APPENDIX A
THE GERMAN CRIMINAL CODE (*STRAFGESETZBUCH* (*StGB*))

This appendix is a translation of the *Strafgesetzbuch* (German Criminal Code) in the version of the publication of 13 November 1998 (Federal Law Gazette (*Bundesgesetzblatt*) I, page 3322) with subsequent amendments through 25 June 2012.

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An act may be punished only if the punishability was provided by law before the act was committed.

SECTION 2. APPLICABILITY IN POINT OF TIME

(1) The punishment and its incidental consequences will be determined pursuant to the law in force at the time of the commission of the act.

(2) If the designated punishment is changed during the time the act is committed, the law in force at the time of completion of the act will apply.

(3) If the law in force at the time of the completion of the act is changed before the decision, the most lenient law will be applicable.

(4) A law that is to be in force only for a specified period of time will be applied to acts committed during the time of its effectiveness, even if it has expired. This does not apply if otherwise provided by law.

(5) Paragraphs (1) through (4) above apply accordingly to forfeiture, confiscation, and rendering unserviceable.

(6) Measures of prevention and reform will be determined according to the law in force at the time of the decision unless otherwise provided by law.

SECTION 3. APPLICABILITY TO ACTS COMMITTED IN THE FEDERAL REPUBLIC OF GERMANY
German criminal law applies to acts committed in the Federal Republic of Germany.

SECTION 4. APPLICABILITY TO ACTS COMMITTED ON GERMAN VESSELS AND AIRCRAFT
German criminal law will apply, irrespective of the law of the place of commission, to acts committed aboard a vessel or an aircraft entitled to fly the Federal flag or to bear the nationality sign of the Federal Republic of Germany.

SECTION 5. ACTS COMMITTED ABROAD AGAINST GERMAN PROTECTED LEGAL RIGHTS
German criminal law applies, irrespective of the law at the place of the act, to the following acts committed abroad:

1. Preparation of a war of aggression (sec 80).

2. High treason (secs 81 through 83).

3. Endangering the democratic constitutional state in the cases of—

(a) Section 89, section 90a, paragraph (1), and section 90b if the perpetrator is a German national and has his primary residence within the territorial applicability of this law.

(b) Section 90 and section 90a, paragraph (2).

4. Treason and endangerment of external security (secs 94 through 100a).

5. Offenses against national defense in the cases of:

(a) Sections 109 and 109e through g.

(b) Sections 109a, 109d, and 109h if the perpetrator is a German and has his primary residence within the territorial applicability of this law.

6. Abduction and casting political suspicion (secs 234a and 241a) if the act is directed against a German who has his domicile or usual place of abode in the Federal Republic of Germany.

6a. Child stealing in the cases of section 235, paragraph (2), number 2 if the act is directed against a person who has his domicile or usual place of abode in the Federal Republic of Germany.

7. Breach of trade and business secrets of a firm located within the territorial applicability of this law, of an enterprise having its registered place of business there, or of an enterprise having its registered place of business abroad but is controlled by an enterprise having its registered place of business within the territorial applicability of this law and forms a concern with such enterprise.

8. Offenses against sexual self-determination in cases of—

(a) Section 174, paragraphs (1) and (3) if the perpetrator and the person against whom the act is committed are German nationals who have their primary residence in the Federal Republic of Germany, and

(b) Sections 176 through 176b and section 182 if the perpetrator is a German national.

9. Abortion (sec 218) if the perpetrator is a German national at the time of the act and has his primary residence within the territorial applicability of this law.

10. False unsworn statement, perjury, and false affirmation in lieu of an oath (secs 153 through 156) in proceedings pending before a court or any other German agency competent to administer an oath or to accept affirmations in lieu of an oath within the territorial applicability of this law.

11. Offenses against the environment in the cases of sections 324, 326, 330, and 330a if the act is committed within the exclusive German economic territory, if international agreements on protection of the sea permit their prosecution as an offense.

12. Acts committed by a German holder of a public office or by a person especially engaged in civil service while on duty or in relation to his duties.

13. Acts committed by a foreigner as holder of a public office or as a person especially engaged in civil service.

14. Acts that a person commits against the holder of a public office, a person especially engaged in civil service, or a soldier of the Federal Armed Forces (*Bundeswehr*) in the performance of duty or in relation to their duties.

15. Organ and tissue trafficking (sec 18 of the Transplantation Law (*Transplantationsgesetz*)) if the perpetrator is a German national at the time the offense is committed.

SECTION 6. ACTS COMMITTED ABROAD AGAINST INTERNATIONALLY PROTECTED LEGAL RIGHTS

German criminal law is further applicable, irrespective of the law of the place of commission, to the following acts committed abroad:

1. (Rescinded)

2. Felonies involving nuclear energy, explosives, and radiation in the cases of section 307, section 308, paragraphs (1) through (4), section 309, paragraph (2), and section 310.

3. Attack air and maritime traffic (sec 316c).

4. Slave trade for the purpose of sexual exploitation and for the exploitation of labor as well as promotion of slave trade (secs 232 through 233a).

5. Illicit distribution of narcotics.

6. Distribution of pornographic literature in the cases of section 184a, section 184b, paragraphs (1) through (3), and section 184c, paragraphs (1) through (3), both also in conjunction with section 184d, sentence 1.

7. Counterfeiting of money and securities (secs 146, 151, and 152), counterfeiting of payment cards with guarantee function and blanks for euro checks (sec 152b, paras (1) through (4)) as well as its preparation (secs 149, 151, 152, and 152b, para (5));

8. Subsidy fraud (sec 264).

9. Acts that, on the basis of an intergovernmental agreement binding on the Federal Republic of Germany, must be prosecuted even if they have been committed abroad.

SECTION 7. APPLICABILITY TO ACTS COMMITTED ABROAD IN OTHER CASES

(1) German criminal law applies to acts committed abroad against a German if the act is punishable at the place of commission or if the place of commission is not subject to any punitive power.

(2) German criminal law applies to other acts committed abroad if the act is punishable at the place of commission or if the place of commission is not subject to any punitive power and if the perpetrator was a—

1. German at the time of the act or became a German national after the act.

2. Foreigner at the time of the act, was caught in the Federal Republic of Germany and, although the Law Concerning Extradition (*Auslieferungsgesetz*) would permit his extradition according to the nature of the act, is not extradited because a request for extradition was not submitted within an adequate period of time, or was rejected or because the extradition cannot be effected.

SECTION 8. TIME OF THE ACT

An act is committed at the time the perpetrator or accessory has acted or, in case of omission, ought to have acted. The time when the result occurs is irrelevant.

SECTION 9. PLACE OF THE ACT

(1) An act is committed at every place the perpetrator has acted or, in case of omission, ought to have acted or at which the result forming one of the factual elements of the act has occurred or, according to the perpetrator's conception, should occur.

(2) Participation is committed at the place where the act has been committed as well as at every other place the accessory has acted or, in case of omission, ought to have acted or at which the act should have taken place according to his conception. If the accessory in an act committed abroad acted in the Federal Republic of Germany, German criminal law applies to the participation even if the act is not punishable under the law applicable at the place of the act.

SECTION 10. SPECIAL PROVISIONS FOR JUVENILES AND ADOLESCENTS

This law will apply to acts committed by juveniles and adolescents only insofar as nothing else is provided by the Youth Court Law (*Jugendgerichtsgesetz*).

SECOND TITLE
TERMINOLOGY

SECTION 11. DEFINITION OF PERSONS AND OBJECTS

(1) Within the meaning of this law—

1. A dependent is whoever belongs to the following group of persons:

(a) Relatives and persons related by marriage in the direct line, the spouse, the partner for life, fiancé(e) also within the meaning of the Law on Partnership for Life (*Lebenspartnerschaftsgesetz*) siblings, spouses or partners for life of siblings or siblings of spouses or partners for life, even where the marriage or the partnership for life by which the relationship was established no longer exists, or where the kinship or affinity is terminated.

(b) Foster parents and foster children.

2. A holder of a public office is whoever, according to German law, is—

(a) A civil servant or a judge.

(b) In another official relationship under public law.

(c) Appointed to give attention to tasks of public administration at an authority or any other agency or on its behalf regardless of the form of organization selected to perform the task.

3. A judge is whoever, according to German law, is a professional judge or honorary judge.

4. A person especially engaged in civil service is whoever, without being a holder of public office, is employed with or works for an—

(a) Authority or any other office giving attention to tasks of public administration,

(b) Association or any other union, business, or enterprise performing duties of public administration for a governmental or any other agency

and is officially obligated to conscientious fulfillment of his duties on the basis of a law.

5. An unlawful act is only such act that fulfills the elements in a criminal statute.

6. Undertaking an act is its attempt and its completion.

7. A public authority is also a court.

8. A measure is any measure of security and reform, forfeiture, confiscation, and rendering unserviceable.

9. A compensation is any consideration consisting of material benefit.

(2) Within the meaning of this law, an act also is intentional if it meets the statutory elements of an offense that requires intent with respect to the act, but allows negligence to suffice with respect to a special consequence resulting from the act.

(3) In those provisions that refer to this paragraph, sound and video recordings, illustrations, and other displays are equal to writings.

SECTION 12. FELONIES AND MISDEMEANORS

(1) Felonies are illegal acts punishable by a minimum term of imprisonment of 1 year or more.

(2) Misdemeanors are illegal acts that are, as a minimum, punishable by lesser imprisonment or by a fine.

(3) Aggravations or mitigation that, pursuant to the provisions of the General Part, are provided for especially serious or less serious cases, will not be considered for the classification.

CHAPTER TWO
THE ACT

FIRST TITLE
BASIS OF PUNISHABILITY

SECTION 13. COMMISSION OF AN OFFENSE BY OMISSION

(1) Whoever fails to avert a result that forms one of the factual elements of a criminal statute will be subject to punishment pursuant to this law only if he is legally responsible for the failure of the result to occur, and if the omission is tantamount to the realization of the legal elements of the case by commission.

(2) The punishment may be mitigated pursuant to section 49, paragraph (1).

SECTION 14. ACTING FOR ANOTHER PERSON

(1) If a person acts as—

1. An agency authorized to represent a juristic person or as a member of such agency,

2. A partner authorized to represent a partnership with legal personality,

3. A legal representative of another person,

a law according to which special personal features, conditions, or circumstances (special personal characteristics) substantiate the punishability also will be applied to the representative, even if those characteristics do not pertain to him but rather to the person he is representing.

(2) If the owner of a business activity or any other duly authorized person—

1. Entrusts a person to run the business activity entirely or partly, or

2. Explicitly entrusts a person to fulfill on his own responsibility, duties incumbent on the owner of the business activity

and if he acts on the basis of this commission, a law according to which special personal characteristics substantiate punishability, also will be applied to the person so authorized even if these characteristics do not pertain to him but to the owner of the business activity. An enterprise is equal to a business activity within the meaning of sentence 1. If a person acts on the basis of a corresponding commission for any agency which discharges functions of public administration, sentence 1 shall be applied accordingly.

(3) Paragraphs (1) and (2) also are applicable if the legal act that was supposed to be the basis for the authorization to represent or the mandate relationship is ineffective.

SECTION 15. INTENTIONAL AND NEGLIGENT ACTING

Only intentional acting will be punishable unless the law expressly imposes punishment for negligent acting.

SECTION 16. ERROR CONCERNING FACTUAL CIRCUMSTANCES OF THE ACT

(1) Whoever, at the time the act is committed, is ignorant of circumstances that are a statutory element of the offense, does not act intentionally. The punishability for negligent acting remains unaffected.

(2) Whoever, at the time the act is committed, erroneously assumes circumstances that would constitute the factual elements of an act under a more lenient law may, for intentional acting, be punished only pursuant to the more lenient law.

SECTION 17. ERROR AS TO UNLAWFULNESS

A perpetrator who, at the time the act is committed, is incapable of understanding the wrongness of his deed, acts without guilt if he could not avoid his error. If the perpetrator was capable of avoiding the error, punishment may be mitigated pursuant to section 49, paragraph (1).

SECTION 18. INCREASED PUNISHMENT FOR SPECIAL CONSEQUENCES OF THE ACT

If the law provides a more severe punishment for a special consequence of the act, the perpetrator or accessory is subject thereto only if, with respect to the consequence, he can be charged with at least negligence.

SECTION 19. CHILD'S LACK OF CRIMINAL RESPONSIBILITY

A person who is not yet 14 years of age at the time the act is committed is incapable of acting culpably.

SECTION 20. LACK OF CRIMINAL RESPONSIBILITY DUE TO MENTAL DISORDER

Whoever, at the time the act is committed, is incapable of understanding the wrongness of his deed or to act in accordance with this understanding due to a pathological mental disorder, due to derangement of the sense, or due to feeble-mindedness, or any other serious mental abnormality, will be considered to have acted without culpability.

SECTION 21. REDUCED CRIMINAL RESPONSIBILITY

If, at the time the act is committed, the capability of the perpetrator to understand the wrongness of the deed or to act in accordance with such understanding is substantially impaired for one of the reasons indicated in section 20, the punishment may be mitigated pursuant to section 49, paragraph (1).

SECOND TITLE
ATTEMPT

SECTION 22. DEFINITION

Whoever, according to his or her conception of the act, immediately begins to put into realization the constituent elements, attempts a criminal act.

SECTION 23. PUNISHABILITY OF THE ATTEMPT

(1) The attempt of a felony always is punishable; the attempt of a misdemeanor only if expressly provided by the law.

(2) The attempt may be punished more leniently than the completed act (sec 49, para (1)).

(3) If the perpetrator, through gross lack of understanding, has failed to recognize that the attempt, concerning the type of object against which or the means by which the act was to be committed, could not lead to completion at all, the court may refrain from imposing a punishment or mitigate the punishment in its discretion (sec 49, para (2)).

SECTION 24. ABANDONMENT

(1) Whoever voluntarily abandons the further execution of the act or prevents its completion will not be punished for attempt. If the act fails completion without any intervention by the abandoning party, he will not be punished if he voluntarily and earnestly endeavored to prevent its completion.

(2) If several persons are involved in the act, the one who voluntarily prevents the completion will not be punished for attempt. However, his voluntary and earnest endeavor to prevent the completion of the act is sufficient to exempt him from punishment if it fails completion without his intervention or is committed independently from his former participation in the act.

THIRD TITLE
PRINCIPALS AND PARTICIPATION

SECTION 25. PRINCIPALS

(1) Whoever commits the offense himself or through another person, will be punished as perpetrator.

(2) If several persons jointly commit the offense, each of them will be punished as a perpetrator (accomplice).

SECTION 26. INSTIGATION

Whoever intentionally caused another (person) to commit an unlawful act intentionally will be punished as an instigator in the same way as a perpetrator.

SECTION 27. AIDING AND ABETTING

(1) Whoever has intentionally rendered aid to another to his intentionally committed unlawful act, will be punished as an abettor.

(2) The punishment of the abettor is determined by the punishment imposed for the act committed by the perpetrator. It is to be mitigated pursuant to section 49, paragraph (1).

SECTION 28. SPECIAL PERSONAL CHARACTERISTICS

(1) If the accessory (instigator or abettor) lacks the special personal characteristics (sec 14, para (1)) that establish the punishability of the perpetrator, the punishment will be mitigated pursuant to section 49, paragraph (1).

(2) If the law provides that special personal characteristics will increase, mitigate, or exclude punishment, it applies only to the person (perpetrator or accessory) to whom these characteristics pertain.

SECTION 29. INDEPENDENT PUNISHABILITY OF THE PERSON INVOLVED

Each person involved will be punished according to his guilt regardless of the guilt of the other person.

SECTION 30. ATTEMPT AT PARTICIPATION

(1) Whoever attempts to cause another to commit a felony or to instigate him to commit a felony, will be punished pursuant to the provisions concerning the attempt to commit a felony. However, the punishment will be mitigated pursuant to section 49, paragraph (1). Section 23, paragraph (3), applies accordingly.

(2) Whoever declares himself willing, accepts the offer of another, or conspires with another to commit, or to instigate a felony will be punished likewise.

SECTION 31. WITHDRAWAL FROM THE ATTEMPT TO PARTICIPATE

(1) A person will not be punished pursuant to section 30 if he voluntarily—

1. Abandons the attempt to cause another to commit a felony and averts a possible existing danger that the other commits an act.

2. Abandons his intention after he had already declared his willingness to commit a felony.

3. Prevents the act after he had conspired to commit a felony or had accepted the offer of another to commit a felony.

(2) If the act fails to materialize without intervention of the person withdrawing from it, or if it is committed independently from his former conduct, his voluntary and earnest endeavor to prevent the act is sufficient to free him from punishment.

FOURTH TITLE
SELF-DEFENSE AND STATE OF EMERGENCY

SECTION 32. SELF-DEFENSE

(1) Whoever commits an act necessary for his self-defense does not act unlawfully.

(2) Self-defense is the defense required to avert an imminent unlawful attack on oneself or another.

SECTION 33. EXCESS OF SELF-DEFENSE

If the perpetrator exceeds the limits of self-defense in consternation, fear, or alarm, he will not be punished.

SECTION 34. JUSTIFIABLE STATE OF EMERGENCY

Whoever, in case of an imminent danger to life, limb, liberty, honor, property, or any other protected right that cannot be averted in any other way, commits an act to avert the danger from himself or another does not act unlawfully if, considering the interests in conflict, particularly the protected rights concerned and the degree of the danger by which they are threatened, the protected interest considerably outweighs the impaired interest. This applies only insofar as the act is adequate to avert the danger.

SECTION 35. EXCUSABLE STATE OF EMERGENCY

(1) Whoever, in a present danger to life, limb, or liberty that cannot be averted in any other way, commits an unlawful act to avert the danger from himself, from a dependent, or any other person close to him, acts without guilt. This does not apply insofar as the perpetrator could be expected to accept the danger, according to the circumstances, especially because he himself brought about the danger or because he stood in a special legal relationship; however, the punishment may be mitigated pursuant to section 49, paragraph (1), if the perpetrator was not required by the existence of a special legal relationship to put up with the danger.

(2) If, in committing the act, the perpetrator erroneously assumes the existence of circumstances that would excuse him pursuant to paragraph (1), he will be punished only if he could avoid the error. The punishment is to be mitigated pursuant to section 49, paragraph (1).

FIFTH TITLE
IMMUNITY FROM PUNISHMENT FOR PARLIAMENTARY STATEMENTS AND REPORTS

SECTION 36. PARLIAMENTARY STATEMENTS

Members of the Federal Parliament (*Bundestag*), the Federal Assembly (*Bundesversammlung*), or of a legislative body of a state (*Land*), must at no time be made answerable outside such body for their voting or for a statement made in the body or in one of its committees. This does not apply to defamatory insults.

SECTION 37. PARLIAMENTARY REPORTS

True reports about public sessions of the bodies designated in section 36 or their committees remain exempt from any responsibility.

CHAPTER THREE
LEGAL CONSEQUENCES OF THE ACT

FIRST TITLE
PUNISHMENT

- IMPRISONMENT -

SECTION 38. DURATION OF IMPRISONMENT

(1) Imprisonment is for a term unless the law provides for imprisonment for life.

(2) The maximum term of imprisonment for a term is 15 years, the minimum term is 1 month.

SECTION 39. ASSESSMENT OF IMPRISONMENT

Imprisonment of less than 1 year will be assessed in full weeks and months; if it is of a longer duration, in full months and years.

- FINE -

SECTION 40. IMPOSITION OF DAILY RATES

(1) The fine is assessed in daily rates. It amounts to a minimum of 5 and, unless otherwise provided by law, to a maximum of 360 full daily rates.

(2) The amount of a daily rate is determined by the court in consideration of the personal and economic situation of the perpetrator. As a rule, the court takes as a basis the average net income that the perpetrator has or could have on 1 day. A daily rate is assessed at a minimum of one and at a maximum of 30,000 euros.

(3) The income of the perpetrator, his property, and any other basis for the assessment of 1 daily rate may be appraised.

(4) The number and amount of the daily rates will be stated in the decision.

SECTION 41. FINE IN ADDITION TO IMPRISONMENT

If the perpetrator gained a profit or acted with the intent to gain a profit by the act, a fine that normally would not be imposed, or only as an alternate punishment, may be imposed besides imprisonment if, in consideration of the personal and economic situation of the perpetrator, this is appropriate. This does not apply if the court imposes a fine on property pursuant to section 43a.

SECTION 42. FACILITIES OF PAYMENT

If the convicted person, in view of his personal or economic situation, cannot be expected to pay the fine immediately, the court will grant him a respite or permit him to pay the fine in definite installments. The court thereby can order that the privilege to pay the fine in definite installments will be forfeited if the convicted person fails to pay an installment in due

time. The court shall grant facilities of payment also if without granting such facilities compensation by the convicted person of the damage caused by the criminal act would be seriously jeopardized; in such a case it may be imposed on the convicted person to provide proof of the compensation.

SECTION 43. IMPRISONMENT AS A SUBSTITUTE FOR A FINE

Imprisonment will be imposed in lieu of a fine that is not collectable. One daily rate is equal to 1 day of imprisonment. The minimum term of imprisonment as a substitute for a fine is 1 day.

- FINES LEVIED ON PROPERTY -

SECTION 43A. IMPOSITION OF A FINE ON PROPERTY

(1) If the law refers to this provision the court may, in addition to a life sentence or term of imprisonment exceeding 2 years, impose payment of a fine the amount of which is limited by the perpetrator's property (fine levied on property). Pecuniary benefits which are subject to forfeiture will not be considered for the valuation of the property. The value of the property may be estimated.

(2) Section 42 applies accordingly.

(3) The court will determine a prison sentence to replace the fine on property in case the fine is not collectable (imprisonment for failure to pay a fine). The maximum term of imprisonment for failure to pay a fine is 2 years, the minimum 1 month.

- ADDITIONAL PENALTY -

SECTION 44. PROHIBITION TO DRIVE MOTOR VEHICLES

(1) If a person has been sentenced to imprisonment or a fine for a criminal act he committed during or in connection with the operation of a motor vehicle or in violation of the duties incumbent upon the driver of a motor vehicle, the court may prohibit him from operating motor vehicles in road traffic of any or of a specific type for the period of 1 month to 3 months. A prohibition to drive generally will be ordered if, in the case of conviction pursuant to section 315c, paragraph (1), number 1a, or paragraph (3), or pursuant to section 316, the withdrawal of the permission to drive pursuant to section 69 is not effected.

(2) The prohibition to drive becomes effective when the judgment becomes final. National and international driver's licenses issued by a German authority will be officially safekept for the duration thereof. This applies also if the license was issued by an authority of a European Union member country or another party to the Agreement on the European Economic Area, if the owner has his ordinary residence in the Federal Republic of Germany. The prohibition to drive will be entered in other foreign driving permits.

(3) If a driver's license is to be officially safekept or, if the prohibition to drive must be entered in a foreign driving permit, the term of prohibition will be calculated only from the day on which this takes place. The time during which the offender has been detained in an institution by official order will not be included in the prohibition period.

