aggravated when assessed as whole, the perpetrator shall be sentenced for *aggravated distribution of an image depicting a child in a sexual manner* to imprisonment for at least four months and at most six years.

An attempt is punishable.

Section 21 (723/2022)

Possession of an image depicting a child in a sexual manner

A person who

- 1) unlawfully has in his or her possession an image or a visual recording depicting a child in a sexual manner as referred to in section 19, or

- 2) for a fee, by other agreement or otherwise for the purpose of obtaining access to the material in question, obtains access to an image or a visual recording referred to in paragraph 1 so that it is available to him or her on a computer or another technical device without being stored on the device,

shall be sentenced for *possession of an image depicting a child in a sexual manner* to a fine or to imprisonment for at most two years.

The provisions of section 19, subsection 4 apply to the acts referred to in this section.

Section 22 (723/2022)

Following a performance presenting a child in a sexual manner

A person who follows an organised performance in which a child performs in a sexual manner shall be sentenced for *following a performance presenting a child in a sexual manner* to a fine or to imprisonment for at most two years.

In this section, a child is defined as a person under 18 years of age and a person whose age cannot be determined but who is, on justified grounds, assumed to be under 18 years of age.

An attempt is punishable.

Section 23 (723/2022)

Definitions

In this Code, *sexual intercourse* means the sexual penetration of another person's body, committed with one's sex organ or directed at the other person's sex organ or anus, the taking in of another person's sex organ into one's own body, or the touching of another person's sex organ or anus with one's sex organ or mouth.

In this Code, *sexual act* means an act that, taking into consideration the perpetrator, the person at whom the act is directed and the circumstances in which is committed, is sexually significant.

Section 24 (723/2022)

Right to bring charges

The prosecutor shall not bring charges for sexual harassment or non-consensual dissemination of a sexual image committed against a person who has reached the age of 18 years, unless the

injured party reports the offence for prosecution or unless a very important public interest requires that charges be brought.

Section 25 (723/2022)

Corporate criminal liability

The provisions on corporate criminal liability apply to pandering, aggravated pandering, distribution of an image depicting a child in a sexual manner, aggravated distribution of an image depicting a child in a sexual manner and possession of an image depicting a child in a sexual manner. The same applies to solicitation of a child for sexual purposes, where a meeting or another contact with a child is suggested with the intention to produce images or visual recordings that depict a child in a sexual manner.