

**We the Captains Regent
of the Most Serene Republic of San Marino**

Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;

Hereby promulgate and order the publication of the following Ordinary Law, approved by the Great and General Council during its sitting of 25 January 2021:

Law no. 16 of 1 February 2021

**AMENDMENTS TO THE CRIMINAL CODE - INTRODUCTION OF THE
OFFENCE OF ILLICIT DISSEMINATION OF SEXUALLY EXPLICIT IMAGES
OR VIDEOS (REVENGE PORN)**

Art.1
(Purposes)

1. The purpose of the provision is to introduce into the Criminal Code an autonomous criminal offence to repress the illicit dissemination of sexually explicit images or videos, also in compliance with the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence of 11 May 2011 and Law no. 97 of 20 June 2008 and subsequent amendments.

Art.2
(Illicit dissemination of sexually explicit images or videos)

1. After Article 181-bis of the Criminal Code, the following Article shall be added:

“Art.181-ter
(Illicit dissemination of sexually explicit images or videos)

Unless the act constitutes a more serious offence, anyone who sends, delivers, transfers, publishes or disseminates, after having made or taken them, images or videos of sexual organs or sexually explicit content, intended to remain private, without the consent of the persons depicted, shall be punished by terms of second-degree imprisonment and a fine from 4,000.00 to 10,000.00 euro.

First-degree imprisonment or a fine from 2,000.00 to 8,000.00 euro shall apply if the offence is perpetrated by a person who, having received or otherwise acquired the images or videos, sends, delivers, transfers, publishes or disseminates them without the consent of the persons depicted in order to cause them harm.

If the acts referred to in the first paragraph are committed by a person who is or was a spouse or a person who is or was in a stable emotional relationship with the offended person, or if the offence is perpetrated through computer or telematics tools, imprisonment from second to third degree and a fine from 5,000.00 to 12,000.00 euro shall be applied.

The same punishment envisaged in the preceding paragraph shall also be applied if the offence is perpetrated against a person in a condition of physical or mental inferiority or against a pregnant woman.

The offence shall be prosecuted upon complaint filed by the offended party. However, the offence shall be prosecuted ex officio in the cases referred to in paragraph 4, as well as when the offence is related to another offence, which is prosecuted ex officio.

In case of conviction for the offences referred to in the preceding paragraphs, the confiscation of material containing images or videos of sexual organs or sexually explicit content shall always be mandatory under Article 147 of the Criminal Code. To this end, the Law Commissioner may order the seizure of material containing images or videos of sexual organs or with sexually explicit content.”.

Art.3

(Protection of victims of the offence of illicit dissemination of sexually explicit images or videos)

1. Where compatible, the provisions of Chapters I and III of Law no. 97 of 20 June 2008 and subsequent amendments shall apply to the offence referred to in Article 2 of this Law.
2. An employee shall not be subject to dismissal or other sanctioning measures if he is a victim of the offence referred to in Article 2 of this Law.

Art.4

(Entry into force)

1. This Law shall enter into force on the fifth day following that of its legal publication.

THE CAPTAINS REGENT
Alessandro Cardelli – Mirko Dolcini

THE MINISTER OF INTERNAL
AFFAIRS
Elena Tonnini