- INCIDENTAL LEGAL CONSEQUENCES -

SECTION 45. LOSS OF CAPACITY TO HOLD PUBLIC OFFICE, TO BE ELECTED, AND OF THE RIGHT TO VOTE

(1) Whoever is sentenced for a felony to imprisonment of a minimum of 1 year loses the capacity of holding public office and acquiring rights from public elections for a period of 5 years.

(2) The court may deprive the convicted person of the capacities designated in paragraph (1) for the period of 2 to 5 years, if so specified by law.

(3) Together with the loss of capacity to hold office, the convicted person loses the corresponding legal status and rights he holds.

(4) Together with the loss of capacity to acquire rights from public elections, the convicted person loses the corresponding legal status and rights he possesses unless otherwise provided by law.

(5) The court may deprive the convicted person of the right to vote or to cast a ballot in public matters for the period of 2 to 5 years, if so specified by law.

SECTION 45A. EFFECTIVE DATE AND CALCULATION OF THE LOSS

(1) The loss of capacities, legal status, and rights becomes effective when the judgment becomes final.

(2) The duration of the loss of a capacity or of a right will be counted from the day on which the prison sentence is served, has become barred under the statute of limitations, or has been remitted. If, besides imprisonment, a measure of security and reform involving deprivation of liberty has been ordered, the period will be counted only from the day on which the measure is also completed.

(3) If execution of the sentence, of the remaining sentence, or of the measure, was suspended on probation or by clemency, the period of probation will be included in the time limit, provided that after its expiration the sentence or remaining sentence is remitted or the measure is completed.

SECTION 45B. RESTORATION OF CAPACITIES AND RIGHTS

(1) The court shall restore capacities lost pursuant to section 45, paragraphs (1) and (2), and rights lost pursuant to section 45, paragraph (5), provided that—

1. The loss has been effective for half of the period for which it was to last.

2. It is to be expected that the convicted person will no longer commit any intentional criminal acts in the future.

(2) The time during which the convicted person was detained in custody in an institution by official order will not be included in the periods.

SECOND TITLE
ASSESSMENT OF PUNISHMENT

SECTION 46. PRINCIPLES GOVERNING THE ASSESSMENT OF PUNISHMENT

(1) The guilt of the perpetrator is the basis for the assessment of the punishment. The effects to be expected from the punishment for the future life of the perpetrator in society shall be considered.

(2) In assessment of the punishment, the court will weigh against one another the circumstances in favor of and against the perpetrator. Particular consideration will be given to the—

1. Motives and goals of the perpetrator.

2. Moral disposition disclosed by the act and the will used in committing the act.

3. Extent of the violation of duty.

4. Manner of execution and the culpably caused effects of the act.

5. Prior life of the perpetrator, his personal and economic situation, and his conduct after the act, especially his efforts to repair the damage as well as the efforts of the perpetrator to reach a settlement with the injured party.

(3) Circumstances that constitute statutory elements of the offense may not be taken into consideration.

SECTION 46A. SETTLEMENT BETWEEN PERPETRATOR AND VICTIM, DAMAGE REPAIR

If the perpetrator—

1. In an effort to reach a settlement with the injured party (settlement between perpetrator and victim), repairs the damage caused by his act wholly or to a great extent, or takes a serious effort to do so, or

2. In a case where the repair of damage required a considerable personal effort or personal sacrifices on his part, compensates the victim entirely or to a great extent, the court can mitigate the punishment in accordance with section 49, paragraph (1) or, if a punishment not exceeding 1 year of imprisonment or a fine not exceeding 360 daily rates is incurred, can refrain from punishment.

SECTION 46B. CONTRIBUTING TO THE DETECTION OR PREVENTION OF SERIOUS CRIMINAL ACTS

(1) If the perpetrator, who commits an act which is subject to a prison sentence increased from the minimum sentence imposed for such act, or which is subject to a life sentence—

1. By voluntary disclosure of his knowledge contributed considerably to the detection of a criminal act pursuant to section 100a, paragraph (2), of the Code of Criminal Procedure (*Strafprozessordnung*), or

2. Voluntarily discloses his knowledge to an agency in such timely manner that a criminal act pursuant to section 100a, paragraph (2), of the Code of Criminal Procedure, about which he knows, can still be prevented,

the court may mitigate the sentence pursuant to section 49, paragraph (1); however, in a case where only a life sentence can be imposed, the sentence may only be reduced to a minimum of 10 years of imprisonment. For the classification as a criminal act, which is subject to imprisonment increased from the minimum sentence, only a more severe punishment in especially serious cases and no mitigation will be considered. If the offender participated in the offense, his contribution to the detection of the offense pursuant to sentence 1, number 1, must go beyond his own involvement. Instead of mitigation, the court may refrain from imposing a punishment if the criminal offense is only subject to a fixed term of imprisonment and the perpetrator did not incur a prison sentence of more than 3 years.

(2) When taking a decision pursuant to paragraph (1), the court must consider in particular the—

1. Type and extent of the disclosed facts and their relevance for the detection or prevention of the offense, the point in time of the disclosure, the degree of support provided by the perpetrator to the law enforcement authorities and the seriousness of the act, to which the information refers, as well as—

2. Circumstances stated in number 1 in relation to the seriousness of the act and the guilt of the perpetrator.

(3) Mitigation as well as refraining from punishment pursuant to paragraph (1) will be excluded if the perpetrator only discloses his knowledge after it has been determined to open the main trial (sec 207 of the Code of Criminal Procedure) against him.

SECTION 47. SHORT PRISON TERM IN EXCEPTIONAL CASES ONLY

(1) The court imposes imprisonment of less than 6 months only if special circumstances involved in the act or the personality of the perpetrator render the imposition of imprisonment indispensable in order to have influence on the perpetrator or for the defense of the legal order.

(2) If a fine is not provided by the law and if imprisonment of 6 months or more is out of the question, the court imposes a fine, unless the imposition of imprisonment is indispensable pursuant to paragraph (1). If the law provides for an increased minimum term of imprisonment, the minimum amount of the fine in the cases of sentence 1 is determined according to the minimum term of the provided imprisonment; 30 daily rates correspond to imprisonment of 1 month.

SECTION 48. (RESCINDED)

SECTION 49. SPECIAL STATUTORY GROUNDS FOR MITIGATION

(1) If mitigation is prescribed or permitted with reference to these provisions, the following will apply to such mitigation:

1. Imprisonment for life is replaced by imprisonment for not less than 3 years.

2. In case of imprisonment for a term, not more than three-fourths of the maximum term provided for will be imposed. This will also apply to the maximum number of daily rates with respect to fines.

3. The increased minimum term of imprisonment is reduced—

(a) In case of a minimum term of 10 or 5 years, to 2 years.

(b) In case of a minimum term of 3 or 2 years, to 6 months.

(c) In case of a minimum term of 1 year, to 3 months.

(d) In all other cases to the statutory minimum term.

(2) If the court, pursuant to a law that refers to these provisions, may in its own discretion mitigate the punishment, it may resort to the legal minimum term provided for, or impose a fine in lieu of imprisonment.

SECTION 50. CONCURRENCE OF GROUNDS FOR MITIGATION

A circumstance, which alone or together with other circumstances, justifies the assumption that a less severe case exists and which at the same time is a special statutory ground for mitigation pursuant to section 49, may be considered only once.

SECTION 51. CREDIT FOR DEPRIVATION OF LIBERTY

(1) If the convicted person has suffered pretrial confinement or any other deprivation of liberty due to an act that is or has been the subject of the proceedings, such time will be credited toward imprisonment for a term or toward a fine. The court, however, may order that the credit is dropped in whole or in part if, in view of the conduct of the convicted person after the act, it is not justified.

(2) If a sentence that has become final is replaced in subsequent proceedings by another sentence, the first sentence will be credited toward the second sentence insofar as the first sentence has been executed or been satisfied by the credit given.

(3) If the convicted person has been sentenced abroad for the same act, the sentence abroad will be credited toward the new sentence insofar as it has been executed. For any other deprivation of liberty suffered abroad, paragraph (1) applies accordingly.

(4) In granting credit for a fine or toward a fine, 1 day of deprivation of liberty is equal to 1 daily rate. If credit is given for a sentence or deprivation of liberty abroad, the court will determine the yardstick in its discretion.

(5) Paragraph 1 applies accordingly to the credit for the duration of a temporary withdrawal of the permission to drive (sec 111a of the Code of Criminal Procedure,) toward the prohibition to drive pursuant to section 44. In this respect, the taking into custody, safekeeping, or confiscation of the drivers license (sec 94 of the Code of Criminal Procedure) is equal to the temporary withdrawal of the permission to drive.

THIRD TITLE
ASSESSMENT OF PENALTIES IN CASE OF SEVERAL VIOLATIONS OF LAW

SECTION 52. CONCURRENCE OF OFFENSES

(1) If one and the same act violates several criminal laws or violates the same criminal law several times, only one sentence will be imposed.

(2) If several criminal laws are violated, the sentence will be determined pursuant to the law that provides for the severest sentence. It must not be more lenient than the other applicable laws allow.

(3) The court may impose a fine in addition to imprisonment under the prerequisites of section 41.

(4) If one of the applicable laws provides for the imposition of a fine on property, the court may impose such punishment in addition to a life sentence or a term of imprisonment exceeding 2 years. Otherwise, incidental punishments or incidental consequences and measures (sec 11, para (1), no. 8) shall or may be imposed, if prescribed or admissible by one of the applicable laws.

SECTION 53. ACCUMULATION OF OFFENSES

(1) If someone has committed several criminal offenses for which sentences are imposed at the same time and as a result thereof he has been sentenced to several terms of imprisonment or several fines, a cumulative sentence will be imposed.

(2) If imprisonment coincides with a fine, a cumulative sentence will be imposed. The court may, however, impose a fine separately; if in these cases a fine shall be imposed for several offenses, a cumulative fine will be imposed.

(3) If, pursuant to the law by which section 43a is applied or in case of section 52, paragraph (4), the perpetrator has incurred a life sentence or a term of imprisonment of more than 2 years as individual sentence, the court may, in addition to the cumulative sentence to be imposed pursuant to paragraph (1) or (2), impose a fine on property; if, in such cases, a fine on property is to be imposed for several criminal acts, a cumulative fine on property shall be imposed. Section 43a, paragraph (3), applies accordingly.

(4) Section 52, paragraphs (3) and (4), sentence 2, applies correspondingly.

SECTION 54. FORMATION OF CUMULATIVE SENTENCES

(1) If one of the individual sentences is imprisonment for life, then imprisonment for life will be imposed as a cumulative sentence. In all other cases, the cumulative sentence is formed by increasing the highest sentence imposed, in case of punishment of different types by increasing the punishment severest by its nature. Thereby, the personality of the perpetrator and the individual offenses are comprehensively evaluated.

(2) The cumulative sentence may not be as high as the sum total of the individual sentences. It may not exceed 15 years in case of imprisonment for a term, the value of the perpetrator's property in case of fines on property and the amount of 720 daily rates in case of a fine; section 43a, paragraph (1), sentence 3, applies accordingly.

(3) If a cumulative sentence is to be formed of imprisonment and a fine, one daily rate corresponds to imprisonment of 1 day in determining the sum total of the individual sentences.

SECTION 55. SUBSEQUENT FORMATION OF CUMULATIVE SENTENCE

(1) Sections 53 and 54 also are to be applied if a person, whose conviction has become final before the sentence imposed on him has been executed, barred by the statute of limitation, or remitted, is convicted for another offense committed before the previous conviction. The judgment of the previous proceedings in which the basic factual findings were finally reviewed is a previous conviction.

(2) Fines on property, incidental penalties, incidental consequences, and measures (sec 11, para (1), no. 8) imposed in the previous decision will be maintained unless made obsolete by the new decision. This does also apply if the amount of the fine on property imposed in the previous decision exceeds the value of the perpetrator's property at the time of the new decision.

FOURTH TITLE
SUSPENSION OF THE SENTENCE ON PROBATION

SECTION 56. SUSPENSION OF SENTENCE

(1) In case of a conviction to imprisonment not exceeding 1 year, the court suspends execution of the sentence on probation if it is to be expected that the convicted person will let the conviction serve as a warning and, even without the effect of serving the sentence, will no longer commit punishable acts in the future. Thereby, the personality of the convicted person, his prior life, the circumstances of his offense, his conduct after the commission of the offense, his conditions of life, and the effects to be expected for him as a result of the suspension will be considered.

(2) The court may, under the prerequisites of paragraph (1), also suspend on probation the execution of increased imprisonment not exceeding 2 years if, according to the overall evaluation of the act and the personality of the perpetrator, special circumstances prevail. In particular, the perpetrator's effort to repair the damage caused by the act shall be considered for the decision.

(3) In case of conviction to at least 6 months imprisonment, execution will not be suspended if the defense of the rule of law demands execution.

(4) The suspension of a sentence cannot be restricted to one part of the sentence. It will not be precluded by the credit for pretrial confinement or any other deprivation of liberty.

SECTION 56A. PERIOD OF PROBATION

(1) The court determines the duration of the period of probation. It must not exceed 5 years nor be less than 2 years.

(2) The period of probation commences when the decision concerning suspension of the penalty becomes final. It may subsequently be reduced to the minimum term or be extended to the maximum term before its expiration.

SECTION 56B. CONDITIONS

(1) The court may impose conditions on the convicted person that serve as satisfaction for the committed wrong-doing. However, no undue demands may be imposed on the convicted person.

(2) The court may impose on the convicted person the requirement to—

1. Make good the damage caused by the act to the best of his ability.

2. Pay an amount of money to the benefit of a charitable institution if this is appropriate with regard to the act and the personality of the perpetrator.

3. Render other types of charitable services.

4. Pay an amount of money to the benefit of the Treasury.

The court shall only impose a condition pursuant to sentence 1, numbers 2 through 4, if compliance with the condition does not have an adverse effect on the repair of damage.

(3) If the convicted person offers to render adequate services that serve as atonement for the committed wrong-doing, the court will refrain, as a rule, from imposing conditions for the time being if the fulfillment of the offer is to be expected.

SECTION 56C. DIRECTIVES

(1) The court issues directives to the convicted person for the duration of the period of probation if he needs this help in order not to commit further offenses. However, no undue demands may be placed on the manner of living of the convicted person.

(2) The court may in particular direct the convicted person—

1. To comply with orders relating to abode, education, work, or free time, or to the arrangement of his economic situation.

2. To report to the court or to any other authority at certain times.

3. To avoid contact with the injured person, or certain persons, or persons of a particular group, who may offer the opportunity or incite him to commit further offenses; not to associate with such persons, employ them, provide training or lodging to them.

4. Not to possess, carry on him, or have someone safekeeping certain objects that may offer him the opportunity or incitement to commit further offenses.

5. To comply with obligations of support.

(3) The directive to—

1. Submit himself to therapy involving physical treatment or a withdrawal treatment, or

2. Take abode in a suitable home or institution may only be imposed with the consent of the convicted person.

(4) If the convicted person gives appropriate assurances as to his future way of life, the court will refrain, as a rule, from issuing directives for the time being, if the fulfillment of the promises is to be expected.

SECTION 56D. PROBATION ASSISTANCE

(1) The court shall place the convicted person under the supervision and guidance of a probation officer during the entire or part of the period of probation, if this is required in order to prevent him from committing criminal acts.

(2) As a rule, the court shall issue a directive pursuant to paragraph (1) if imprisonment of more than 9 months is suspended on probation and the convicted person has not yet reached 27 years of age.

(3) The probation officer renders advice and assistance to the convicted person. In concert with the court, she or he supervises compliance with terms and conditions, and directives, as well as with offers and promises and reports about the convicted person's conduct of life at intervals determined by the court. The probation officer shall inform the court of any gross or persistent violations of terms and conditions, directives, offers, or promises.

(4) The probation officer is appointed by the court. It may give the probation officer instructions concerning the activities pursuant to paragraph (3).

(5) The function of a probation officer is carried out on a salaried or honorary basis.

SECTION 56E. SUBSEQUENT DECISIONS

The court may also subsequently render, alter, or reverse decisions pursuant to sections 56b through d.

SECTION 56F. REVOCATION OF SUSPENSION OF THE SENTENCE

(1) The court revokes suspension of the sentence if the convicted person—

1. Commits a criminal act during the period of probation, thereby showing that the expectation, on which the suspension of the sentence was based, has not materialized,

2. Commits gross or persistent contraventions against directives or persistently evades the supervision and guidance of the probation officer, thereby giving rise to the concern that he will commit other offenses,

3. Grossly or persistently contravenes conditions.

Sentence 1, number 1, applies accordingly if the act has been committed during the time between the decision on the suspension of the sentence and its becoming final, or in case of a subsequently imposed cumulative sentence, during the time between the decision on the suspension of the sentence in one included judgment and the becoming final of the decision on the cumulative sentence.

(2) The court, however, will refrain from the revocation if it is sufficient to—

1. Impose further conditions or directives, particularly placing the convicted person under the supervision of a probation officer.

2. Extend the period of probation or period of placement under supervision.

In the cases of number 2, the period of probation must not be extended by more than one half of the period of probation first determined.

(3) Services the convicted person has rendered in compliance with conditions, offers, directives, or promises will not be remunerated. The court may, however, if it revokes the suspension of the sentence, credit toward the sentence the services the convicted person rendered to satisfy conditions pursuant to section 56b, paragraph (2), sentence 1, numbers 2 through 4, or appropriate offers he made pursuant to section 56b, paragraph (3).

SECTION 56G. REMISSION OF PUNISHMENT

(1) If the court does not revoke the suspension of the sentence, it will remit the sentence after expiration of the period of probation. Section 56f, paragraph (3), sentence 1, is to be applied.

(2) The court may revoke the remission of the sentence if the convicted person is sentenced to imprisonment of at least 6 months law for a criminal act intentionally committed during the period of probation. The revocation is admissible only within 1 year after expiration of the period of probation and within 6 months after the conviction has become final. Section 56f, paragraph (1), sentence 2, and paragraph (3), applies accordingly.

SECTION 57. SUSPENSION OF THE REMAINING SENTENCE OF IMPRISONMENT FOR A TERM

(1) The court will suspend execution of the remaining portion of imprisonment for a term on probation if—

1. Two-thirds of the sentence imposed, but at least 2 months, have been served.

2. It can be justified with regard to the safety interest of the general public, and

3. The convicted person consents to it.

In the decision, special consideration shall be given to the convicted person's personality, his previous life, the circumstances under which the act was committed, the importance of the object of legal protection jeopardized in case of a second offense, the convicted person's conduct during the time he served the sentence, his life situation, and the effects the suspension is likely to have on him.

(2) After half of the imprisonment for a term, however, at least after 6 months have been served, the court may suspend the execution of the remaining portion on probation if—

1. The convicted person serves imprisonment for the first time not exceeding 2 years.

2. An overall evaluation of the act, the personality of the convicted person, and his development while serving his sentence indicate that special circumstances exist and the other prerequisites of paragraph (1) are met.

(3) Sections 56a through 56e apply accordingly; the period of probation must not, even if subsequently shortened, be less than the duration of the remaining sentence. If the convicted person has served at least 1 year of his sentence before the remaining sentence is suspended on probation, the court shall, as a rule, place him under the supervision and guidance of a probation officer for the entire or part of the period of probation.

(4) If imprisonment has been satisfied due to credit given, it is considered as served sentence within the meaning of paragraphs (1) through (3).

(5) Sections 56f and 56g shall apply accordingly. The court shall also revoke the suspension of the sentence if, in the time between the conviction and the decision on the suspension, the convicted person has committed an offense, which, at the time of the decision on the suspension of the sentence, could not be considered by the court for factual reasons and which, had it been considered, would have resulted in a denial of the suspension of the sentence; the conviction is considered the judgment in which the basic fact-finding could be last reviewed.

(6) The court may refrain from suspending on probation execution of the remaining portion of imprisonment for a term if the convicted person makes insufficient or false statements about the whereabouts of objects subject to forfeiture or not subject to forfeiture only because the injured person, as a result of the act, has a claim of the nature designated in section 73, paragraph (1), sentence 2.

(7) The court may fix time limits not exceeding 6 months before the expiration of which a motion of the convicted person to suspend the remaining sentence on probation is inadmissible.

SECTION 57A. SUSPENSION OF THE REMAINING SENTENCE OF IMPRISONMENT FOR LIFE

(1) The court will suspend execution of the remaining portion of imprisonment for life on probation if—

1. Fifteen years of the sentence have been served,

2. No special gravity of the convicted person's guilt requires further execution,

3. The prerequisites of section 57, paragraph (1), sentence 1, numbers 2 and 3, prevail.

Section 57, paragraph (1), sentence 2, and paragraph (6), applies accordingly.

(2) Considered as sentence served within the meaning of paragraph (1), sentence 1, number 1, is any deprivation of liberty that the convicted person suffered because of the act.

(3) The duration of the period of probation is 5 years. Section 56a, paragraph (2), sentence 1, and sections 56b through 56g, and section 57, paragraph (3), sentence 2, and paragraph (5), sentence 2, apply accordingly.

(4) The court may fix time limits not exceeding 2 years before the expiration of which a motion of the convicted person to suspend the remaining sentence on probation is inadmissible.

SECTION 57B. SUSPENSION OF THE REMAINING SENTENCE IN CASE OF IMPRISONMENT FOR LIFE AS CUMULATIVE SENTENCE

If imprisonment for life is imposed as cumulative sentence, the individual criminal acts will be comprehensively evaluated when determining the special gravity of guilt (sec 57a, para (1), sent 1, no. 2).

SECTION 58. CUMULATIVE SENTENCE AND SUSPENSION OF SENTENCE

(1) If someone has committed several criminal acts, the cumulative sentence is decisive for the suspension of the sentence pursuant to section 56.

(2) If in the case of section 55, paragraph (1), execution of imprisonment imposed in the former decision is suspended on probation in whole or with respect to the remaining sentence, and if also the cumulative sentence is suspended on probation, the minimum term of the new period of probation is reduced by the period of probation already expired, however, to not less than 1 year. If the cumulative sentence is not suspended on probation, section 56f, paragraph (3), applies accordingly.

FIFTH TITLE
ADMONITION WITH RESERVATION TO IMPOSE PUNISHMENT; REFRAINING FROM IMPOSING A PUNISHMENT

SECTION 59. PREREQUISITES OF THE ADMONITION WITH RESERVATION TO IMPOSE PUNISHMENT

(1) If someone has been sentenced to a fine of up to 180 daily rates, the court may, besides the verdict of guilty, admonish him, determine the sentence, and reserve the conviction to such punishment, if—

1. It is to be expected that the perpetrator, even without being convicted, will not commit any criminal acts in the future,

2. After an overall evaluation of the act and the personality of the perpetrator, special circumstances exist which make imposing of a punishment dispensable.

3. The defense of rule and law does not make sentencing to a penalty imperative.

Section 56, paragraph (1), sentence 2, applies accordingly.

(2) In addition to the admonition, forfeiture, confiscation, or rendering unserviceable may be imposed. An admonition with the reservation to impose punishment is not admissible as an addition to measures of prevention and reform.

SECTION 59A. PROBATIONARY PERIOD, CONDITIONS, AND DIRECTIVES

(1) The court determines the duration of the period of probation. It must not exceed 2 years and must not be less than 1 year.

(2) The court may direct the admonished person to—

1. Make an effort to effect compensation with the injured party or to otherwise repair the damage caused by the act.

2. Comply with obligations to provide support.

3. Pay an amount of money to a charitable organization or the Federal Treasury.

4. Submit himself to an outpatient therapy or outpatient cure for alcoholics and drug addicts.

5. Participate in road safety training.

In this connection, no undue demands may be imposed on the admonished person's conduct of life; also the conditions and directives in accordance with sentence 1, numbers 3 through 5 must not be inappropriate in relation to the act committed by the perpetrator. Section 56c, paragraphs (3) and (4), and section 56e apply accordingly.

SECTION 59B. CONVICTION TO THE RESERVED SENTENCE

(1) Section 56f applies accordingly to the conviction to the reserved sentence.

(2) If the admonished person is not sentenced to the reserved sentence, the court will, after expiration of the period of probation, declare that the matter may rest with an admonition.

SECTION 59C. CUMULATIVE PUNISHMENT AND ADMONITION WITH RESERVATION TO IMPOSE PUNISHMENT

(1) If a person has committed several criminal acts, Sections 53 through 55 will be applied accordingly to the determination of the sentence in cases of admonition with the reservation to impose punishment.

(2) If the admonished person is subsequently sentenced for a criminal act committed before the admonition, the provisions concerning the formation of a cumulative punishment (secs 53 through 55 and sec 58) will be applied with the proviso that the reserved sentence is equal to punishment imposed in the cases of section 55.

SECTION 60. REFRAINING FROM PUNISHMENT

The court will refrain from imposing punishment if the consequences of the act suffered by the perpetrator are of such a severe nature that the imposition of punishment would obviously be inappropriate. This does not apply if the perpetrator has been sentenced to imprisonment for more than 1 year as a result of the act.

SIXTH TITLE
MEASURES OF PREVENTION AND REFORM

SECTION 61. TYPES OF MEASURES

Measures of prevention and reform are—

1. Commitment to a psychiatric hospital.

2. Commitment to an institution for the cure of alcoholics and drug addicts.

3. Commitment to preventive custody.

4. Supervision of conduct.

5. Withdrawal of the permission to operate motor vehicles.

6. Prohibition to engage in a profession.

SECTION 62. PRINCIPLE OF PROPORTIONALITY

A measure of prevention and reform must not be ordered if it is out of proportion to the significance of the acts committed by or to be expected from the perpetrator as well as to the degree of the danger emanating from him.

- MEASURES INVOLVING DEPRIVATION OF LIBERTY -

SECTION 63. COMMITMENT TO A PSYCHIATRIC HOSPITAL

If a person has committed an unlawful act in a state of lack of criminal responsibility (sec 20) or of reduced criminal responsibility (sec 21), the court orders commitment to a psychiatric hospital if the overall evaluation of the perpetrator and his act reveals that, due to his condition, considerable illegal acts are to be expected and that he therefore constitutes a danger to the public.

SECTION 64. COMMITMENT TO AN INSTITUTION FOR THE TREATMENT OF ALCOHOLICS OR DRUG ADDICTS

If a person has a disposition to excessively consume alcoholic beverages or other intoxicants, and if he is convicted for an illegal act that he committed while intoxicated or which is attributable to his disposition, or if he has not been convicted solely because his lack of criminal responsibility has been proved or cannot be excluded, the court will order commitment to an institution for the treatment of alcoholics and drug addicts if there is danger that, due to his disposition, he will commit serious illegal acts. The order will only be issued if there is a realistic chance that the person will be cured by the treatment in such institution or is prevented from relapsing into his disposition for a considerable period of time and is kept from committing serious illegal acts which are attributable to his disposition.

SECTION 65. (RESCINDED)

SECTION 66. COMMITMENT TO PREVENTIVE CUSTODY

(1) The court will order preventive custody in addition to the sentence if—

1. The perpetrator is sentenced to imprisonment of at least 2 years for an intentional criminal act—

a) Against life, physical integrity, personal liberty, or sexual self-determination,

b) Falling under chapter one, seven, twenty, or twenty-eight of the Special Part of this Law or under the International Criminal Code (*Völkerstrafgesetzbuch*) or the Narcotics Law (*Betäubungsmittelgesetz*) and which is punished by a maximum of at least 10 years of imprisonment, or

c) Meeting the legal elements of section 145a if supervision of conduct took effect due to a criminal act of the type mentioned under letters a or b, or the legal elements of section 323a if the illegal act committed while intoxicated is of the type mentioned under letters a or b,

2. The perpetrator has been sentenced twice to imprisonment of at least 1 year each for criminal acts of the type stated under number 1, which he committed prior to the new offense,

3. For the period of at least 2 years he has served a prison sentence or was subject to the execution of a measure of prevention and reform involving deprivation of liberty for one or several of these acts, which he committed prior to the new act, and

4. The overall evaluation of the perpetrator and of his acts indicates that, due to a disposition to commit considerable criminal acts, particularly such in which the victims are seriously injured physically or mentally, he constitutes a danger to the public at the time of his conviction.

Section 12, paragraph (3), shall apply accordingly to the categorization as criminal act within the meaning of sentence 1, number 1, letter b; section 68b, paragraph (1), sentence 4, shall apply accordingly to the termination of the supervision of conduct stated in sentence 1, number 1, letter c.

(2) If a person has committed three criminal acts of the type stated in paragraph (1), sentence 1, number 1, for each of which he has been sentenced to imprisonment for at least 1 year and if he is sentenced for one or several of these acts to imprisonment for at least 3 years, the court may, under the prerequisite designated in paragraph (1), sentence 1, number 4, order preventive custody in addition to the sentence even if the perpetrator has not yet been previously convicted or deprived of his liberty (para 1, sent 1, nos 2 and 3).

(3) If someone is sentenced to imprisonment of at least 2 years for a felony fulfilling the prerequisites under paragraph (1), sentence 1, number 1, letter a or b, or a criminal act according to sections 174 to 174c, 176, 179, paragraphs (1) through (4), sections 180, 182, 224, 225, paragraph (1) or (2), or for a criminal act committed intentionally pursuant to section 323a, if the act, which was committed when intoxicated, was one of the above-stated illegal acts, the court may order preventive custody in addition to the punishment if the perpetrator has been convicted previously to imprisonment of at least 3 years for

acts committed prior to the new act and if the prerequisites under paragraph (1), sentence 1, numbers 3 and 4, are fulfilled. If a person has committed two criminal acts of the type stated in sentence 1 above, for each of which he was sentenced to at least 2 years of imprisonment, and if he is sentenced for one or several of the acts to imprisonment of at least 3 years, the court may order preventive custody in addition to the punishment under the prerequisites of paragraph (1), sentence 1, number 4, even without a previous conviction or deprivation of liberty (para (1), sent 1, nos 2 and 3). Paragraphs (1) and (2) remain unaffected.

(4) Within the meaning of paragraph (1), sentence 1, number 2, a conviction to a cumulative sentence is considered to be only one conviction. If pretrial confinement or any other deprivation of liberty has been credited toward imprisonment, it is considered a sentence served within the meaning of paragraph (1), sentence 1, number 3. A previous act is disregarded if more than 5 years have lapsed between this and the act following; in case of criminal acts against sexual self-determination the time period is 15 years. The time during which the perpetrator has been detained in an institution by official order will not be included in the fixed period. An act for which the perpetrator has been convicted outside the territorial applicability of this law is equal to an act for which he was convicted within the territorial applicability of this law if, pursuant to German criminal law, it would be a criminal act of the type designated in paragraph (1), sentence 1, number 1, in the cases of paragraph (3), of the type designated in paragraph (3), sentence 1.

SECTION 66a. RESERVATION OF COMMITMENT TO PREVENTIVE CUSTODY

(1) The court, in its judgment, may reserve the ordering of preventive custody if—

1. A person is convicted for one of the criminal acts stated in section 66, paragraph (3), sentence 1,

2. The other prerequisites of section 66, paragraph (3), are fulfilled, unless reference is made to section 66, paragraph (1), sentence 1, number 4, and

3. It cannot be determined with reasonable certainty, however, it is likely that the prerequisites of section 66, paragraph (1), sentence 1, number 4, are fulfilled.

(2) The court may also voice a reservation as described under paragraph (1) if—

1. A person was sentenced to imprisonment of at least 5 years for one or several criminal acts against the life, physical integrity, personal liberty, sexual self-determination pursuant to Chapter Twenty-eight or pursuant to sections 250 and 251, also in conjunction with section 252 or 255,

2. The prerequisites of section 66 are not fulfilled, and

3. It can be determined with reasonable certainty or at least it is very likely that the prerequisites of section 66, paragraph (1), sentence 1, number 4, are fulfilled.

(3) The court of first instance can only make a decision about the reservation to order preventive custody pursuant to paragraph (1) or (2) before the prison sentence is fully executed; this applies also if execution of the remaining sentence was suspended on probation and the remainder of the sentence is executed. The court will order preventive custody if the overall evaluation of the convicted person, of his offense or his offenses and in addition, his development until the time of the decision shows that he must be expected to commit serious criminal acts causing the victims to suffer severe physical and mental injuries.

SECTION 66B. SUBSEQUENT ORDERING OF COMMITMENT TO PREVENTIVE CUSTODY

If commitment to a psychiatric hospital has been declared completed pursuant to section 67d, paragraph (6), because the condition excluding or diminishing criminal responsibility which was the basis for the commitment did not exist at the time the decision on completion was made, the court may subsequently order commitment to preventive custody, if—

1. Commitment of the person concerned pursuant to section 63 was ordered for several of the offenses listed in section 66, paragraph (3), sentence 1, or if the person concerned had already been convicted to imprisonment of at least 3 years or had been committed to a psychiatric hospital because he committed one or several such offenses prior to the offense resulting in a commitment pursuant to section 63, and

2. The overall assessment of the person concerned, his offenses and, in addition, his development until the point in time of the decision, shows that he will most likely commit serious criminal acts causing the victims to suffer severe mental

and physical harm. This applies also if after a commitment pursuant to section 63 a prison sentence that was imposed at the same time still has to be fully or partly executed.

SECTION 67. SEQUENCE OF EXECUTION

(1) If, in addition to imprisonment, commitment to an institution is ordered pursuant to sections 63 and 64, the measure will be executed before the sentence.

(2) The court will determine, however, that the sentence or a part of the sentence will be executed before the measure if the purpose of the measure is more easily attained thereby. In case of an order of commitment to an institution for the treatment of alcoholics or drug addicts parallel to a fixed term of imprisonment of more than three years, the court shall determine that one part of the prison sentence is to be executed prior to execution of the measure. This part of the prison sentence shall be assessed in such a way that after its execution and a subsequent commitment to an institution a decision pursuant to paragraph (5), sentence 1, is possible. The court shall also determine that the sentence will be executed prior to the measure if, for the convicted person, there is an enforceable duty to leave the country and it must be expected that his presence within the territorial scope of this law will end while or immediately after serving the sentence.

(3) The court may subsequently give, change, or reverse an order pursuant to paragraph (2), sentence 1 or 2, if circumstances regarding the personality of the convicted person indicate that such action is appropriate. The court may also issue an order pursuant to paragraph (2), sentence 4, subsequently. In case it has issued an order pursuant to paragraph (2), sentence 4, it shall revoke the order if it cannot be expected that the convicted person will continue to be present within the territorial scope of this law while or immediately after serving the sentence.

(4) If the measure, in whole or in part, is executed before the sentence, the time of the execution of the measure will be credited toward the sentence until two-thirds of the sentence imposed have been served.

(5) If the measure is executed before the sentence or a remainder of the sentence, the court may suspend on probation the execution of the remaining sentence under the prerequisites of section 57, paragraph (1), sentence 1, numbers 2 and 3, if one half of the sentence is completed. If the remaining sentence is not suspended, execution of the measure will be continued; however, the court may order execution of the sentence if circumstances regarding the personality of the convicted person indicate that such action is appropriate.

SECTION 67A. TRANSFER INTO THE EXECUTION OF ANOTHER MEASURE

(1) If commitment to a psychiatric hospital or an institution for the treatment of alcoholics or drug addicts has been ordered, the court may subsequently order that the person committed to the institution be transferred into the execution of the other measure if this furthers his rehabilitation.

(2) Under the prerequisites of paragraph 1, the court may subsequently order that a person, against whom preventive custody was ordered, be transferred into the execution of one of the measures designated in paragraph (1). This applies already when the person is still serving the prison sentence and he is in a condition as described in section 20 or 21.

(3) The court may change or reverse a decision pursuant to paragraphs (1) and (2) if it is subsequently determined that this furthers the rehabilitation of the person committed to the institution. The court may further reverse a decision pursuant to paragraph (2) if it is subsequently determined that no success will be achieved by execution of the measures designated in paragraph (1).

(4) The time limits for the duration of the commitment and the review are governed by the provisions applicable to the commitment ordered in the judgment. In case of paragraph (2), the court shall review for the first time if the prerequisites for a decision pursuant to paragraph (3), sentence 2, exist after 1 year, after that, in case of sentence 2 until execution of the commitment starts, at the latest prior to the expiration of 2 additional years.

SECTION 67B. SUSPENSION SIMULTANEOUSLY WITH THE ORDER

(1) If the court orders the commitment to a psychiatric hospital or an institution for curing drug addicts and alcoholics, it suspends their execution on probation at the same time if special circumstances justify the expectation that the purpose of the measure may also be reached thereby. Suspension will not be ordered if the perpetrator still has to serve a prison sentence imposed simultaneously with the measure and which is not suspended on probation.

(2) Supervision of conduct commences with the suspension.

SECTION 67C. DELAYED COMMENCEMENT OF COMMITMENT

(1) If imprisonment is executed before a simultaneously ordered commitment, the court reviews, before the end of the execution of the sentence, whether or not the purpose of the measure still requires the commitment to an institution. If this is not the case, it will suspend execution of the commitment on probation. Supervision of conduct commences with the suspension.

(2) If execution of the commitment has not commenced within 3 years after the order has become final and a case of paragraph (1) or section 67b does not prevail, commitment may be executed only if the court so orders. The time limit will not include the time during which the perpetrator has been detained in an institution by official order. The court orders execution if the purpose of the measure still requires the commitment. If the purpose of the measure has not been attained but special circumstances justify the expectation that it may also be attained by the suspension, the court will suspend execution of the commitment on probation. Supervision of conduct commences with the suspension. If the purpose of the measure has been attained, the court declares it completed.

SECTION 67D. DURATION OF COMMITMENT

(1) The period of commitment to an institution for curing drug addicts and alcoholics may not exceed 2 years. The period starts to run with the beginning of the commitment. If an additionally ordered measure of deprivation of liberty is executed prior to an imprisonment, the maximum period is extended by the term of imprisonment if the time of execution of the measure is credited to the sentence.

(2) If no maximum period is provided for or if the period has not yet expired, the court suspends further execution of the commitment on probation if it can be expected that the institutionalized person will not commit any further illegal acts while the execution of the measure has been suspended. Supervision of conduct commences with the suspension.

(3) If 10 years of commitment to preventive custody have been executed, the court will declare the measure completed if there is no risk that the institutionalized person will commit serious criminal acts, by which the victims would be harmed considerably, either mentally or physically. With the release from the execution of commitment, supervision of conduct will commence.

(4) If the maximum period has expired, the institutionalized person will be released. The measure is thereby completed. With the release from the execution of commitment supervision of conduct shall take effect.

(5) The court shall declare commitment to an institution for the treatment of alcoholics and drug addicts as completed if the prerequisites of section 64, sentence 2, are no longer fulfilled. Supervision of conduct will commence with the release from the execution of the commitment.

(6) If, after commencement of the execution of commitment to a psychiatric hospital, the court determines that the preconditions for such measure no longer exist or that it would be inappropriate to continue its execution, it shall declare the commitment as completed. The release from the execution of commitment is followed by supervision of conduct. The court shall order that supervision of conduct is not necessary if it can be expected that the person concerned will no longer commit any offense even without supervision of conduct.

SECTION 67E. REVIEW

(1) The court may review at any time whether or not further execution of the commitment is to be suspended on probation or to be declared completed. It must review this before the expiration of certain periods.

(2) Concerning commitment, the time limits are—

Six months in an institution for curing drug addicts and alcoholics.

One year in a psychiatric hospital.

Two years in preventive custody.

(3) The court may reduce the periods. Within the limits of the legal periods for review, it may also fix periods before the expiration of which a motion for review is inadmissible.

(4) The periods run from the beginning of the commitment to an institution. If the court rejects suspension or declaration of completion, the periods begin to run anew with the decision.

SECTION 67F. REPEATED ORDER OF MEASURE

If the court orders commitment to an institution for curing drug addicts and alcoholics, a former order of the measure is terminated.

SECTION 67G. REVOCATION OF SUSPENSION

(1) The court shall revoke suspension of commitment to an institution if the convicted person—

1. Commits an illegal act during the period of supervision of conduct,

2. Grossly or persistently violates directives pursuant to section 68b, or

3. Persistently evades the supervision and guidance of the probation officer or the supervisory agency

and it results that the purpose of the measure requires his commitment. Sentence 1, number 1 applies accordingly if the reason for the revocation has occurred in the time between the decision on the suspension and the beginning of the supervision of conduct (sec 68c, para (4)).

(2) The court shall also revoke suspension of a commitment pursuant to sections 63 and 64 if, during the period of supervision of conduct, it turns out that, due to his disposition, the convicted person must be expected to commit unlawful acts and therefore the purpose of the measure requires his commitment.

(3) The court further revokes suspension if circumstances, which become known to the court during the time of supervision of conduct and would have resulted in denial of suspension, indicate that the purpose of the measure requires the commitment of the convicted person.

(4) The period of commitment before and after revocation may altogether not exceed the legal maximum period of the measure.

(5) If the court does not revoke suspension of commitment, the measure is completed with the end of the supervision of conduct.

(6) Services rendered by the convicted person to fulfill the directives will not be remunerated.

SECTION 67H. CONTINUATION OF COMMITMENT FOR A LIMITED PERIOD; INTERVENTION IN CASE OF A CRISIS

(1) During the period of supervision of conduct, the court may order continuation of the suspended commitment pursuant to section 63 or section 64 for maximum period of 3 months if an acute deterioration of the condition of the person released from the institution has occurred or if he has suffered a relapse of his addiction, and the measure is necessary in order to avoid a revocation pursuant to section 67g. Under the prerequisites of sentence 1, the court may order the measure again or extend its duration; the duration of the measure may not exceed a total of 6 months. Section 67g, paragraph (4), shall apply accordingly.

(2) The court shall revoke the measure before the period pursuant to paragraph (1) has elapsed if its purpose was achieved.

- SUPERVISION OF CONDUCT -

SECTION 68. PREREQUISITES FOR SUPERVISION OF CONDUCT

(1) If a person has been sentenced to imprisonment for a term of at least 6 months for a criminal act for which the law expressly provides for supervision of conduct, the court may order supervision of conduct in addition to the sentence if there is a danger that he will commit further criminal acts.

(2) The provisions concerning supervision of conduct by virtue of the law (secs 67b; 67c; 67d, paras 2 through 6; and sect 68f) remain unaffected.

SECTION 68A. SUPERVISORY AGENCY, PROBATION ASSISTANCE, FORENSIC OUTPATIENT DEPARTMENT

(1) The convicted person is subject to control by a supervisory agency; the court shall appoint a probation officer for him for the period of supervision of conduct.

(2) By common consent, the probation officer and the supervisory agency shall assist and provide care to the convicted person.

(3) With the agreement of the court and with the assistance of the probation officer, the supervisory agency shall supervise the conduct of the convicted person and his compliance with directives.

(4) If there is disagreement between the supervisory agency and the probation officer on issues that affect the assistance to the convicted person and his care, the court shall decide.

(5) The court may give instructions to the supervisory agency and the probation officer concerning their work.

(6) Before submission of a request pursuant to section 145a, sentence 2, the supervisory agency shall hear the probation officer; paragraph (4) shall not apply.

(7) If a directive pursuant to section 68b, paragraph (2), sentences 2 and 3, is issued, the forensic outpatient department shall assist and provide care to the convicted person in agreement with the persons and agencies stated in paragraph (2). Otherwise paragraphs (3) and (6) shall also apply to the forensic outpatient department as far as they concern the position of the probation officer.

(8) The persons mentioned in paragraph (1) and the staff of the outpatient forensic department mentioned in section 203, paragraph (1), numbers 1, 2, and 5, shall disclose to each other secrets of other persons, which were entrusted to them within the scope of the relationship protected by section 203 or in any other way, to the extent that this is necessary to help a convicted person not to commit another crime. In addition, the personnel of the forensic outpatient department mentioned in section 203, paragraph (1), numbers 1, 2, and 5, shall disclose such secrets to the supervisory agency and the court, if, in their opinion—

1. This is necessary to monitor if the convicted person complies with a directive to report to medical personnel pursuant to section 68b, paragraph (1), sentence 1, number 11, or participates in a treatment within the scope of a directive pursuant to section 68b, paragraph (2), sentences 2 and 3,

2. The convicted person's conduct or condition appear to require measures pursuant to section 67g, section 67h, or section 68c, paragraph (2) or (3),

3. This is necessary to avert a substantial imminent danger for the life, physical integrity, personal liberty, or sexual self-determination of third persons.

In the cases of sentences 1 and 2, numbers 2 and 3, facts within the meaning of section 203, paragraph (1), which were disclosed by personnel of the forensic outpatient department may only be used for the purposes stated there.

SECTION 68B. DIRECTIVES

(1) The court may direct the convicted person for the duration of the supervision of conduct or for a shorter period—

1. Not to leave his place of residence or place of abode or a certain area without the permission of the supervisory agency.

2. Not to stay at certain places that may offer him opportunity or incitement for further criminal acts.

3. Not to contact the injured person, or certain persons, or persons of a particular group, who may offer him opportunity or incitement to commit further criminal acts, nor associate with them, employ them, or provide them training or lodging.

4. Not to engage in certain activities that he may abuse to commit criminal acts under certain circumstances.

5. Not to possess, carry along, or deposit certain objects that may offer him the opportunity or incitement for further criminal acts.

6. Not to possess or operate motor vehicles or certain types of motor vehicles or of other vehicles that he may misuse to commit criminal acts under certain circumstances.

7. To report at certain times to the supervisory agency, to a specific agency, or to the probation officer.

8. To report any change of residence or place of work immediately to the supervisory agency.

9. To report, in case of unemployment, to the competent agency for employment (*Agentur für Arbeit)* or any other agency competent to act as employment agency.

10. Not to consume any alcoholic beverages or other intoxicating substances, if, based on certain facts, there are reasons for the assumption that consumption of such substances will contribute to the committing of further criminal acts, and to subject himself to testing for alcohol and drug consumption which does not require a physical operation.

11. To report at certain times or intervals to a physician, a psychotherapist or a forensic outpatient department, or

(2) The court may give the convicted person further directives for the duration of the supervision of conduct or for a shorter period of time, in particular such which refer to education, work, leisure time, management of the economic situation, or compliance with obligations to provide support. The court may direct the convicted person specifically to obtain psychiatric, psycho-therapeutical, or socio-therapeutical treatment or care (therapy directive). The care and treatment may be provided by a forensic outpatient department. Section 56c, paragraph (3), shall apply accordingly also for the directive to have alcohol or drug testing performed which requires physical operations.

(3) With the directives, no unreasonable demands may be imposed on the convicted person's standard of living.

(4) If a supervision of conduct becomes effective at the same time that an already effective supervision of conduct pursuant to section 68e, paragraph (1), sentence 1, number 3, ends, the court must also include those directives in its decision which had already been given within the scope of the previous supervision of conduct.

(5) Section 68a, paragraph (8), shall apply accordingly if the care provided to the convicted person in the cases of paragraph (1), number 11, or his treatment in the cases of paragraph (2) is not provided by a forensic outpatient department.

SECTION 68C. DURATION OF SUPERVISION OF CONDUCT

(1) Supervision of conduct shall last 2 years at a minimum and 5 years at a maximum. The court may reduce the maximum period.

(2) The court may order an unlimited supervision of conduct exceeding the maximum period pursuant to paragraph (1), sentence 1, if the convicted person—

1. Does not agree to comply with a directive in accordance with section 56c, paragraph (3), number 1, or

2. Fails to comply with a directive to subject himself to a cure or withdrawal treatment, or to comply with a therapy directive,

and an endangerment of the general public by his committing further serious crimes must be expected. If the convicted person gives his agreement subsequently in the cases of sentence 1, number 1, the court shall determine the remaining period for the supervision of conduct. Otherwise section 68e, paragraph (3), applies.

(3) The court may extend supervision of conduct beyond the maximum period pursuant to paragraph (1), sentence 1, for an unlimited period of time—

1. In cases where commitment to a psychiatric hospital pursuant to section 67d, paragraph (2), is suspended, specific facts give reason for the assumption that otherwise the convicted person will immediately get into a state pursuant to section

20 or section 21, so that, as a result, it must be feared that the general public is endangered by commitment of further serious illegal acts, or

2. If, based on the violation of directives under section 68b, paragraph (1) or (2), or based on other specific facts, there is specific evidence to indicate that the general public is put in danger by commitment of further serious criminal acts, and

a) For criminal acts of the type described under section 181b, the convicted person was sentenced to a prison sentence or a cumulative prison sentence of more than 2 years, or commitment to a psychiatric hospital or to an institution for the treatment of chemical dependency was ordered, or

b) Supervision of conduct under the prerequisites of section 68b, paragraph (1), sentence 3, number 1, was imposed and the prison sentence or cumulative prison sentence or commitment was imposed or ordered for commitment of one or several criminal acts against life, physical integrity, personal liberty or in accordance with sections 250 and 251, also in connection with section 252 or section 255.

Section 68b, paragraph (1), sentence 4, applies accordingly to the termination of supervision of conduct.

(4) In the cases of section 68, paragraph (1), supervision of conduct shall start when its ordering becomes final, in the cases of section 67b, paragraph (2), section 67c, paragraph (1), sentence 2, and paragraph (2), sentence 4, and section 67d, paragraph (2), sentence 2, when the decision on the suspension becomes final, or at a later point in time ordered by the court. The time during which the convicted person is fleeing, hiding, or kept in an institution based on an official order will not be included in the duration of supervisory conduct.

SECTION 68D. SUBSEQUENT DECISIONS; REVIEW PERIOD

(1) The court may also subsequently render, change or reverse decisions pursuant to section 68a, paragraphs (1) and (5), section 68b, and section 68c, paragraph (1), sentence 2, and paragraphs (2) and (3).

(2) In case of a directive imposed pursuant to section 68b, paragraph (1), sentence 1, number 12, the court shall review its possible cancellation at the latest within a 2-year period. Section 67e, paragraphs (3) and (4) apply accordingly.

SECTION 68E. TERMINATION OR SUSPENSION OF SUPERVISION OF CONDUCT

(1) If not imposed for an unlimited period or after suspension of a measure involving deprivation of liberty (sec 67b, para (2), sec 67c, para (1), sent 2, para (2), sent 4, sec 67d, para (2), sent 2), supervision of conduct shall end when—

1. The execution of a measure involving deprivation of liberty begins,

2. The execution of a prison sentence begins, in addition to which a measure involving deprivation of liberty has been ordered,

3. A new supervision of conduct begins.

In the other cases, the supervision of conduct shall be suspended during the period of execution of a prison sentence or a measure involving deprivation of liberty. The court shall order revocation of supervision of conduct imposed after suspension of a measure involving deprivation of liberty, if it is no longer required after circumstances designated in sentence 1, numbers 1 through 3, have occurred. If a new supervision of conduct is added to an existing unlimited supervision of conduct or to a supervision of conduct imposed after suspension of a measure involving deprivation of liberty, the court shall order cancellation of the new measure, if it is not required in addition to the existing one.

(2) The court revokes the supervision of conduct if it is to be expected that the convicted person will no longer commit criminal acts even without it. Revocation is admissible at the earliest on expiration of the legally required minimum period. The court may determine time limits of six months at a maximum, prior to whose expiry a motion to revoke suspension of conduct is inadmissible.

(3) If unlimited supervision of conduct has started, the court shall review in the cases of—

1. Section 68c, paragraph (2), sentence 1, at the latest upon expiration of the maximum time limit pursuant to section 68c, paragraph (1), sentence 1,

2. Section 68c, paragraph (3), prior to expiration of 2 years,

whether a decision pursuant to paragraph (2), sentence 1, is required. If the court denies revocation of supervision of conduct, it shall decide again on a revocation of supervision of conduct before a period of 2 years has passed.

SECTION 68F. SUPERVISION OF CONDUCT IN CASE OF NONSUSPENSION OF THE REMAINING SENTENCE

(1) If a prison sentence or a cumulative prison sentence of at least 2 years for intentional criminal acts or a prison sentence or cumulative prison sentence of at least one year for criminal acts stated in section 181b have been completely executed, supervision of conduct will commence on release of the convicted person. This does not apply if, subsequent to the serving of the sentence, a measure of reform and prevention involving deprivation of liberty is executed.

(2) If it is to be expected that the convicted person will no longer commit criminal acts even without the supervision of conduct, the court shall order that the measure will not take effect.

SECTION 68G. SUPERVISION OF CONDUCT AND SUSPENSION ON PROBATION

(1) If suspension of the sentence or suspension of the remaining sentence has been ordered or the prohibition to engage in a profession is suspended on probation, and if the convicted person is under supervision of conduct at the same time because of the same or another act, only sections 68a and 68b apply to the supervision and the issuance of directives. Supervision of conduct does not end before the expiration of the period of probation.

(2) If suspension on probation and supervision of conduct have been ordered on the basis of the same act, the court may determine however, that supervision of conduct is interrupted until the probation period has expired. In such a case the period of probation will not be included in the period of supervision of conduct.

(3) If, after expiration of the period of probation, the sentence or the remaining sentence is remitted or the prohibition to engage in a profession is declared completed, supervision of conduct ordered for the same act also ends. This does not apply if supervision of conduct is unlimited (sec 68c, para (2), sent 1, or para (3)).

- WITHDRAWAL OF PERMISSION TO DRIVE -

SECTION 69. WITHDRAWAL OF PERMISSION TO DRIVE

(1) If a person has been convicted of an illegal act he committed during or in connection with driving a motor vehicle or in violation of the duties incumbent on the driver of a motor vehicle, or if he has not been convicted only because of the fact that his lack of criminal responsibility has been proved or could not be precluded, the court will withdraw the permission to drive if the nature of the act indicates that he is unfit to drive motor vehicles. Further review pursuant to section 62 is not required.

(2) The perpetrator is, as a rule, to be considered unfit to drive motor vehicles if, in the cases of paragraph (1), the illegal act constitutes a misdemeanor of—

1. Endangerment of road traffic (sec 315c).

2. Drunken driving in road traffic (sec 316).

3. Leaving the scene of an accident without permission (sec 142), although the perpetrator knows or can know that a human being was killed or considerably injured or that significant damage was caused to another person's property as a result of the accident.

4. Total intoxication (sec 323a) involving one of the acts pursuant to numbers 1 through 3.

(3) Permission to drive expires at the time when the judgment becomes final. A driver's license issued by a German authority will be revoked by judgment.

SECTION 69A. BAR TO THE ISSUANCE OF PERMISSION TO DRIVE

(1) If the court withdraws the permission to drive, it determines at the same time that a new permission to drive may not be issued (bar) for the period of 6 months up to 5 years. The bar may be ordered permanently if it is to be expected that the legal maximum period is not sufficient to avert the danger emanating from the perpetrator. If the perpetrator had no permission to drive, only the bar is ordered.

(2) The court may except from the bar specific types of motor vehicles if special circumstances justify the assumption that the purpose of the measure is not endangered thereby.

(3) The minimum term of the bar is 1 year if, during the last 3 years preceding the act, a bar has already been ordered against the perpetrator once before.

(4) If the permission to drive was temporarily withdrawn from the perpetrator because of the act (sec 111a of the Code of Criminal Procedure), the minimum term of the bar is reduced by the time during which the temporary withdrawal was effective. It must, however, not be less than 3 months.

(5) The bar begins when the judgment becomes final. Credit will be given for that period of a preliminary suspension imposed in connection with the offense that has elapsed since the announcement of the judgment in which the factual determinations underlying the imposed measure were last subject to review.

(6) Within the meaning of paragraphs (4) and (5), the holding in custody, safeguarding, or confiscation of the drivers license (sec 94 of the Code of Criminal Procedure) is equal to the temporary withdrawal of the permission to drive.

(7) If there is reason to believe that the perpetrator is no longer unfit to operate motor vehicles, the court may reverse the bar at an earlier date. The reversal is admissible at the earliest if the bar lasted for 3 months, in the cases of paragraph (3) if it lasted for 1 year; paragraph (5), sentence 2, and paragraph (6) apply accordingly.

SECTION 69B. EFFECT OF WITHDRAWAL OF A FOREIGN PERMISSION TO DRIVE

(1) If the perpetrator is permitted to operate motor vehicles within the territory of the Federal Republic of Germany based on a permission to drive issued in a foreign country, without having been issued a drivers license by a German authority, the withdrawal of the permission to drive has the effect of a prohibition to operate motor vehicles within the territory of the Federal Republic of Germany. The right to operate motor vehicles within the territory of the Federal Republic of Germany expires when the decision becomes final. For the time of the bar, neither the right to again use the foreign permission to drive nor the issuance of a domestic driver's license may be granted.

(2) If the foreign drivers license was issued by an authority of a member state of the European Union or of another state which is party to the Agreement on the European Economic Area, and if the owner is ordinarily resident in the Federal Republic of Germany, the drivers license will be withdrawn by judgment and returned to the issuing authority. In other cases, the withdrawal of the permission to drive and the bar will be noted in foreign driving permits.

- PROHIBITION TO PRACTICE A PROFESSION -

SECTION 70. ORDERING PROHIBITION TO PRACTICE A PROFESSION

(1) If a person, on account of an illegal act he committed through abuse of his profession or trade or in gross violation of the duties imposed on him by reason of his profession or trade, has been convicted or has not been convicted only because of the fact that his lack of criminal responsibility has been proved or cannot be precluded, the court may prohibit him the practice of a profession, branch of profession, trade or branch of trade for the period of 1 year up to 5 years if the overall evaluation of the perpetrator and of the act discloses the danger that he will commit considerable illegal acts of the designated kind by continued practice of the profession, branch of profession, trade or branch of trade. The prohibition to practice a profession can be ordered permanently if it is to be expected that the legal maximum period is not sufficient for the aversion of the danger emanating from the perpetrator.

(2) If the perpetrator was temporarily prohibited from practicing his profession, branch of profession, trade or branch of trade (sec 132a of the Code of Criminal Procedure), the minimum period of prohibition is reduced by the time during which the temporary prohibition of the profession was effective. However, it may not be less than 3 months.

(3) As long as the prohibition is effective, the perpetrator also may not practice the profession, branch of profession, trade or branch of trade for another or have it practiced for himself by a person dependent on his directives.

(4) The prohibition to practice a profession becomes effective with the legal force of the judgment. Credit will be given for the period of a temporary prohibition of a profession imposed in connection with the act that has elapsed since the announcement of the judgment in which the factual determinations underlying the imposed measure were last subject to review. The time during which the perpetrator was detained in an institution on official order is not included.

SECTION 70A. SUSPENSION OF PROHIBITION TO PRACTICE A PROFESSION

(1) If, after the imposition of the order prohibiting the practice of a profession, there is reason for the assumption that the danger no longer exists that the perpetrator will commit considerable illegal acts of the kind designated in section 70, paragraph (1), the court may suspend the prohibition on probation.

(2) The order is admissible at the earliest if the prohibition has lasted 1 year. Credit will be given for the period of temporary prohibition to practice a profession pursuant to section 70, paragraph (4), sentence 2. The time during which the perpetrator has been detained in an institution on official order will not be included.

(3) If the prohibition to practice a profession is suspended on probation, sections 56a and 56c through 56e apply accordingly. The period of probation is extended, however, by the time during which imprisonment or a measure of deprivation of liberty, which has been imposed on or ordered against the convicted person for the act, is executed.

SECTION 70B. REVOCATION OF SUSPENSION AND TERMINATION OF PROHIBITION TO PRACTICE A PROFESSION

(1) The court revokes the suspension of a prohibition to practice a profession if the convicted person—

1. During the probation period commits an illegal act by misusing his profession or trade or by gross violation of the duties associated therewith,

2. Grossly or persistently violates a directive,

3. Persistently withdraws himself from supervision and control of the probation officer, reflecting that the purpose of the prohibition to practice a profession requires its further application.

(2) The court also revokes suspension of the prohibition to practice a profession if circumstances, which become known to it during the period of probation and would have resulted in the denial of suspension, indicate that the purpose of the measure requires the further application of the prohibition to practice a profession.

(3) The time of suspension of the prohibition to practice a profession will not be included in the prohibition period.

(4) Services of the convicted person performed in compliance with directives or promises will not be remunerated.

(5) After expiration of the probation period, the court declares the prohibition to practice a profession terminated.

- COMMON PROVISIONS -

SECTION 71. INDEPENDENT ORDER

(1) Commitment to a psychiatric hospital or an institution for curing drug addicts and alcoholics also may be ordered by the court independently if the criminal proceedings cannot be carried out due to the perpetrator's lack of criminal responsibility or his incapacity to stand trial.

(2) The same applies to the withdrawal of the permission to drive and to the prohibition to practice a profession.

SECTION 72. JOINING OF MEASURES

(1) If the prerequisites for several measures are fulfilled, but the required purpose may be reached by certain measures, only these will be ordered. Among several suitable measures, those will be given preference that are less burdensome to the perpetrator.

(2) Moreover, the measures will be ordered simultaneously unless otherwise provided by the law.

(3) If several measures of deprivation of liberty are ordered, the court determines the sequence of execution. Before the end of execution of one measure, the court orders execution of the next, if its purpose still requires commitment to an institution. Section 67c, paragraph (2), sentences 4 and 5, is to be applied.

SEVENTH TITLE
FORFEITURE AND CONFISCATION

SECTION 73. PREREQUISITES FOR FORFEITURE

(1) If an illegal act has been committed and if the perpetrator or accessory obtains an advantage for or from the act, the court will order its forfeiture. This does not apply if the injured person has a claim resulting from the act, satisfaction of which would remove from the perpetrator or accessory the value of what was obtained from the act.

(2) The order of forfeiture extends to the benefits obtained. It also may extend to the objects the perpetrator or accessory acquired by the sale of an object obtained or as a substitute for its destruction, damage or withdrawal or which he acquired on the basis of a right obtained.

(3) If the perpetrator or accessory has acted for another and if he thereby has obtained the financial advantage, the order involving forfeiture pursuant to paragraphs (1) and (2) is directed against him.

(4) The forfeiture of an object also will be ordered if it is owned by or is due to a third person who provided it for the act or otherwise had knowledge of the circumstances of the act.

SECTION 73A. FORFEITURE OF THE SUBSTITUTE VALUE

Insofar as the forfeiture of a certain object is not possible due to the condition of the obtained object or for any other reason or if the forfeiture of a substitute object pursuant to section 73, paragraph (2), sentence 2, is dispensed with, the court orders the forfeiture of a sum of money that corresponds to the value of the object obtained. The court also gives such an order in addition to the forfeiture of an object insofar as its value is below the value of the object initially obtained.

SECTION 73B. ESTIMATE

The volume of what has been obtained and its value as well as the amount of the claim, the fulfillment of which would withdraw from the perpetrator or accessory the object obtained from the act, may be estimated.

SECTION 73C. PROVISION CONCERNING HARDSHIP CASES

(1) Forfeiture will not be ordered insofar as it would be an undue hardship for the person concerned. The order may be dispensed with insofar as the value of the object obtained at the time of the order is no longer part of the property of the person concerned or if the object obtained only has a small value.

(2) Section 42 applies accordingly to the granting of facilities for payment.

SECTION 73D. EXTENDED FORFEITURE

(1) If an unlawful act has been committed according to a law which refers to this provision, the court shall also order forfeiture of objects of the perpetrator or accessory if there is a reason to believe that these objects were obtained to commit illegal acts or by illegal acts. Sentence 1 shall also be applied if an object does not belong or is not due to the perpetrator or accessory because he obtained the object to commit an illegal act or by an illegal act. Section 73, paragraph (1), sentence 2, also in conjunction with section 73b, and section 73, paragraph (2), shall apply accordingly.

(2) If forfeiture of a specific object has become impossible in whole or in part after the act, sections 73a and 73b shall apply correspondingly.

(3) If, after an order of forfeiture has already been issued pursuant to paragraph (1), a new decision about forfeiture of objects of the perpetrator or accessory must be made due to another illegal act committed by the perpetrator or accessory before the order was issued, the court shall in such cases take into regard the previously issued order.

(4) Section 73c applies accordingly.

SECTION 73E. EFFECT OF FORFEITURE

(1) If the forfeiture of an object is ordered, the ownership in the object or the forfeited right is transferred to the State when the decision becomes final, if at this time, the person on whom the order has been imposed has a claim to it. Rights of third parties to the object continue to exist.

(2) Before it becomes final, the order has the effect of a prohibition of sale within the meaning of Civil Code (*Bürgerliches Gesetzbuch*), section 136; the prohibition also includes dispositions other than sales.

SECTION 74. PREREQUISITES FOR CONFISCATION

(1) If an intentional criminal act has been committed, objects resulting from such act or having been used or designed for its commission or preparation can be confiscated.

(2) Confiscation is admissible only if the objects:

1. At the time of the decision, belong to or are due to the perpetrator or accessory, or

2. According to their nature and the circumstances, endanger the general public or there is a danger that they will serve the commission of illegal acts.

(3) Under the prerequisites of paragraph (2), number 2, confiscation of the objects also is admissible if the perpetrator acted without guilt.

(4) If confiscation has been ordered or permitted by a special provision exceeding paragraph (1), paragraphs (2) and (3), apply accordingly.

SECTION 74A. EXTENDED PREREQUISITES FOR CONFISCATION

If the law refers to this provision, objects may be confiscated in deviation from section 74, paragraph (2), number 1, also if the person to whom they belong or are due at the time of the decision:

1. Has at least recklessly contributed to the fact that the object or the right has been the means to or subject matter of the act or its preparation, or

2. Acquired the objects in a reprehensible manner, knowing the circumstances that would have permitted confiscation.

SECTION 74B. PRINCIPLE OF PROPORTIONALITY

(1) If confiscation is not prescribed, it may not be ordered in the cases of section 74, paragraph (2), number 1, and section 74a if it is out of proportion to the significance of the committed act and to the charge against the perpetrator or accessory or, in the cases of section 74a, against the third person affected by the confiscation.

(2) In the cases of sections 74 and 74a, the court orders that the confiscation be reserved and takes a less incisive measure if the purpose of confiscation also may be attained by such measure. In particular, the directive to—

1. Render objects unserviceable,

2. Remove certain equipment or marks from the objects or to change the objects otherwise,

3. Dispose of the objects in a certain way,

are considered adequate.

If the directive is complied with, the reservation of the right to order confiscation is reversed; otherwise the court will order confiscation subsequently.

(3) If confiscation is not prescribed, it may be restricted to some of the objects.

SECTION 74C. CONFISCATION OF THE SUBSTITUTE VALUE

(1) If, before the decision on the confiscation, the perpetrator or accessory disposed of, in particular sold or used up, the object that belonged to him or was due to him at the time of the act, and confiscation of which could have been ordered, or if

he otherwise frustrated confiscation of the object, the court may order confiscation of a sum of money against the perpetrator or accessory up to the value of the object.

(2) The court also may give such an order in addition to the confiscation of an object or in lieu thereof if the perpetrator or accessory, before the decision on the confiscation, encumbered it with third party rights, the lapse of which cannot be ordered without compensation or, in case of confiscation, could not be ordered (sec 74e, para (2), and sec 74f); if the court gives the order in addition to the confiscation, the amount of the substitute value is assessed according to the value of the encumbrance of the object.

(3) The value of the object and the encumbrance may be estimated.

(4) Section 42 applies to the granting of facilities for payment.

SECTION 74D. CONFISCATION OF WRITINGS AND MAKING DEVICES UNSERVICEABLE

(1) Writings (sec 11, para (3)) that have such a contents that any intentional dissemination in knowledge of their contents would constitute the elements of a criminal law, will be confiscated if at least one piece was disseminated or was destined for dissemination by an illegal act. At the same time it will be ordered that the devices used or designed to prepare the writings such as plates, forms, printing sets, printing blocks, negatives, or stencils be made unserviceable.

(2) Confiscation extends only to items in the possession of the persons participating in the dissemination or the preparation thereof, or which are publicly displayed or, if disseminated by mail, have not yet been delivered to the recipient.

(3) Paragraph (1) applies accordingly to writings (sec 11, para (3)) of such contents that the intentional dissemination in knowledge of their contents would constitute the factual elements of a criminal law only by the addition of further circumstances. Confiscation and rendering unserviceable will, however, be ordered only insofar as the:

1. Pieces and items designated in paragraph (1), sentence 2, are in the possession of the perpetrator, accessory, or any other person on whose behalf the perpetrator or accessory has acted, or which are designated for dissemination by these persons.

2. Measures are required to prevent illegal dissemination by these persons.

(4) Equal to dissemination within the meaning of paragraphs (1) through (3) is the displaying, posting, presenting, or otherwise making publicly accessible of at least one piece of writing (sec 11, para (3)).

(5) Section 74b, paragraphs (2) and (3), applies accordingly.

SECTION 74E. EFFECT OF CONFISCATION

(1) If an item is confiscated, the ownership in the item or the withdrawn right is transferred to the State at the time when the decision becomes final.

(2) Third party rights to the item will continue to exist. However, the court orders the termination of these rights if it bases confiscation on the fact that the prerequisites of section 74, paragraph (2), number 2, exist. It also may order termination of third party rights if compensation is not to be granted to the third party pursuant to section 74f, paragraph (2), number 1 or 2.

(3) Section 73e, paragraph (2), applies accordingly to the order of confiscation and the order of the reservation of confiscation even if it is not yet final.

SECTION 74F. COMPENSATION

(1) If a third person was the owner of the property or of the withdrawn right at the time the decision concerning confiscation or rendering unserviceable became final, or if the object was encumbered with the right of a third person that lapsed or has been prejudiced by the decision, the third person will receive an adequate monetary compensation by the Treasury with due consideration to the market value.

(2) Compensation will not be granted if—

1. The third person has at least carelessly contributed to the fact that the object or the right has been the means or subject of the act or its preparation.

2. The third person has acquired the object or the right in the object in a reprehensible manner, knowing the circumstances that permit confiscation or rendering unserviceable.

3. According to the circumstances on which confiscation or rendering unserviceable is based, it would be admissible on the basis of legal provisions outside the criminal law to confiscate the object permanently from the third person without compensation.

(3) In the cases of paragraph (2), compensation may be granted insofar as it would be an undue hardship to deny it.

SECTION 75. SPECIAL PROVISION FOR ORGANS AND REPRESENTATIVES
If a person as—

1. An officer entitled to represent a juristic person or as a member of such organ,

2. The director of an association without legal capacity or as a member of such a board,

3. A partner of a partnership with legal personality entitled to represent the company,

4. A fully authorized representative, or in an executive position as holder of a special statutory authority (*Prokurist*), or general agent of a juristic person or of an association of persons under number 2 or 3 above, or

5. Any other person acting on behalf of the management of a company or enterprise of a juristic person or a partnership listed in a number 2 or 3, which includes the supervision of the business management or any other exercise of controlling authority in a leading position,

has committed an act that would allow against him confiscation of an object or the substitute value under the other prerequisites of sections 74 through 74c and 74f, or would substantiate exclusion of the compensation, his act will be ascribed to the represented person in applying these provisions. Section 14, paragraph (3), applies accordingly.

- COMMON PROVISIONS -

SECTION 76. SUBSEQUENT ORDER OF FORFEITURE OR CONFISCATION OF THE SUBSTITUTE VALUE
If the order of forfeiture or confiscation of an object is impractical or insufficient because one of the prerequisites designated in sections 73a; 73d, paragraph (2); or 74c has occurred or has become known after the order has been given, the court may subsequently order forfeiture or confiscation of the substitute value.

SECTION 76A. INDEPENDENT ORDER

(1) If, for factual reasons, no certain person can be prosecuted or sentenced for the criminal act, forfeiture or confiscation of the object or of the substitute value or making the object unserviceable must or may be ordered independently if the prerequisites, according to which the measure is prescribed or permitted, otherwise exist.

(2) Paragraph (1) also is applicable in the cases of section 74, paragraph (2), number 2, and paragraph (3), and section 74d if—

1. Prosecution of the criminal act is barred by the statute of limitations.

2. No particular person can be prosecuted for legal reasons and the law does not provide otherwise.

Confiscation or rendering unserviceable may, however, not be ordered if motion, authorization, or request for punishment are lacking.

(3) Paragraph (1) also is applicable if the court refrains from imposing punishment or if the proceedings are discontinued pursuant to a provision which permits this at the discretion of the office of the public prosecutor or the court or on agreement of both.

CHAPTER FOUR
REQUEST FOR CRIMINAL PROSECUTION, AUTHORIZATION (FOREIGN GOVERNMENT'S) REQUEST FOR PROSECUTION (*STRAFVERLANGEN*)

SECTION 77. PERSONS ENTITLED TO FILE A REQUEST

(1) If the act can be prosecuted only on request, the injured person may file the request if not otherwise provided by law.

(2) If the injured person dies, his right to file a request is transferred to the spouse, the life partner and the children in those cases determined by law. If the injured person has neither a spouse or a life partner nor children or if they died before the expiration of the period during which a request may be filed, the right to file a request is transferred to the parents and, if they also died before the expiration of the period for filing a request, this right is transferred to siblings and to grandchildren. If a dependent is involved in the act or if he has no relatives, he is excluded when the right to file a request is transferred. The right to file a request is not transferred if prosecution is contrary to the declared will of the injured person.

(3) If the person entitled to file a request is legally incompetent or if his legal capacity is limited, the legal representative for his personal affairs and the person entrusted with the care of the person entitled to file a request may submit a request.

(4) If several persons are entitled to file a request, each one may file the request independently.

SECTION 77A. REQUEST OF OFFICIAL SUPERIOR

(1) If the act has been committed by a holder of a public office, a person especially engaged in civil service, or a soldier of the Federal Armed Forces, or against such a person, and may be prosecuted at the request of the official superior, that official superior to whom the party concerned was assigned at the time of the act is entitled to file a request.

(2) In the case of professional judges, the person who has official supervision over the judge is entitled to file a request in lieu of the official superior. In the case of soldiers, the disciplinary superior is the official superior.

(3) In the case of a holder of a public office or a person especially engaged in civil service who has or had no official superior, the authority for which he worked may file the request. If the holder of the public office or the person especially engaged is in charge of this authority, the state supervisory board is entitled to file a request.

(4) In the case of members of the Federal Government, the Federal Government is entitled to file a request; in the case of members of a *Land* government, the *Land* government is entitled to file a request.

SECTION 77B. PERIOD FOR FILING REQUEST

(1) An act that may be prosecuted only on request will not be prosecuted if the person entitled to file the request fails to submit the request before the expiration of a period of 3 months. If the end of the period falls on a Sunday, a general holiday, or a Saturday, the period ends with the termination of the next workday.

(2) The period begins with the expiration of the day when the person entitled to file the request obtains knowledge of the act and the identity of the perpetrator. If prosecution of the act also is dependent on a decision concerning the nullity or dissolution of a marriage, the period does not begin before the expiration of the day on which the person entitled to file a request obtains knowledge of the finality of the decision. As to the request of the legal representative and the person entrusted with the care of a person, their knowledge is decisive for the request.

(3) If several persons are entitled to file a request or are involved in the act, the period runs separately for and against each person.

(4) If, due to the death of the injured person, the right to file a request has been transferred to dependents, the period ends at the earliest 3 months, at the latest 6 months after the death of the injured person.

(5) If a request for attempt at conciliation pursuant to section 380 of the Code of Criminal Procedure is filed with the conciliation board, running of the period is suspended until issuance of the certificate pursuant to section 380, paragraph (1), sentence 3, of the Code of Criminal Procedure.

SECTION 77C. RECIPROCALLY COMMITTED ACTS

If, in the case of reciprocally committed acts that are connected to each other and are prosecuted only on request, a person entitled to file a request has requested criminal prosecution of the other person, the other person's right to file a request expires if he fails to exercise it before completion of the last hearing in the first instance. He may file the request even if the period for filing a request has already expired for him.

SECTION 77D. WITHDRAWAL OF REQUEST

(1) The request may be withdrawn. Withdrawal may be declared until final termination of the criminal proceedings. A request that has been withdrawn may not be submitted again.

(2) If the injured person or the person entitled to file a request in the case of his death dies after he filed the request, the spouse, the life partner, the children, the parents, the siblings, and the grandchildren of the injured person in the sequence of priority determined in section 77, paragraph (2), may withdraw the request. Several dependents of equal priority may exercise the right only jointly. A person involved in the act may not withdraw the request.

SECTION 77E. AUTHORIZATION AND (FOREIGN GOVERNMENT'S) REQUEST FOR PROSECUTION (*STRAFVERLANGEN*)

If an act may only be prosecuted with authorization or on a foreign government's request for prosecution, sections 77 and 77d will apply accordingly.

CHAPTER FIVE
STATUTE OF LIMITATIONS

FIRST TITLE
LIMITATION OF PROSECUTION

SECTION 78. PERIOD OF THE STATUTE OF LIMITATIONS

(1) The statute of limitations precludes prosecution of the act and the order of measures (sec 11, para (1), no. 8). Section 76a, paragraph (2), sentence 1, number 1, will remain unaffected.

(2) Felonies pursuant to section 211 (murder) do not fall under the statute of limitations.

(3) Insofar as prosecution falls under the statute of limitations, the period of the statute of limitations is—

1. Thirty years in case of acts for which imprisonment for life may be imposed.

2. Twenty years in case of acts for which a maximum term of imprisonment of more than ten years may be imposed.

3. Ten years in case of acts for which a maximum term of imprisonment of more than five years up to ten years may be imposed.

4. Five years in case of acts for which a maximum term of imprisonment of more than one year to five years may be imposed.

5. Three years in case of other acts.

(4) The period is dependent on the punishment provided by the law, the factual elements of which are realized by the act regardless of aggravations or mitigations that are provided pursuant to the provisions of the General Part or in the case of especially severe or less severe cases.

SECTION 78A. COMMENCEMENT

The statute of limitations begins to run as soon as the act is completed. If a result pertaining to the factual elements occurs only later, the statute of limitations commences at this point of time.

SECTION 78B. SUSPENSION

(1) The period of limitation is not running—

1. Before the injured person has become 18 years old in case of criminal acts under sections 174 to 174c, 176 to 179, and 225, as well as under sections 224 and 226 if at least one person violates section 225 by the same act,

2. As long as, pursuant to the law, prosecution cannot be commenced or continued; this does not apply if the act cannot be prosecuted only because of the absence of a request, authorization, or request for punishment,

(2) If prosecution is prevented by the fact that the perpetrator is a member of the Federal Parliament or of a legislative body of a *Land*, the period of limitation stops running only with the expiration of the day on which:

1. The office of the public prosecutor or a governmental agency or an officer of the police service obtains knowledge of the act and identity of the perpetrator, or

2. Information or a request for punishment against the perpetrator has been submitted (sec 158 of the Code of Criminal Procedure).

(3) If, before the expiration of the period of limitation, a judgment has been rendered in the first instance, the limitation period does not expire before the date on which the proceedings have been finally terminated.

(4) If the law provides for imprisonment of more than 5 years as an increase of punishment in especially severe cases, and if the main trial has been opened before the State Court (*Landgericht*), the period of limitation is suspended in the cases of section 78, paragraph (3), number 4, from the opening of the main trial, however, for a maximum period of 5 years; paragraph (3) shall remain unaffected.

(5) If the perpetrator stays in a foreign country and the competent authority makes a formal request for extradition to that country, the period of limitation is suspended from the time of receipt of the request by the foreign country until—

1. The perpetrator is turned over to the German authorities,

2. The perpetrator has left the sovereign territory of the requested state by any other way,

3. Receipt by the German authorities of a denial of this request by the foreign country, or

4. Withdrawal of this request.

If the date of receipt of the request by the foreign state cannot be determined, the request shall be considered as received one month after its sending or handing over to the foreign country, unless the requesting authority obtains knowledge that the request was in fact not received by the foreign state or only at a later point in time. Sentence 1 does not apply to an extradition request for which in the requested state, based on the framework decision of the Council of 13 June 2002 concerning the European Warrant of Arrest and the Proceedings of Surrender between the Member States (Official Journal EC No. L 190 p. 1) or based on an international agreement, a determination of a final date comparable to section 83 of the Law Concerning Mutual Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen*) exists.

SECTION 78C. INTERRUPTION

(1) The period of limitation is interrupted by—

1. The first interrogation of the defendant, the notification that a preliminary investigation has been initiated against him, or the order for this interrogation or notification,

2. Any interrogation of the defendant by the judge or the order of such interrogation,

3. Any appointment of an expert by the judge or the public prosecutor, if the defendant has been previously interrogated or was informed of the initiation of the preliminary investigation,

4. Any order by the judge concerning confiscation or search, and judicial decisions by which they are maintained,

5. The arrest warrant, the order of commitment to an institution, the order to be brought before the judge, and judicial decisions by which they are maintained,

6. The filing of public charges,

7. The opening of the main proceedings,

8. Any fixing of the date for the main trial,

9. The penal order or any other decision corresponding to the judgment,

10. The temporary judicial suspension of the proceedings on account of the absence of the accused before trial as well as any order of the judge or public prosecutor issued after a suspension of the proceedings, or in the proceedings against absent persons to determine the whereabouts of the accused before trial or to secure evidence,

11. The temporary judicial suspension of the proceedings on account of incapacity of the accused before trial to stand trial as well as any order of the judge or public prosecutor given after a suspension of the proceedings to examine the ability of the accused before trial to stand trial, or

12. Any judicial request to perform an act of investigation abroad.

In the proceedings concerning preventive custody and in independent proceedings, the period of limitation will be interrupted by the acts corresponding to sentence 1 to carry through the proceedings concerning preventive custody or the independent proceedings.

(2) The period of limitation, in case of a written order or decision, is interrupted at the time the order or decision is signed. If the document was not administratively forwarded immediately after signature, the date on which it has actually been administratively forwarded is decisive.

(3) After each interruption, the period of limitation begins to run again. However, prosecution is finally barred by the statute of limitations if, from the date designated in section 78a, twice the legal period of limitation, and, if the period of limitation is less than 3 years pursuant to special law, at least 3 years have passed. Section 78b remains unaffected.

(4) The interruption affects only the person to whom the act pertains.

(5) If a law that applies at the time the act is terminated is amended before the decision, and if the period of limitation is reduced thereby, interrupting acts that have been performed before entry into force of the new law remain effective even if at the time of interruption prosecution would have been barred already by the statute of limitations according to the new law.

SECOND TITLE
LIMITATION OF EXECUTION OF SENTENCE

SECTION 79. PERIOD OF LIMITATION

(1) A final sentence or measure imposed (sec 11, para (1), no. 8) may no longer be executed after expiration of the limitation period.

(2) Execution of imprisonment for life does not fall under the statute of limitations.

(3) The period of limitation is—

1. Twenty-five years in case of imprisonment of more than 10 years.

2. Twenty years in case of imprisonment of more than 5 years and up to 10 years.

3. Ten years in case of imprisonment of more than 1 year and up to 5 years.

4. Five years in case of imprisonment of up to 1 year and a fine of more than thirty daily rates.

5. Three years in case of a fine up to thirty daily rates.

(4) Execution of preventive custody and of unlimited supervision of conduct (sec 68c, para (2), sent 1, or para (3)) do not fall under the statute of limitations. The period of limitation is—

1. Five years in the other cases of supervision of conduct as well as in case of a first-time commitment to an institution for the treatment of chemical dependency.

2. Ten years in case of the other measures.

(5) If imprisonment and a fine have been imposed at the same time or if a measure of deprivation of liberty, forfeiture, confiscation, or rendering unserviceable have been imposed in addition to the sentence, execution of the one sentence or measure is not barred by the statute of limitations earlier than execution of the other ones. However, preventive custody ordered at the same time does not prevent the barring of the execution of the sentence or other measures.

(6) The period of limitation commences when the decision becomes final.

SECTION 79A. SUSPENSION

The period of limitation is not running as long as—

1. Execution cannot be started or continued pursuant to the law,

2. The convicted person has been granted—

(a) A postponement or interruption of execution.

(b) Suspension on probation by judicial decision or by clemency.

(c) Facilities of payment in case of fine, forfeiture, or confiscation.

3. The convicted person is detained in an institution within the Federal Republic of Germany or abroad by official order.

SECTION 79B. EXTENSION

On request of the agency in charge of execution, the court may once extend the period of limitation before its expiration by half of the legal period of limitation, if the convicted person sojourns in an area from where his extradition or transfer cannot be accomplished.

SPECIAL PART

CHAPTER ONE
CRIME AGAINST PEACE, HIGH TREASON, AND ENDANGERING OF THE DEMOCRATIC CONSTITUTIONAL STATE

FIRST TITLE
CRIME AGAINST PEACE

SECTION 80. PREPARING A WAR OF AGGRESSION

Whoever prepares a war of aggression (Basic Law (*Grundgesetz*), Art 26, para (1)) in which the Federal Republic of Germany is to participate, thereby causing danger of war for the Federal Republic of Germany, will be punished by imprisonment for life or not less than 10 years.

SECTION 80A. INCITEMENT TO A WAR OF AGGRESSION

Whoever publicly incites a war of aggression (sec 80) within the territorial applicability of this law, at an assembly or by dissemination of writings (sec 11, para (3)), will be punished by imprisonment from 3 months up to 5 years.

SECOND TITLE
HIGH TREASON

SECTION 81. HIGH TREASON AGAINST THE FEDERAL REPUBLIC

(1) Whoever, by force or threat of force, undertakes to—

1. Impair the existence of the Federal Republic of Germany,

2. Alter the constitutional order based upon the Basic Law of the Federal Republic of Germany,

will be punished by imprisonment for life or not less than 10 years.

(2) In less severe cases, the sentence will be imprisonment from 1 year up to 10 years.

SECTION 82. HIGH TREASON AGAINST A *LAND*

(1) Whoever, by force or threat of force, undertakes to:

1. Incorporate the territory of a *Land* in whole or in part into another *Land* of the Federal Republic of Germany or to detach a part of a *Land* from it,

2. Alter the constitutional order based on the constitution of a *Land*, will be punished by imprisonment from 1 year up to 10 years.

(2) In less severe cases, the sentence is imprisonment from 6 months up to 5 years.

SECTION 83. PREPARATION OF AN UNDERTAKING INVOLVING HIGH TREASON

(1) Whoever prepares a definite high treasonable undertaking against the Federal Republic will be punished by imprisonment from 1 year up to 10 years; in less severe cases by imprisonment from 1 year up to 5 years.

(2) Whoever prepares a definite high treasonable undertaking against a *Land* will be punished by imprisonment from 3 months up to 5 years.

SECTION 83A. ACTIVE REGRET

(1) In the cases of sections 81 and 82, the court may, in its discretion, mitigate the punishment (sec 49, para (2)) or refrain from imposing punishment pursuant to these provisions if the perpetrator voluntarily abandons the further execution of the act and averts or substantially reduces a danger recognized by him where other persons continue the undertaking, or if he voluntarily prevents completion of the act.

(2) In the case of section 83, the court may proceed pursuant to paragraph (1) if the perpetrator voluntarily abandons his intention and averts or substantially reduces the danger caused and recognized by him that other persons continue to prepare the undertaking or execute it, or if he voluntarily prevents the completion of the act.

(3) If, in the absence of any contribution of the perpetrator, the designated danger is averted or substantially reduced or if completion of the act is prevented, his voluntary and earnest efforts to attain his goal are sufficient.

THIRD TITLE
ENDANGERING THE DEMOCRATIC CONSTITUTIONAL STATE

SECTION 84. SUPPORTING A PARTY DECLARED UNCONSTITUTIONAL

(1) Whoever, as a ringleader or supporter within the territorial jurisdiction of this law, supports the organization of a party:

1. Declared unconstitutional by the Federal Constitutional Court (*Bundesverfassungsgericht*), or

2. Held by the Federal Constitutional Court to be a substitute organization of a prohibited party, will be punished by imprisonment from 3 months up to 5 years. The attempt is punishable.

(2) Whoever acts as a member of a party of the type designated in paragraph (1) or supports its organization will be punished by imprisonment not exceeding 5 years or by a fine.

(3) Whoever acts contrary to another decision on the merits by the Federal Constitutional Court, rendered in the proceedings pursuant to Article 21, paragraph (2), of the Basic Law, or in the proceedings pursuant to section 33, paragraph (2), of the Law Concerning the Political Parties (*Parteiengesetz),* acts contrary to an executable measure ordered by decision on the merits in such proceedings, will be punished by imprisonment not exceeding 5 years or by a fine. The proceedings pursuant to Article 18 of the Basic Law are equal to the proceedings designated in sentence 1 of this paragraph.

(4) In the cases of paragraph (1), sentence 2, and of paragraphs (2) and (3), sentence 1, the court may, at its discretion, with respect to participants whose guilt is negligible and whose participation is of subordinate significance, mitigate the punishment (sec 49, para (2)) or refrain from imposing punishment according to these provisions.

(5) In the cases of paragraphs 1 through 3, sentence 1, the court may, at its discretion, mitigate the punishment (sec 49, para (2)) or abstain from imposing a punishment according to these provisions if the perpetrator voluntarily and earnestly makes efforts to prevent the continued existence of the party; if he attains this goal or if it is reached without his efforts, the perpetrator will not be punished.

SECTION 85. VIOLATION OF PROHIBITION TO FORM ASSOCIATIONS

(1) Whoever, as a ringleader or supporter within the territorial jurisdiction of this law, supports the organization of:

1. A party or association that, in the proceedings pursuant to section 33, paragraph (3), of the Law Concerning the Political Parties, has been incontrovertibly declared to be a substitute organization of a prohibited party, or

2. An association incontrovertibly prohibited because it is directed against the constitutional order or against the concept of international understanding or that has been incontrovertibly declared to be a substitute organization of such prohibited association, will be punished by imprisonment not exceeding 5 years or by a fine. The attempt is punishable.

(2) Whoever acts as a member of a party or association of the kind designated in paragraph (1) or whoever supports the organization of such a party will be punished by imprisonment not exceeding 3 years or by a fine.

(3) Section 84, paragraphs (4) and (5), applies accordingly.

SECTION 86. DISSEMINATION OF PROPAGANDA MATERIAL OF UNCONSTITUTIONAL ORGANIZATIONS

(1) Whoever disseminates propaganda material within the territorial jurisdiction of this law or produces it for dissemination within this territory or abroad, keeps it in stock, imports or exports it, or makes it accessible to the public on data storage devices, pertaining to—

1. A party declared unconstitutional by the Federal Constitutional Court or a party or association incontrovertibly declared to be a substitute organization of such a party,

2. An association incontrovertibly prohibited because it is directed against the constitutional order or the concept of international understanding, or which has been incontrovertibly declared to be a substitute organization of such a prohibited association,

3. A government, an association, or institution outside the territorial jurisdiction of this law acting for the purposes of one of those parties or associations designated under numbers 1 and 2, or

4. Propaganda material that, according to its contents, is designed to continue efforts of a former National Socialist organization, will be punished by imprisonment not to exceed 3 years or by a fine.

(2) Propaganda material within the meaning of paragraph (1) includes only such writings (sec 11, para (3)) whose contents is directed against the liberal democratic basic order or against the concept of international understanding.

(3) Paragraph (1) does not apply if the propaganda material or the act is designed for the informative instruction of the citizens, for the aversion of efforts directed against the constitution, for arts or science, research or teaching, for the coverage of current events or history, or for similar purposes.

(4) If the guilt is negligible, the court may refrain from imposing punishment according to this provision.

SECTION 86A. USE OF INSIGNIA OF UNCONSTITUTIONAL ORGANIZATIONS

(1) Punished by imprisonment not to exceed 3 years or by a fine will be whoever—

1. Within the territorial jurisdiction of this law, disseminates any insignia of one of the parties and associations designated under section 86, paragraph (1), numbers 1, 2, and 4, or uses them in public, at an assembly, or in writings disseminated by him (sec 11, para (3)).

2. Produces, has at his disposal, imports or exports objects representing or containing such insignia for dissemination or use within this territory or abroad of the kind designated in number 1.

(2) Insignia within the meaning of paragraph (1), are in particular flags, badges, uniform parts, passwords, and salutes. The insignia listed in sentence 1 are equal to those which can be easily confused with them.

(3) Section 86, paragraphs (3) and (4), apply accordingly.

SECTION 87. ACTIVITY OF AGENTS FOR SABOTAGE PURPOSES[1]

(1) Whoever, in preparation of acts of sabotage to be committed within this territory, complies with an order of a government, an association, or agency outside the territorial jurisdiction of this law in based on which he—

1. Holds himself ready to commit such acts on direction of one of the designated authorities,

2. Explores objects of sabotage,

3. Produces, procures for himself or another, safe-guards or hands over to another, or introduces into this territory means of sabotage,

4. Installs, maintains, or checks depots for the storage of means of sabotage or bases for sabotage activities,

5. Subjects to training for the commission of sabotage acts, or trains others for this purpose, or

6. Establishes or maintains the connection between a sabotage agent (nos. 1 through 5) and one of the designated agencies, and thereby intentionally or knowingly supports efforts against the existence or the security of the Federal Republic of Germany or against principles of the constitution, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Acts of sabotage within the meaning of paragraph (1) are—

1. Acts that constitute the elements of the offense under sections 109e; 305; 306 through 306c; 307 through 309; 313; 315; 315b; 316b; 316c, paragraph (1), number 2; 317; or 318, and

2. Other acts by which the operation of an enterprise important for national defense, for the protection of the civilian population against dangers of war, or for the entire economy is obstructed or disturbed by destroying, damaging, removing, changing, or rendering unserviceable a matter serving the operation, or by which energy destined for the enterprise is abstracted.

(3) The court may refrain from imposing punishment according to these provisions if the perpetrator voluntarily abandons his conduct and discloses his knowledge to an authority in due time so that acts of sabotage, the planning of which is known to him, can still be prevented.

SECTION 88. SABOTAGE DIRECTED AGAINST THE CONSTITUTION

(1) Whoever, as a ringleader or supporter of a group or, without acting with or for such group, as an individual, intentionally undertakes, within the territorial jurisdiction of this law, by acts of interference to bring to a standstill or to withdraw from their designated purposes, entirely or partly,

1. Enterprises or plants providing the public with postal services or serving public transportation,

2. Telecommunication systems serving public purposes,

3. Enterprises or plants supplying the public with water, light, heat, or power, or which are otherwise vital for the supply of the population,

4. Agencies, plants, facilities, or objects that, entirely or predominantly, serve the public safety or order, thereby intentionally supporting efforts against the existence or security of the Federal Republic of Germany or against constitutional principles, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 89. UNCONSTITUTIONAL INFLUENCING OF THE FEDERAL ARMED FORCES AND PUBLIC SECURITY AGENCIES[1]

(1) Whoever systematically influences members of the Federal Armed Forces or a public security agency to undermine their dutiful readiness for the protection of the security of the Federal Republic of Germany or the constitutional order, thereby intentionally supporting efforts directed against the existence or security of the Federal Republic of Germany or constitutional principles, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) Section 86, paragraph (4), applies accordingly.

SECTION 89A. PREPARATION OF A SEVERE ACT OF VIOLENCE ENDANGERING THE STATE

(1) Whoever prepares a severe act of violence endangering the state will be punished by imprisonment from 6 months up to 10 years. A severe act of violence endangering the state is a criminal act against life in the cases under section 211 or 212, or against the personal liberty in the cases under section 239a or 239b, which in consideration of the circumstances is intended and suitable to endanger or impair the existence or the security of a state or an international organization or to eliminate, render ineffective, or undermine constitutional principles of the Federal Republic of Germany.

(2) Paragraph (1) shall only be applied if the perpetrator prepares a severe act of violence endangering the state by—

1. Instructing another person or obtaining instructions concerning the production or the handling of firearms, explosives, explosive or ignitable devices, nuclear or otherwise radioactive material, material that contains or can release toxic substances, other health endangering material, special devices necessary to commit the act, or concerning other skills useful to commit one of the acts listed under paragraph (1),

2. Producing, obtaining, storing for himself or another person or leaving to another person weapons, substances or devices of the type listed under number 1,

3. Obtaining or storing objects or material essential to the production of weapons, material or devices of the type listed under number 1, or

4. Collecting, receiving or making available assets of significant value for the committing of such acts.

(3) Paragraph (1) also applies if the preparation is carried out abroad. If the preparation is carried out outside of the European Union member states, this applies only if it is carried out by a German national or a foreigner whose center of vital interest is within the territorial jurisdiction of this law, or if the severe act of violence endangering the state is to be committed within the territorial jurisdiction of this law, or by or against a German national.

(4) In the cases of paragraph (3), sentence 2, prosecution must be authorized by the Federal Ministry of Justice (*Bundesministerium der Justiz*). If the preparation is carried out in another member state of the European Union the prosecution must be authorized by the Federal Ministry of Justice if the preparation was neither carried out by a German national nor is the act of violence endangering the state to be committed within the territorial jurisdiction of this law nor is that act to be committed by or against a German national.

(5) In less severe cases punishment will be imprisonment from 3 months up to 5 years.

(6) The court may impose supervision of conduct (sec 68, para (1)); section 73d shall be applied.

(7) The court may in its discretion mitigate the punishment (sec 49, para (2)) or may refrain from imposing punishment pursuant to these provisions, if the perpetrator voluntarily abandons further preparation of the severe act of violence endangering the state and averts or significantly reduces the danger caused and recognized by him that other persons will continue to prepare or execute this act, or if he voluntarily prevents the completion of this act. If, in the absence of any contribution of the perpetrator, the designated danger is averted or significantly reduced or if the completion of the severe act of violence endangering the state is prevented, his voluntary and sincere efforts to attain this goal are sufficient.

SECTION 89B. ESTABLISHMENT OF CONTACTS IN ORDER TO COMMIT A SEVERE ACT OF VIOLENCE ENDANGERING THE STATE

(1) Whoever contacts or maintains relations to an association as described in section 129a, also in conjunction with section 129b, with the intention to receive training how to commit a severe act of violence endangering the state pursuant to section 89a, paragraph (2), number 1, will be punished by imprisonment not exceeding three years or by a fine.

(2) Paragraph (1) does not apply if the act was carried out exclusively in compliance with lawful professional or official duties.

(3) Paragraph (1) also applies if such contacts are established and maintained abroad. Outside the European Union member states this only applies if such contacts are established and maintained by a German national or by a foreigner whose center of vital interest is within the territorial jurisdiction of this law.

(4) Prosecution must be authorized by the Federal Ministry of Justice—

1. In the cases of paragraph (3), sentence 2, or

2. If contacts are established or maintained by a non-German national in another member state of the European Union.

(5) If the guilt is negligible the court may refrain from imposing a punishment according to this provision.

SECTION 90. DISPARAGEMENT OF THE PRESIDENT OF THE FEDERAL REPUBLIC

(1) Whoever publicly disparages the President of the Federal Republic at an assembly or by disseminating writings (sec 11, para (3)), will be punished by imprisonment from 3 months up to 5 years.

(2) In less severe cases, the court may at its discretion mitigate the punishment (sec 49, para (2)) unless the prerequisites of section 188 are fulfilled.

(3) The sentence will be imprisonment from 6 months up to 5 years if the act constitutes defamation (sec 187) or if the perpetrator by the act intentionally engages in efforts directed against the existence of the Federal Republic of Germany or constitutional principles.

(4) The act will be prosecuted only with the authorization of the President of the Federal Republic.

SECTION 90A. DISPARAGEMENT OF THE STATE AND ITS SYMBOLS[1]

(1) Whoever publicly, at an assembly or by dissemination of writings (sec 11, para (3)):

1. Insults or maliciously holds up to contempt the Federal Republic of Germany, one of its *Länder*, or its constitutional order, or

2. Disparages the colors, the flag, the coat-of-arms, or the national anthem of the Federal Republic of Germany or one of its *Länder*, will be punished by imprisonment not to exceed 3 years or by a fine.

(2) Equally punished will be whoever removes, destroys, damages, or renders useless or unrecognizable or causes disparaging mischief to any publicly displayed flag of the Federal Republic of Germany or one of its *Länder* or a sovereign emblem of the Federal Republic of Germany or of one of its *Länder*, publicly displayed by an authority. The attempt is punishable.

(3) The punishment will be imprisonment not exceeding 5 years or a fine if the perpetrator by the act intentionally engages in efforts directed against the existence of the Federal Republic of Germany or constitutional principles.

SECTION 90B. UNCONSTITUTIONAL DISPARAGEMENT OF CONSTITUTIONAL ORGANS

(1) Whoever publicly, at an assembly or by dissemination of writings (sec 11, para (3)), intentionally engages in efforts directed against the existence of the Federal Republic of Germany or constitutional principles and in a manner endangering

the reputation of the state, disparages a legislative body, the government, or the Constitutional Court of the Federal Republic, or of a *Land*, or one of their members acting in this capacity, will be punished by imprisonment from 3 months up to 5 years.

(2) The act is prosecuted only with the authorization of the constitutional agency concerned or its member.

SECTION 91. GUIDANCE TO COMMIT A SEVERE ACT OF VIOLENCE ENDANGERING THE STATE

(1) Whoever—

1. Commends or makes available to another person a writing (sec 11, para (3)) suitable by the nature of its content to serve as an instruction to commit a severe act of violence endangering the state (sec 89a, para (1)), if the circumstances of the dissemination are suitable to encourage or incite the willingness of others to commit a severe act of violence endangering the state;

2. Obtains a writing of the type specified in number 1 in order to commit a severe act of violence endangering the state

will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Paragraph (1), number 1, shall not be applied if the action is—

1. Designated for political information of the citizen, for the prevention of efforts directed against the constitution, for arts and science, research or teaching, for the coverage of current events or history, for similar purposes, or

2. Carried out exclusively in compliance with lawful professional or official duties.

(3) If the guilt is negligible the court may refrain from imposing punishment according to this provision.

SECTION 91A. SCOPE OF APPLICATION

Sections 84, 85, and 87 apply only to acts committed by an activity carried out within the territorial applicability of this law.

FOURTH TITLE
COMMON PROVISIONS

SECTION 92. DEFINITIONS

(1) Whoever places the Federal Republic of Germany under a foreign sovereignty, deprives it of its state unity, or detaches a part of its territory, impairs the existence of the Federal Republic of Germany within the meaning of this law.

(2) Within the meaning of this law, constitutional principles are the—

1. Right of the people to exercise executive power in elections and plebiscites and by special legislative, executive, and judicial bodies, and to elect parliament in a general, direct, free, equal, and secret election.

2. Dependence of legislative power on the constitutional order and the dependence of the executive power and the judiciary on law and justice.

3. Right to establish and participate in a constitutional parliamentary opposition.

4. Possibility to replace the government and its responsibility to the parliament.

5. Independence of the courts.

6. Exclusion of any form of despotic and arbitrary rule.

(3) Within the meaning of this law, efforts against—

1. The existence of the Federal Republic of Germany are such efforts by which their initiators attempt to impair the existence of the Federal Republic of Germany (para (1)).

2. The security of the Federal Republic of Germany are such efforts by which their initiators attempt to impair the external or internal security of the Federal Republic of Germany.

3. Constitutional principles are such efforts by which their initiators attempt to abrogate, invalidate, or undermine a constitutional principle (para (2)).

SECTION 92A. ADDITIONAL CONSEQUENCES

In addition to imprisonment of at least 6 months for a criminal act pursuant to this chapter, the court may deprive the convicted person of the capacity to hold public office, to acquire rights from public elections, and of the right to vote or to cast a ballot in public affairs (sec 45, paras (2) and (5)).

SECTION 92B. CONFISCATION

If a criminal act pursuant to this chapter has been committed, objects that have been—

1. Produced by the act or have been used or were destined for its commission or preparation, and

2. Used in a criminal act pursuant to sections 80a, 86, 86a, 89a through 91 may be confiscated. Section 74a shall apply.

CHAPTER TWO
TREASON AND ENDANGERING EXTERNAL SECURITY

SECTION 93. DEFINITION OF STATE SECRET

(1) State secrets are facts, objects, or knowledge to which only a limited group of persons has access and which must be kept secret from a foreign power to avert the danger of grave detriment to the external security of the Federal Republic of Germany.

(2) Facts that violate the liberal democratic basic order or which, while being held secret from treaty partners of the Federal Republic of Germany, violate intergovernmental armament limitations, are not state secrets.

SECTION 94. TREASON

(1) Whoever communicates a state secret—

1. To a foreign power or to one of its agents, or

2. Otherwise allows such information to fall into the hands of an unauthorized person, or makes it public to prejudice the Federal Republic of Germany or to favor a foreign power and thereby brings about the danger of grave detriment to the external security of the Federal Republic of Germany, will be punished by imprisonment for not less than 1 year.

(2) In especially severe cases, the punishment will be imprisonment for life or for not less than 5 years. An especially severe case exists, as a rule, if the perpetrator—

1. Abuses a responsible position that especially obligates him to protection of state secrets.

2. By the act brings about the danger of an especially grave detriment to the external security of the Federal Republic of Germany.

SECTION 95. DISCLOSURE OF STATE SECRETS

(1) Whoever allows a state secret, which is kept secret by an official agency or at its request, to fall into the hands of an unauthorized person or makes it public and thereby brings about the danger of a grave detriment to the external security of the Federal Republic of Germany, will be punished by imprisonment from 6 months up to 5 years, unless the act is subject to punishment pursuant to section 94.

(2) The attempt is punishable.

(3) In especially severe cases, the sentence is imprisonment from 1 year up to 10 years. Section 94, paragraph (2), sentence 2, is applicable.

SECTION 96. ESPIONAGE; ACQUISITION OF STATE SECRETS

(1) Whoever acquires a state secret in order to betray it (sec 94), will be punished by imprisonment from 1 year up to 10 years.

(2) Whoever acquires a state secret that is kept secret by an official agency or at its request, in order to disclose it (sec 95), will be punished by imprisonment from 6 months up to 5 years. The attempt is punishable.

SECTION 97. DISCLOSURE OF STATE SECRETS

(1) Whoever allows a state secret that is kept secret by an official agency or at its request, to fall into the hands of an unauthorized person or makes it public, thereby negligently causing the danger of a grave detriment to the external security of the Federal Republic of Germany, will be punished by imprisonment not to exceed 5 years or by a fine.

(2) Whoever negligently communicates to an unauthorized person a state secret that is kept secret by an official agency or at its request, and to which the perpetrator has access by virtue of his office or position or by virtue of a commission received from an official agency, thereby negligently causing the danger of a grave detriment to the external security of the Federal Republic of Germany, will be punished by imprisonment not to exceed 3 years or by a fine.

(3) The act will be prosecuted only with the authorization of the Federal Government.

SECTION 97A. BETRAYAL OF ILLEGAL SECRETS

Whoever communicates a secret that, on account of one of the violations specified in section 93, paragraph (2), is not a state secret, to a foreign power or one of its agents and thereby brings about the danger of a grave detriment to the external security of the Federal Republic of Germany, will be punished as a traitor to his country (sec 94). Section 96, paragraph (1), in conjunction with section 94, paragraph (1), number 1, shall apply accordingly to secrets of the type specified in sentence 1 of this section.

SECTION 97B. BETRAYAL UNDER THE ERRONEOUS ASSUMPTION OF AN ILLEGAL SECRET

(1) If, in the cases of sections 94 through 97, the perpetrator acts under the erroneous assumption that a state secret is a secret of the type described in section 97a, he will be punished pursuant to the indicated provisions, if—

1. He is to be charged with the error.

2. He does not act with the intention to counteract the supposed violation.

3. The act is, according to the circumstances, an inappropriate means to accomplish this purpose.

As a rule, the act is not an appropriate means if the perpetrator has not previously requested a member of the Federal Parliament for redress.

(2) If a state secret has been officially entrusted or made accessible to the perpetrator as a holder of public office or as a soldier of the Federal Armed Forces, he also will be punished even if the holder of the public office has not previously requested an official superior or, in the case of the soldier, a disciplinary superior for redress. This applies analogously to persons who have been especially engaged in civil service and to those who have been especially engaged within the meaning of section 353b, paragraph (2).

SECTION 98. TREASONABLE ACTIVITY OF AGENTS

(1) Whoever—

1. Carries out for a foreign power an activity designed to obtain or communicate state secrets, or

2. Declares willingness to a foreign power or its agents to carry out such an activity,

will be punished by imprisonment not exceeding 5 years or by a fine, unless the act is subject to punishment pursuant to sections 94 and 96, paragraph (1). In especially severe cases, the punishment will be imprisonment from 1 year up to 10 years; section 94, paragraph (2), sentence 2, number 1, applies accordingly.

(2) The court may, at its discretion, mitigate the punishment (sec 49, para (2)) or refrain from imposing punishment pursuant to these provisions, if the perpetrator voluntarily abandons his conduct and discloses his knowledge to an authority. If the perpetrator, in the cases of paragraph (1), sentence 1, has been urged to his conduct by a foreign power or one of its agents, he will not be punished pursuant to this provision if he voluntarily abandons his conduct and immediately discloses his information to an authority.

SECTION 99. SECRET SERVICE ACTIVITY OF AGENTS

(1) Whoever—

1. For the secret service of a foreign power against the Federal Republic of Germany, carries out an activity designed to communicate or furnish facts, objects, or knowledge, or

2. Declares willingness to the secret service of a foreign power or to one of its agents to carry out such activity,

will be punished by imprisonment not exceeding 5 years or by a fine unless the act is subject to punishment pursuant to section 94 or 96, paragraph (1), section 97a, or section 97b in connection with section 94 or 96, paragraph (1).

(2) In especially severe cases, the punishment will be imprisonment from 1 year up to 10 years. An especially severe case exists, as a rule, if the perpetrator communicates or furnishes facts, objects, or knowledge kept secret by an official agency or at its request, and if he:

1. Abuses a responsible position that especially obligates him to protection of such secrets.

2. Brings about the danger of a grave detriment to the Federal Republic of Germany by the act.

(3) Section 98, paragraph (2), applies accordingly.

SECTION 100. RELATIONS ENDANGERING PEACE

(1) Whoever, as a German whose domicile is within the territorial application of this law, establishes or maintains relations with a government, an association, or institution outside the territorial application of this law or with one of its agents, with the intention to bring about a war or an armed undertaking against the Federal Republic of Germany, will be punished by imprisonment of not less than 1 year.

(2) In especially severe cases, the punishment will be imprisonment for life or for not less than 5 years. An especially severe case exists, as a rule, if the perpetrator by the act brings about a severe danger for the existence of the Federal Republic of Germany.

(3) In less severe cases, the punishment will be imprisonment from 1 year up to 5 years.

SECTION 100A. TREASONABLE FORGERY

(1) Whoever, contrary to better knowledge, communicates to another or makes public forged or falsified objects, information thereon or untrue statements that, in case of authenticity or truth, would be of importance to the external security or the relations of the Federal Republic of Germany to a foreign power to make a foreign power believe that the objects or facts are genuine, thereby bringing about the danger of a grave detriment to the external security or to the relations of the Federal Republic of Germany with a foreign power, will be punished by imprisonment from 6 months up to 5 years.

(2) Whoever produces or acquires such objects by forgery or falsification to furnish them to another or to make them public to deceive a foreign power in the manner specified in paragraph (1), thereby bringing about the danger of a grave detriment to the external security or to the relations of the Federal Republic of Germany to a foreign power, will be punished likewise.

(3) The attempt is punishable.

(4) In especially severe cases the punishment will be imprisonment for not less than 1 year. An especially severe case exists, as a rule, if the perpetrator by his act brings about an especially grave detriment to the external security or to the relations of the Federal Republic of Germany to a foreign power.

SECTION 101. ADDITIONAL CONSEQUENCES

In addition to imprisonment for not less than 6 months for an intentionally committed criminal act pursuant to this chapter, the court may deprive the convicted person of the capacity to hold public office, of the capacity to acquire rights from public elections, and of the right to vote or to cast a ballot in public affairs (sec 45, paras (2) and (5)).

SECTION 101A. CONFISCATION

If a criminal act has been committed pursuant to this chapter, the following objects may be confiscated:

1. Objects that have been produced by the act or have been used or were designed for the commission or preparation of the act, and

2. Objects that are state secrets and objects of the type specified in section 100a to which the act refers.

Section 74a is applicable. Objects of the type specified in sentence 1, number 2, will be confiscated even without the prerequisites of section 74, paragraph (2), if this is required to avert the danger of a grave detriment to the external security of the Federal Republic of Germany; this applies also if the perpetrator acted without guilt.

CHAPTER THREE
CRIMINAL ACTS AGAINST FOREIGN STATES

SECTION 102. ATTACK AGAINST ORGANS AND REPRESENTATIVES OF FOREIGN STATES

(1) Whoever commits an attack upon the life or limb of the head of a foreign country, a member of a foreign government, or the head of a foreign diplomatic mission accredited within the Federal territory, while the attacked person is within the country in an official capacity, will be punished by imprisonment not exceeding 5 years or by a fine, in particularly serious cases by imprisonment for not less than 1 year.

(2) In addition to imprisonment for not less than 6 months, the court may deprive the convicted person of the capacity to hold public office, of the capacity to acquire rights from public elections, and of the right to vote or cast a ballot in public affairs (sec 45, paras (2) and (5)).

SECTION 103. INSULTING ORGANS AND REPRESENTATIVES OF FOREIGN STATES

(1) Whoever insults the head of a foreign country or, with respect to his position, a member of a foreign government sojourning within the country in an official capacity, or the head of a foreign diplomatic mission accredited within the Federal territory, will be punished by imprisonment not exceeding 3 years or by a fine; in the case of defamatory insult by imprisonment from 3 months up to 5 years.

(2) If the act has been committed in public, at a meeting or by dissemination of writings (sec 11, para (3)), section 200 is to be applied. The motion for publication of the conviction also may be filed by the public prosecutor.

SECTION 104. VIOLATION OF FLAGS AND NATIONAL EMBLEMS OF FOREIGN STATES

(1) Whoever removes, destroys, damages, or obliterates the flag of a foreign country publicly displayed pursuant to provisions of law or accepted custom, or a national emblem of such country that has been publicly displayed by a recognized mission, or whoever commits insulting mischief thereon, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The attempt is punishable.

SECTION 104A. CONDITIONS FOR PROSECUTION

Criminal acts described in this chapter will be prosecuted only if the Federal Republic of Germany maintains diplomatic relations with the other country, if reciprocity is guaranteed and also was guaranteed at the time of the act, if there is a request for punishment by the foreign government, and if the Federal Government gives authorization for prosecution.

CHAPTER FOUR

CRIMINAL ACTS AGAINST CONSTITUTIONAL AGENCIES AS WELL AS AT ELECTIONS AND PLEBISCITES

SECTION 105. COERCION ON CONSTITUTIONAL ORGANS

(1) Whoever unlawfully, with force, or by threat of force, coerces—

1. A legislative body of the Federal Republic, or of a *Land* or one of its committees,

2. The Federal Assembly or one of its committees, or

3. The Government or the Constitutional Court of the Federal Republic or of a *Land* not to exercise its powers or to exercise them in a certain sense, will be punished by imprisonment from 1 year up to 10 years.

(2) In less severe cases, the sentence will be imprisonment from 6 months up to 5 years.

SECTION 106. COERCION ON THE FEDERAL PRESIDENT AND ON MEMBERS OF A CONSTITUTIONAL ORGAN

(1) Whoever illegally, with force, or by threat of serious harm coerces—

1. The Federal President or

2. A member of—

(a) A legislative body of the Federal Republic or of a *Land*,

(b) The Federal Assembly, or

(c) The Government or of the Constitutional Court of the Federal Republic or of a *Land* not to exercise his powers or to exercise them in a certain sense, will be punished by imprisonment from 3 months up to 5 years.

(2) The attempt is punishable.

(3) In especially severe cases, the sentence will be imprisonment from 1 year up to 10 years.

SECTION 106A. (RESCINDED)

SECTION 106B. DISTURBING THE ACTIVITY OF A LEGISLATIVE BODY

(1) Whoever violates orders issued in general or in a specific case by a legislative body of the Federal Republic or of a *Land* or its president concerning security and order in the building of the legislative body or on the real estate pertaining thereto, thereby impeding or disturbing the activity of the legislative body, will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Where regulations have been issued by a legislative body of the Federal Republic or its president, the criminal provision of paragraph (1), neither applies to members of the Federal Parliament nor to members of the Federal Council (*Bundesrat*), or of the Federal Government as well as their authorized representatives; where regulations have been issued by a legislative body of a *Land* or its president, the criminal provision of paragraph 1 neither applies to members of the legislative body of that *Land* nor to the members of the *Land* government and their authorized representatives.

SECTION 107. OBSTRUCTING AN ELECTION

(1) Whoever, with force or by threat of force, impedes or interferes in an election or the determination of its results, will be punished by imprisonment not exceeding 5 years or by a fine, in especially severe cases by imprisonment for not less than 1 year.

(2) The attempt is punishable.

SECTION 107A. ELECTION FRAUD

(1) Whoever votes without being authorized or otherwise brings about an incorrect result in an election or falsifies it will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever announces or permits announcement of incorrect results of an election, will be punished likewise.

(3) The attempt is punishable.

SECTION 107B. FALSIFICATION OF ELECTORAL REGISTER

(1) Whoever—

1. Effects through false statements the entry of his name on the electoral register,

2. Enters the name of another person as voter although he knows that the person is not eligible for such entry,

3. Prevents the entry of a person entitled to vote as voter although he knows his entitlement to vote,

4. Permits himself to be nominated as candidate for an election although he is not eligible for election, will be punished by imprisonment not to exceed 6 months or by a fine not to exceed 180 daily rates, if the act is not subject to severer punishment by other provisions.

(2) The issuance of voting documents for primary elections in the social security system is equal to the entry in the electoral register as a voter.

SECTION 107C. VIOLATION OF THE SECRECY OF THE BALLOT

Whoever violates a regulation serving the protection of secrecy of the ballot with intention to ascertain for himself, or another person how someone has voted, will be punished by imprisonment not to exceed 2 years or by a fine.

SECTION 108. COERCION OF THE ELECTORATE

(1) Whoever illegally with force, by threat of considerable harm, by abuse of a professional or economical state of dependence or by other economic pressure coerces another to vote or exercise his right to vote in a specific way or prevents him from doing so, will be punished by imprisonment not exceeding 5 years or by a fine; in especially severe cases by imprisonment from 1 year up to 10 years.

(2) The attempt is punishable.

SECTION 108A. DECEPTION OF THE ELECTORATE

(1) Whoever, by deception, causes someone to err about the contents of his declaration when casting his vote or causes someone, against his will, to omit voting, or to cast an invalid vote, will be punished by imprisonment not to exceed 2 years or by a fine.

(2) The attempt is punishable.

SECTION 108B. BUYING OF VOTES

(1) Whoever offers, promises, or provides gifts or other advantages to another for not voting or for voting in a specific way, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever demands, allows to be promised to himself, or accepts gifts or other advantages for not voting or for voting in a specific way, will be punished likewise.

SECTION 108C. ADDITIONAL CONSEQUENCES

In addition to imprisonment of at least 6 months for a criminal act pursuant to sections 107, 107a, 108, and 108b, the court may deprive the convicted person of the capacity to acquire rights from public elections, and of the right to vote or cast a ballot in public affairs (sec 45, paras (2) and (5)).

SECTION 108D. SCOPE OF APPLICABILITY

Sections 107 through 108c apply to elections to parliamentary bodies, to the election of deputies for the European Parliament, to other elections and plebiscites of the people in the Federal Republic, the *Länder*, municipalities (*Gemeinden*) and associations of the municipalities, as well as to primary elections in the social security system. Signing an election proposal or signing a popular initiative is equivalent to an election or plebiscite.

108E. BRIBING A MEMBER OF PARLIAMENT

(1) Whoever undertakes to buy or sell a vote for an election or ballot in the European Parliament or a parliamentary body of the Federal Republic of Germany, the *Länder*, or the local authorities will be punished by imprisonment not exceeding 5 years or by a fine.

(2) In addition to imprisonment of at least six months for a criminal act pursuant to paragraph (1), the court may deprive the convicted person of the capacity to acquire rights from public elections and of the right to vote or cast a ballot in public affairs.

CHAPTER FIVE
CRIMINAL ACTS AGAINST NATIONAL DEFENSE

SECTION 109. EVASION OF COMPULSORY MILITARY SERVICE BY MUTILATION

(1) Whoever, by mutilation or by other means, renders himself or another consenting thereto unfit or causes another to render him unfit for fulfillment of compulsory military service, will be punished by imprisonment from 3 months up to 5 years.

(2) If the perpetrator brings about the unfitness for a certain period of time or for a specific assignment only, the sentence will be imprisonment not exceeding 5 years or a fine.

(3) The attempt is punishable.

SECTION 109A. EVASION OF MILITARY SERVICE BY DECEPTION

(1) Whoever, through manipulation designed to deceive, withdraws himself or another from fulfillment of compulsory military service, permanently or for a certain period of time, entirely, or for a single assignment, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTIONS 109B AND 109C. (RESCINDED)

SECTION 109D. DEFAMATION OF THE FEDERAL ARMED FORCES

(1) Whoever, contrary to better knowledge, for the purpose of dissemination, renders untrue or grossly distorted assertions of a factual kind, the dissemination of which is likely to interfere with the activities of the Federal Armed Forces, or disseminates such assertions with knowledge of their falsehood in order to prevent the Federal Armed Forces from performance of their task of national defense, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 109E. ACTS OF SABOTAGE AGAINST DEFENSE EQUIPMENT

(1) Whoever, without authorization, destroys, damages, alters, renders unserviceable, or eliminates military equipment or a facility or installation intended wholly or mainly for the national defense or the protection of the civilian population against danger of war, and thereby endangers the security of the Federal Republic of Germany, the striking power of the armed forces, or human lives, will be punished by imprisonment from 3 months up to 5 years.

(2) Likewise will be punished whoever knowingly produces or delivers such object or raw materials intended for it in a defective manner and thereby knowingly causes the danger described in paragraph (1).

(3) The attempt is punishable.

(4) In especially severe cases, the sentence will be imprisonment from 1 year up to 10 years.

(5) Whoever causes the danger in the cases described in paragraph (1) negligently, in the cases of paragraph (2) not knowingly but intentionally or negligently, will be punished by imprisonment not exceeding 5 years or by a fine, unless the act is subject to severer punishment pursuant to other provisions.

SECTION 109F. INTELLIGENCE SERVICE ENDANGERING SECURITY

(1) Whoever, acting on behalf of an agency, a party, or any other association outside the territorial purview of this law or for a prohibited association or for one of their agents—

1. Collects information concerning the affairs of national defense,

2. Operates an intelligence service concerned with the affairs of national defense, or

3. Recruits persons for one of these activities or supports them

and thereby serves efforts directed against the security of the Federal Republic of Germany or the striking power of the armed forces, will be punished by imprisonment not exceeding 5 years or by a fine, unless the act is subject to severer punishment pursuant to other provisions. Exempt are activities carried out for the information of the public within the framework of customary press and radio reports.

(2) The attempt is punishable.

SECTION 109G. DESCRIPTION ENDANGERING SECURITY

(1) Whoever prepares an illustration or description of military equipment, a military installation or facility, or permits such illustration or description to fall into the hands of another and thereby knowingly endangers the security of the Federal Republic of Germany or the striking power of the armed forces, will be punished by imprisonment not to exceed 5 years or by a fine.

(2) Whoever, from an aircraft, takes photographs of an area or object within the territorial purview of this law or lets such photograph, or an illustration later produced thereof, fall into the hands of another and thereby knowingly endangers the security of the Federal Republic of Germany or the striking power of the armed forces, will be punished by imprisonment not to exceed 2 years or by a fine if the act is not subject to punishment pursuant to paragraph (1).

(3) The attempt is punishable.

(4) Whoever, in the cases of paragraph (1), lets the illustration or description fall into the hands of another and thereby causes the danger not knowingly but intentionally or carelessly, will be punished by imprisonment not to exceed 2 years or a fine. The act is, however, not punishable if the perpetrator has acted with the permission of the competent agency.

SECTION 109H. RECRUITMENT FOR FOREIGN MILITARY SERVICE

(1) Whoever, for the benefit of a foreign power, recruits a German national for military service in a military or paramilitary institution or takes him to the recruiting personnel or the military service of such institution, will be punished by imprisonment from 3 months up to 5 years.

(2) The attempt is punishable.

SECTION 109I. ADDITIONAL CONSEQUENCES

Besides imprisonment for not less than 1 year for a criminal act pursuant to sections 109e and 109f, the court may deprive the convicted person of the capacity to hold public office, of the capacity to acquire rights from public elections, and of the right to vote and cast a ballot in public affairs (sec 45, paras (2) and (5)).

SECTION 109K. CONFISCATION

If a criminal act has been committed pursuant to sections 109d through 109g—

1. Objects that have been produced by the act or have been used in or were destined for its commission or preparation, and

2. Illustrations, descriptions, and photographs used in a criminal act pursuant to section 109g, may be confiscated.

Section 74a is to be applied. Objects of the type designated in sentence 1, number 2, also will be confiscated without the prerequisites of section 74, paragraph (2), if this is in the interest of national defense; this also applies if the perpetrator acted without guilt.

CHAPTER SIX
RESISTANCE TO STATE AUTHORITY

SECTION 110. (RESCINDED)

SECTION 111. PUBLIC INCITEMENT TO CRIMINAL ACTS

(1) Whoever publicly, at an assembly or by dissemination of writings (sec 11, para (3)), incites to an illegal act, will be punished as an instigator (sec 26).

(2) If the incitement is unsuccessful, the sentence will be imprisonment up to 5 years or a fine. The punishment may not be severer than the one imposed if the incitement is successful (para (1)); section 49, paragraph (1), number 2, is to be applied.

SECTION 112. (RESCINDED)

SECTION 113. RESISTANCE TO LAW ENFORCEMENT OFFICERS

(1) Whoever, with force or by threat of force, offers resistance to or physically assaults a holder of a public office or soldier of the Federal Armed Forces charged with the enforcement of laws, statutory orders, judgments, court decisions, or decrees in the performance of such official act, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) In especially severe cases, the sentence will be imprisonment from 6 months to 5 years. An especially severe case exists, as a rule, if the perpetrator—

1. Or another person involved carries with him a weapon or any other dangerous tool in order to use it in the commission of the act, or

2. By an act of violence, exposes the attacked person to imminent danger of death or inflicts on him a serious bodily injury .

(3) The act is not punishable pursuant to this provision if the act in line of duty is illegal. This also applies if the perpetrator erroneously assumes that the act in line of duty is legal.

(4) If the perpetrator, in committing the act, erroneously assumes that the act in the line of duty is illegal and if he could avoid the error, the court may mitigate the punishment at its discretion (sec 49, para (2)) or, in case of negligible guilt, it may refrain from imposing punishment pursuant to this provision. If the perpetrator could not avoid the error and if he could not be expected, according to the circumstances known to him, to defend himself against the presumably illegal act in line of duty by legal remedies, the act is not punishable pursuant to this provision; if this could have been expected of him, the court may mitigate the punishment in its discretion (sec 49, para (2)) or refrain from imposing punishment pursuant to this provision.

SECTION 114. RESISTANCE TO PERSONS EQUAL TO LAW ENFORCEMENT OFFICERS

(1) Equivalent to an act in the line of duty performed by a holder of a public office within the meaning of section 113 are acts of execution by persons who are vested with the rights and duties of police officers or who are investigating personnel of the office of the public prosecutor without having the status of holders of public office.

(2) Section 113 applies accordingly with respect to the protection of persons who are called to assist in the act in the line of duty.

(3) A person is also subject to punishment pursuant to section 113 if, in case of accidents or danger to the public or an emergency, he obstructs rescue personnel from a fire department, disaster service, or a rescue service by a violent act, by threatening to be violent, or by assaulting them.

SECTION 115. (RESCINDED)

SECTION 116. (RESCINDED)

SECTION 117. (RESCINDED)

SECTION 118. (RESCINDED)

SECTION 119. (RESCINDED)

SECTION 120. LIBERATION OF A PRISONER

(1) Whoever liberates a prisoner or induces or helps him to escape, will be punished by imprisonment not exceeding 3 years or a fine.

(2) If the perpetrator is a holder of a public office, or as a person especially engaged in civil service, is obligated to prevent escape of the prisoner, the sentence is imprisonment not exceeding 5 years or a fine.

(3) The attempt is punishable.

(4) Whoever is detained in an institution by official order is equal to a prisoner within the meaning of paragraphs (1) and (2).

SECTION 121. MUTINY OF PRISONERS

(1) Prisoners who gang up and, with united power—

1. Coerce (sec 240) or physically assault an official of an institution, another holder of public office, or any person charged with their supervision, care, or examination,

2. Forcibly break out, or

3. Forcibly assist one of them or another prisoner to break out, will be punished by imprisonment from 3 months to 5 years.

(2) The attempt is punishable.

(3) In particularly severe cases, the mutiny will be punished by imprisonment from 6 months to 10 years. A particularly severe case exists, as a rule, if the perpetrator or another participant—

1. Carries a firearm,

2. Carries any other weapon or dangerous tool in order to use it in the act, or

3. Through an act of violence, brings another in danger of death or serious bodily injury (sec 224).

(4) Prisoners within the meaning of paragraphs (1) through (3) also are persons institutionalized in preventive custody.

SECTION 122. (RESCINDED)

CHAPTER SEVEN
CRIMINAL ACTS AGAINST PUBLIC ORDER

SECTION 123. TRESPASS

(1) Whoever illegally invades the dwelling, the business premises, or the enclosed property of another, or enclosed premises assigned to civil service or public traffic, or whoever, if he remains therein without permission, does not leave on the demand of the entitled person, will be punished by imprisonment not exceeding 1 year or by a fine.

(2) The act is prosecuted only on request.

SECTION 124. AGGRAVATED TRESPASS

If a crowd publicly gangs up and illegally invades the dwelling, the business premises, or the enclosed property of another, or enclosed premises assigned to the civil service, with intention to commit concerted acts of violence against persons or objects, each individual who takes part in these acts will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 125. BREACH OF PEACE

(1) Whoever, as perpetrator or accessory, takes part in—

1. Acts of violence against human beings or objects or

2. Threatening human beings by an act of violence

perpetrated in a crowd with unified strength and in a manner endangering public safety, or whoever induces the crowd in order to encourage its willingness to commit such acts, will be punished by imprisonment not exceeding 3 years or by a fine if the act is not subject to severer punishment pursuant to other provisions.

(2) Insofar as the acts designated in numbers 1 and 2 are subject to punishment pursuant to section 113, section 113, paragraphs (3) and (4), apply correspondingly.

SECTION 125A. ESPECIALLY AGGRAVATED BREACH OF PEACE

In especially severe cases of section 125, paragraph (1), the sentence will be imprisonment from 6 months up to 10 years. An especially severe case exists, as a rule, if the perpetrator—

1. Carries a firearm.

2. Carries any other weapon or dangerous tool in order to use it in the act.

3. Through an act of violence, brings another into danger of death or severe bodily injury.

4. Pillages or causes significant damage to objects of other persons.

SECTION 126. DISTURBANCE OF PUBLIC PEACE BY THREATENING TO COMMIT CRIMINAL ACTS

(1) Whoever, in a manner suitable to disturb public peace, threatens with:

1. An act involving breach of peace in one of the cases designated in section 125a, sentence 2, numbers 1 through 4,

2. Murder (sec 211), manslaughter (sec 212), genocide (sec 6 of the International Criminal Code), a crime against humanity (sec 7 of the International Criminal Code), or a war crime (sec 8, 9, 10, 11, or 12 of the International Criminal Code).

3. Serious bodily injury (sec 226),

4. A criminal act against personal liberty in the cases of section 234, 234a, 239a, or 239b,

5. Robbery or extortionary robbery (secs 249 through 251 or sec 255),

6. A felony endangering the public in the cases of sections 306 through 306c; or 307, paragraphs (1) through (3); 308, paragraphs (1) through (3); 309, paragraphs (1) through (4); 313; 314; 315, paragraph (3); 315b, paragraph (3); 316a, paragraph (1) or (3); 316c, paragraph (1) or (3); 318, paragraph (3) or (4), or

7. A misdemeanor endangering the public in the cases of sections 309, paragraph (6); 311, paragraph (1); 316b, paragraph (1); 317, paragraph (1); or 318, paragraph (1),

will be punished by imprisonment up to 3 years or by a fine.

(2) Likewise punished will be whoever, in a manner likely to disturb public peace, contrary to better knowledge, pretends that the realization of one of the illegal acts designated in paragraph (1) is imminent.

SECTION 127. FORMATION OF ARMED GROUPS

(1) Whoever, without being authorized, establishes or commands a group which owns weapons or other dangerous tools, or joins such a group, provides it with weapons or money or provides support in any other way, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Whoever joins such an armed crowd, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 128. (RESCINDED)

SECTION 129. FORMATION OF CRIMINAL ASSOCIATIONS

(1) Whoever forms an association the objectives or activities of which are directed toward the commission of criminal acts or whoever participates in such an association as a member, solicits members or supporters for it, or supports it, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Paragraph (1) is not to be applied—

1. If the association is a political party that was declared unconstitutional by the Federal Constitutional Court,

2. If the commission of criminal acts constitutes a purpose or an activity of only subordinate significance, or

3. Insofar as the purposes or the activity of the association concern criminal acts pursuant to sections 84 through 87.

(3) The attempt to form an association designated in paragraph (1) is punishable.

(4) If the perpetrator is one of the ringleaders or supporters or if the case is otherwise a particularly severe one, imprisonment from 6 months up to 5 years is to be imposed; imprisonment from 6 months up to 10 years shall be imposed if the objective or activity of the criminal association is directed toward committing criminal acts designated in section 100c, paragraph (2), number 1, letters a, c, d, e, and g, with the exception of criminal acts pursuant to section 239a or 239b, letters h through m, numbers 2 through 5 and 7, of the Code of Criminal Procedure.

(5) The court may refrain from imposing punishment pursuant to paragraphs (1) and (3) if the guilt of the parties involved is negligible and their participation of subordinate significance.

(6) The court may, in its discretion, mitigate the punishment (sec 49, para (2)) or refrain from imposing punishment pursuant to these provisions if the perpetrator:

1. Voluntarily and earnestly endeavors to prevent the continued existence of the association or the commission of a criminal act consistent with its objectives, or

2. Voluntarily discloses his knowledge to an authority in due time so that criminal acts, the planning of which is known to him, may still be prevented;

if the perpetrator attains his goal to prevent the continued existence of the association or if this goal is attained without his efforts, he will not be punished.

SECTION 129A. FORMATION OF TERRORIST ASSOCIATIONS

(1) Whoever forms an association, the objectives or activities of which are directed toward the commission of—

1. Murder (sec 211), manslaughter (sec 212), genocide (sec 6 of the International Criminal Code), a crime against humanity (sec 7 of the International Criminal Code), or a war crime (sec 8, 9, 10, 11, or 12 of the International Criminal Code), or

2. Criminal acts against the personal liberty in the cases of section 239a or section 239b

or whoever participates in such an association as a member, shall be punished by imprisonment from 1 year up to 10 years.

(2) There will also be punished whoever forms an association, whose purpose or activities are directed towards—-

1. Inflicting severe bodily or emotional injury to other persons, in particular of the type designated in section 226,

2. Committing criminal acts pursuant to sections 303b, 305, and 305a, or criminal acts endangering the public in the cases of sections 306 through 306c; or 307, paragraphs (1) through (3); section 308, paragraphs (1) through (4); section 309, paragraphs (1) through (5); sections 313; 314; or 315, paragraph (1), (3), or (4); section 316b, paragraph (1) or (3); section 316c, paragraphs (1) through (3); section 317, paragraph (1),

3. Criminal acts against the environment in the cases of section 330a, paragraphs (1) through (3),

4. Criminal acts pursuant to section 19, paragraphs (1) through (3), section 20, paragraph (1) or (2), section 20a, paragraphs (1) through (3), section 19, paragraph (2), number 2, or paragraph (3), number 2, section 20, paragraph (1) or (2), or section 20a, paragraphs (1) through (3), each also in conjunction with section 21, or pursuant to section 22a, paragraphs (1) through (3), of the Law on the Control of Weapons of War *(Gesetz über die Kontrolle von Kriegswaffen*), or

5. Criminal acts pursuant to section 51, paragraphs (1) through (3), of the Weapons Law (*Waffengesetz*)

or who participates in such an association as a member, if the purpose of one of the acts designated in numbers 1 through 5 is to intimidate the population substantially, to coerce an authority or international organization illegally by use of force or by threatening to use force, or to eliminate or significantly impair the basic political, constitutional, economic or social structures of a state or an international organization, and if the way the act is committed or its effects can cause considerable damage to a state or an international organization.

(3) If the purpose or activities of the association are directed towards threatening to commit one of the acts designated in paragraphs (1) and (2), imprisonment from 6 months up to 5 years shall be imposed.

(4) If the perpetrator is one of the ringleaders or supporters, imprisonment of at least 3 years will be imposed in the cases of paragraphs (1) and (2), and imprisonment from 1 up to 10 years in the cases of paragraph (3).

(5) Whoever supports an association designated in paragraph (1), (2), or (3) will be punished by imprisonment of 6 months up to 10 years in the cases of paragraphs (1) and (2), and imprisonment up to 5 years or a fine in the cases of paragraph (3). Whoever solicits members or supporters for an association designated in paragraph (1) or (2) will be punished by imprisonment from 6 months up to 5 years.

(6) Regarding parties involved whose guilt is negligible and whose participation is of subordinate significance, the court may mitigate the punishment at its discretion (sec 49, para (2)) in the cases of paragraphs (1), (2), (3), and (5).

(7) Section 129, paragraph (6), applies accordingly.

(8) In addition to imprisonment for not less than 6 months, the court may deprive the convicted person of the capacity of holding public office and of acquiring rights from public elections (sec 45, para (2)).

(9) In the cases of paragraphs (1), (2), and (4), the court may order supervision of conduct (sec 68, para (1)).

SECTION 129b. CRIMINAL AND TERRORIST ORGANIZATIONS IN A FOREIGN COUNTRY; EXTENDED FORFEITURE AND CONFISCATION

(1) Sections 129 and 129a also apply to organizations in a foreign country. If the act is related to an organization outside the member states of the European Union, this is only applicable if the act is committed through an activity executed within the territorial scope of this law or if the perpetrator or the victim is German or stays in Germany. In the cases of sentence 2, the act is only prosecuted with authorization of the Federal Ministry of Justice. The authorization may be granted for an

individual case or generally also for the prosecution of future offenses, which refer to a particular organization. When deciding about the authorization the Federal Ministry shall consider, whether the goals of the organization are directed against the basic values of a state order respecting human dignity or against a peaceful coexistence of peoples and, under consideration of all circumstances, appear to be reprehensible.

(2) Sections 73d and 74a shall be applied in the cases of sections 129 and 129a, both also in conjunction with paragraph (1).

SECTION 130. INCITEMENT TO HATRED AND VIOLENCE AGAINST MINORITY GROUPS

(1) Whoever, in a manner designated to disturb public peace—

1. Incites to hatred, induces to commit acts of violence or arbitrary acts against a national, racial, or religious group or a group characterised by its ethnical origin, against certain parts of the population or against an individual because he is a member of one of the groups designated above or of a certain part of the population, or

2. Violates human dignity of others by insulting, maliciously disparaging, or slandering one of the groups designated above, certain parts of the population or an individual because he is a member of one of the above designated groups or of a certain part of the population

will be punished by imprisonment from 3 months up to 5 years.

(2) Imprisonment not exceeding 3 years or a fine will be imposed if—

1. Writings (sec 11, para (3)) inciting to hatred against a group designated above, certain parts of the population or against an individual because he is a member of one of the groups designated above or of a certain part of the population, inducing to commit violent or arbitrary acts against them, or violating their human dignity by insulting, maliciously disparaging, or slandering them are—

a. Disseminated,

b. Publicly displayed, posted, presented, or otherwise made accessible,

c. Offered, handed over, or made accessible to a person under 18 years of age, or

d. Produced, obtained, delivered, kept on stock, offered, announced, commended, attempted to be imported or exported in order to be used, or parts thereof, for the purposes described in subparagraphs a through c above, or to enable someone else to use them, or

2. A presentation of the contents designated in number 1 is broadcast by radio, providers of media services or telecommunication services.

(3) Whoever, in public or in an assembly, and in a manner suitable to disturb public peace, approves, denies, or plays down acts of the type designated in section 6, paragraph (1), of the International Criminal Code, committed under the National Socialist regime, will be punished by imprisonment not exceeding 3 years or a fine.

(4) Whoever, either in public or at an assembly disturbs public peace in a way which is insulting to the dignity of the victims by approving, glorifying or justifying the National Socialist dictatorship and arbitrary rule, will be punished by imprisonment up to three years or a fine.

(5) Paragraph (2) also applies for publications (sec 11, para (3)) of the contents designated in paragraphs (3) and (4).

(6) In the cases of paragraph (2), also in conjunction with paragraph (5), and in the cases of paragraphs (3) and (4), section 86, paragraph (3), applies accordingly.

SECTION 130A. GUIDANCE TO COMMIT CRIMINAL ACTS

(1) Whoever disseminates, publicly displays, posts, demonstrates, or otherwise permits access to a writing (sec 11, para (3)) suitable to serve as instruction to commit one of the unlawful acts designated in section 126, paragraph (1), and which by

nature of its content is designated to encourage or incite the willingness of others to commit such an act, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever—

1. Disseminates, publicly displays, posts, demonstrates or otherwise permits access to a writing (sec 11, para (3)) suitable to serve as instruction to commit one of the illegal acts designated in section 126, paragraph (1), or

2. In public or in an assembly, gives instructions to commit one of the unlawful acts designated in section 126, paragraph (1)

with the intention to encourage or incite the willingness of others to commit such an act.

(3) Section 86, paragraph (3), applies accordingly.

SECTION 131. DESCRIPTION OF VIOLENCE

(1) Whoever—

1. Disseminates literature (sec 11, para (3)) that describes cruel or other inhuman acts of violence against human beings or human-like creatures in a manner expressing glorification or playing down of such acts of violence or demonstrating the cruel or inhuman acts in a manner injuring human dignity,

2. Publicly displays, posts, or demonstrates them or otherwise makes them accessible,

3. Offers, hands over, or makes them accessible to a person under 18 years of age, or

4. Produces, obtains, delivers, keeps in stock, offers, announces, commends, or undertakes to import them into, or export them from, the territorial scope of this law, in order to use them or pieces thereof within the meaning of numbers 1 to 3, or to enable someone else to use them,

will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Likewise will be punished whoever disseminates by radio broadcast, providers of media services or telecommunication services a presentation of the contents designated in paragraph (1).

(3) Paragraphs (1) and (2) do not apply if the act serves the coverage of current events or history.

(4) Paragraph (1), number 3, shall not be applied if the entitled party having custody over the person is acting; this does not apply if the person having custody grossly violates his obligation regarding care an upbringing by offering, making available or making accessible.

SECTION 132. UNLAWFUL ASSUMPTION OF PUBLIC AUTHORITY

Whoever, without being authorized, engages in the exercise of public office or performs an act that may only be exercised by virtue of public office, will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 132A. ABUSE OF TITLES, DESIGNATIONS OF PROFESSION, AND BADGES

(1) Whoever, without authority—

1. Uses domestic or foreign designations of office or service, academic degrees, titles, or public dignities,

2. Uses the vocational designation of physician, dentist, psychological psychotherapist, psychotherapist for children or adolescents, psychotherapist, veterinarian, pharmacist, attorney at law, patent attorney, certified public accountant, auditor, tax advisor, or authorized tax agent,

3. Uses the designation of a publicly appointed expert, or

4. Wears domestic or foreign uniforms, official dress, or official badges,

will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Deemed equal to the designations, academic degrees, titles, dignities, uniforms, official dress, or official badges reflected in paragraph (1) are those that can be mistaken for them.

(3) Paragraphs (1) and (2) also apply to official designations, titles, dignities, official dress, and official badges of churches and other religious societies under public law.

(4) Items involved in a criminal act pursuant to section 1, number 4, independently or in connection with paragraph (2) or (3) may be confiscated.

SECTION 133. DESTRUCTION OR REMOVAL OF DOCUMENTS IN OFFICIAL CUSTODY

(1) Whoever destroys, damages, renders unserviceable, or withdraws from official custody documents or other movable objects that have been kept in official custody or given to him or to another for custody, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The same applies to documents or other movable objects that have been kept in official custody of a church or any other religious society under public law or have been given by such authority to the perpetrator or to any other person for official custody.

(3) Whoever commits the act concerning an object that has been entrusted or made accessible to him as a holder of public office or as a person especially engaged in civil service, will be punished by imprisonment not exceeding 5 years or by a fine.

SECTION 134. DAMAGING OF OFFICIAL ANNOUNCEMENT

Whoever knowingly destroys, removes, defaces, renders unrecognizable, or distorts the contents of an official document that has been publicly posted or displayed for notification, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 135. (RESCINDED)

SECTION 136. INTERFERENCE WITH ATTACHMENT; BREAKING OF SEALS

(1) Whoever destroys, damages, renders unserviceable, or otherwise in whole or in part removes from bond an object that has been officially attached or distressed, will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Likewise will be punished whoever damages, removes, or renders unrecognizable an official seal that has been affixed to attach, officially seal or mark objects, or whoever renders ineffective the locking up by seal in whole or in part.

(3) The act is not punishable pursuant to paragraphs (1) and (2) if the distraint, the attachment, or affixing of the seal has not been effected by a lawful official act. This also applies if the perpetrator erroneously assumes that the official act is lawful.

(4) Section 113, paragraph (4), applies accordingly.

SECTION 137. (RESCINDED)

SECTION 138. MISPRISION OF PLANNED CRIMINAL ACTS

(1) Whoever obtains credible knowledge of the planning and execution of—

1. Preparation for a war of aggression (sec 80),

2. High treason in the cases of sections 81 through 83, paragraph (1),

3. Treason or endangerment of external security in the cases of sections 94 through 96, 97a, or 100,

4. Counterfeiting money or securities in the cases of sections 146, 151, and 152 or counterfeiting payment cards with guarantee function or blank forms for euro checks in the cases of section 152b, paragraphs (1) through (3),

5. Murder (sec 211), manslaughter (sec 212), or genocide (sec 6 of the International Criminal Code), or a crime against humanity (sec 7 of the International Criminal Code), or a war crime (sec 8, 9, 10, 11, or 12 of the International Criminal Code),

6. A criminal act against personal liberty in the cases of section 232, paragraph (3), (4), or (5), section 233, paragraph (3), if it is a criminal act, section 234, 234a, 239a, or 239b,

7. Robbery or extortionary robbery (secs 249 through 251 or 255), or

8. A criminal act endangering the public in the cases of sections 306 through 306c; or section 307, paragraphs (1) through (3); section 308, paragraphs (1) through (4); section 309, paragraphs (1) through (5); sections 310; 313; 314; or 315, paragraph (3); section 315b, paragraph (3); or section 316a or 316c;

at a time when the execution or result can still be averted, and fails to report this in time to the authorities or to the threatened person, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished whoever gains credible knowledge of the—

1. Execution of a criminal act pursuant to section 89a, or

2. Intention or the execution of a criminal act pursuant to section 129a, also in conjunction with section 129b, paragraph (1), sentences 1 and 2

at a time when the execution can still be averted and fails to immediately report this to the authority. In case of number 2, section 129b, paragraph (1), sentences 3 through 5, applies accordingly.

. (3) Whoever improvidently fails to make the report, although having gained credible knowledge of the plan or of the execution of the illegal act, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 139. EXEMPTION FROM PUNISHMENT FOR MISPRISION OF PLANNED CRIMINAL ACTS

(1) If, in the cases of section 138, the act was not attempted, imposing punishment may be refrained from.

(2) A clergyman is not bound to report anything that has been confided to him in his capacity as a spiritual adviser.

(3) Whoever fails to make a report that he would be required to make against a relative will not be punished if he earnestly endeavored to prevent him from committing the act or to avert the result, unless the crime involved is—

1. Murder or manslaughter (sec 211 or 212);

2. Genocide in the cases of section 6, paragraph (1), number 1, of the International Criminal Code or a crime against humanity in the cases of section 7, paragraph (1), number 1, of the International Criminal Code, or a war crime in the cases of section 8, paragraph (1), number 1, of the International Criminal Code, or

3. Extortionary kidnapping (sec 239a, para (1)), taking of hostages (sec 239b, para (1)), or an attack upon air traffic or shipping (sec 316c, para (1)), by a terrorist association (sec 129a also in conjunction with sec 129b, para (1)).

Under the same prerequisites, an attorney-a-law, defense counsel, physician, psychological psychotherapist, or psychotherapist for children and juveniles is not bound to report anything that was confided to him in such capacity. The professional assistants of the persons designated in sentence 2 and persons working for them within the scope of professional training are not bound to report anything that was confided to them in their professional capacity.

(4) Whoever averts the execution or the result of the act by means other than a report will not be subject to punishment. If the execution or the result of the act does not take place in the absence of action by the person obligated to make the report, his earnest endeavor to avert the result will suffice to free him from punishment.

SECTION 140. REWARDING AND APPROVAL OF CRIMINAL ACTS

Whoever—

1. Rewards or

2. Approves in public, at an assembly, or by disseminating writings (sec 11, para (3)) in a manner suitable to disturb public peace,

one of the illegal acts designated in section 138, paragraph (1), numbers 1 to 4, and in section 126, paragraph (1), or an illegal act pursuant to section 176, paragraph (3), pursuant to sections 176a and 176b, pursuant to sections 177 and 178, or pursuant to section 179, paragraphs (3), (5), and (6), after they have been committed or attempted in a manner subject to punishment, will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 141. (RESCINDED)

SECTION 142. LEAVING THE SCENE OF AN ACCIDENT WITHOUT PERMISSION

(1) A person involved in an accident who, after an accident in road traffic, leaves the scene of the accident without—

1. By his presence and by announcing his involvement in the accident, first making possible, for the benefit of other persons involved and injured in the accident, his identification, that of his vehicle and the determination as to the nature of his involvement,

2. Having waited for a reasonable period of time commensurate with the circumstances and without someone being willing to make the determinations,

will be punished by imprisonment up to 3 years or by a fine.

(2) A person who is involved in an accident and—

1. After expiration of the waiting period (para (1), no. 2), or

2. Justifiably or excusably,

has left the scene of the accident and fails to allow these determinations to be made promptly thereafter, also will be punished pursuant to paragraph (1).

(3) The obligation to allow these determinations to be made after the fact will be met by the person involved in the accident if he informs the entitled party (para (1), no. 1), or a nearby police station, of his involvement in the accident, and if he states his address, his abode, as well as the license number and location of his vehicle and, for a period which can reasonably be expected from him, keeps it available for such immediate determinations. This does not apply if he, by his behavior, intentionally prevents the determinations.

(4) In the cases of paragraphs (1) and (2), the court mitigates the punishment (sec 49, para (1)) or can refrain from imposing punishment pursuant to these provisions if the person involved in the accident voluntarily allows the determinations to be made (para (3)) within 24 hours after an accident which occurred in nonmoving traffic and only resulted in a minor damage to property.

(5) A person involved in an accident is anyone whose conduct may, under the circumstances, have contributed to the cause of the accident.

SECTION 143. (RESCINDED)

SECTION 144. (RESCINDED)

SECTION 145. ABUSE OF EMERGENCY CALLS AND IMPAIRMENT OF ACCIDENT PREVENTION AND EMERGENCY EQUIPMENT

(1) Whoever, intentionally or knowingly—

1. Abuses emergency calls or emergency signs, or

2. Pretends that due to an accident or due to general danger or emergency, the help of others is required,

will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Whoever, intentionally or knowingly—

1. Removes, renders unrecognizable, or defaces warning or prohibiting signs serving the prevention of accidents or general danger, or

2. Removes, alters, or renders unserviceable protective devices serving the prevention of accidents or general danger, or the life-saving equipment, or other objects designed to render assistance in case of accidents or general danger,

will be punished by imprisonment not exceeding 2 years or by a fine, unless the act is subject to punishment pursuant to section 303 or section 304.

SECTION 145A. VIOLATION OF DIRECTIVES DURING SUPERVISION OF CONDUCT

Whoever, while under supervision of conduct, violates a specific type of directive of the nature designated in section 68b, paragraph (1), and thereby endangers the purpose of the measure will be punished by imprisonment not exceeding three years or by a fine. The act will be prosecuted only at the request of the supervisory authority (sec 68a).

SECTION 145B. (RESCINDED)

SECTION 145C. VIOLATION OF PROHIBITION TO PRACTICE A PROFESSION

Whoever practices a profession, branch of profession, trade, or branch of trade for himself or another or allows it to be practiced for himself by another although it has been prohibited to him or to the other person by criminal court order, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 145D. SIMULATION OF CRIMINAL ACT

(1) Whoever, contrary to his better knowledge, simulates to an authority or an agency authorized to accept criminal information that—

1. An unlawful act has been committed, or

2. The realization of one of the unlawful acts designated in section 126, paragraph (1), is imminent,

will be punished by imprisonment not exceeding 3 years or by a fine, unless the act is subject to punishment pursuant to section 164, 258, or 258a.

(2) Likewise punished will be whoever, contrary to better knowledge, seeks to deceive one of the agencies designated in paragraph (1) regarding a person involved in an—

1. Unlawful act, or

2. Imminent unlawful act designated in section 126, paragraph (1).

(3) Imprisonment between 3 months and 5 years will be imposed on a person who—

1. Commits an act described in paragraph (1), number 1, or paragraph (2), number 1, or

2. Contrary to his knowledge, leads one of the agencies designated in paragraph (1) to believe that committing of one of the illegal acts designated in section 46b, paragraph (1), sentence 1, number 2, of this Law or in section 31, sentence 1, number 2, of the Narcotics Law is imminent, or

3. Contrary to his knowledge, tries to mislead one of these agencies regarding a person involved in an imminent act pursuant to number 2,

in order to achieve mitigation of punishment or that punishment is refrained from pursuant to section 46b of this Law or section 31 of the Narcotics Law.

(4) In less severe cases of paragraph (3), punishment will be imprisonment up to 3 years or a fine.

CHAPTER EIGHT
COUNTERFEITING MONEY AND OFFICIAL STAMPS

SECTION 146. COUNTERFEITING MONEY

(1) There will be punished by imprisonment for not less than 1 year whoever—

1. Counterfeits money with the intention to bring it into circulation as genuine, or to make such circulation possible, or with this intention counterfeits money to give it the appearance of a higher value,

2. Procures or offers for sale counterfeit money with this intention, or

3. Brings into circulation as genuine counterfeit money that he counterfeited, altered, or procured under the prerequisites of numbers 1 or 2.

(2) If the perpetrator acts for gain or as member of a gang which has combined in order to commit continued counterfeiting of money, punishment will be at least 2 years.

(3) In less severe cases of paragraph (1), the punishment to be imposed will be from 3 months up to 5 years, in less severe cases of paragraph (2) imprisonment of 1 year up to 10 years.

SECTION 147. BRINGING COUNTERFEIT MONEY INTO CIRCULATION

(1) Whoever, apart from the cases of section 146, brings counterfeit money into circulation as genuine, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 148. COUNTERFEITING OFFICIAL STAMPS

(1) There will be punished by imprisonment not exceeding 5 years or by a fine whoever—

1. Counterfeits official stamps with the intention that they be used or be brought into circulation as genuine or that such use or bringing into circulation be made possible, or counterfeits official stamps with this intention in such a way as to give it the appearance of a higher value,

2. Procures counterfeit official stamps with this intention, or

3. Uses, offers for sale, or brings into circulation counterfeit official stamps as genuine.

(2) Whoever uses as valid or brings into circulation official stamps that have already been used and from which the cancellation marking has been removed, will be punished by imprisonment not exceeding 1 year or by a fine.

(3) The attempt is punishable.

SECTION 149. PREPARATION FOR COUNTERFEITING MONEY AND OFFICIAL STAMPS

(1) Whoever prepares for counterfeiting money or official stamps by producing, procuring for himself or another, offering for sale, safekeeping, or handing over to another:

1. Plates, molds, prints, printing blocks, negatives, stencils, computer programs or similar devices which, by their nature, are suitable for the commission of the act,

2. Paper similar to, or which gives the appearance of, such a type of paper designed for the preparation of money or official stamps and is especially protected against imitation or,

3. Holograms or other components, serving as protection against counterfeiting,

will, if he is preparing for the counterfeiting of money, be punished by imprisonment not exceeding 5 years or by a fine, otherwise by imprisonment not exceeding 2 years or by a fine.

(2) Whoever voluntarily—

1. Abandons the execution of the prepared act and averts a danger caused by him that others continue to prepare or commit the act, or prevents the completion of the act, and

2. Destroys, renders unserviceable, notifies a governmental authority of the existence of, or delivers to such authority the means of counterfeiting insofar as they are still existing and may be used for counterfeiting,

will not be punished pursuant to paragraph (1).

(3) If, without contribution of the perpetrator, the danger that others continue to prepare or commit the act is averted or the completion of the act is prevented, the voluntary and earnest endeavor of the perpetrator to obtain this goal is sufficient in lieu of the prerequisites of paragraph (2), number 1.

SECTION 150. EXTENDED FORFEITURE AND CONFISCATION

(1) In the cases of sections 146, 148, paragraph (1), of preparation to counterfeit money pursuant to section 149, paragraph (1), and of sections 152a and 152b; section 73d shall be applied if the perpetrator acts on a commercial basis or as member of a gang which has combined for continuous commission of such acts.

(2) If a criminal act according to this chapter has been committed, the counterfeit money, the counterfeit or canceled official stamps, and the means of counterfeiting designated in section 149, will be confiscated.

SECTION 151. SECURITIES

The following securities are deemed equal to money within the meaning of sections 146, 147, 149, and 150 if they are especially protected against imitation by print and type of paper—

1. Bearer checks as well as negotiable bonds that are parts of an entire issue, if payment of a determined sum of money is promised in the bonds.

2. Shares.

3. Share certificates issued by investment companies.

4. Interest, dividend, and renewal coupons concerning securities designated in numbers 1 through 3, as well as certificates concerning delivery of such securities.

5. Traveler's checks.

SECTION 152. MONEY, OFFICIAL STAMPS, AND SECURITIES OF A FOREIGN CURRENCY AREA

Sections 146 through 151 are also to be applied to money, official stamps, and securities of a foreign currency area.

SECTION 152A. COUNTERFEITING PAYMENT CARDS, CHECKS, AND BILLS OF EXCHANGE

(1) Whoever, for the purpose of deception in legal transactions or in order to make such deception possible—

1. Counterfeits or alters domestic or foreign payment cards, checks or bills of exchange, or

2. Procures such counterfeit cards, checks or bills of exchange for himself or another, offers them for sale, makes them available to another person, or uses them

will be punished by imprisonment up to 5 years or with a fine.

(2) The attempt is punishable.

(3) If the perpetrator acts for gain or as member of a gang which has combined for the continuous commission of criminal acts pursuant to paragraph (1), punishment will be imprisonment from 6 months up to 10 years.

(4) Payment cards within the meaning of paragraph (1) are cards that—

1. Were issued by a bank or financial services institution, and

2. Due to their design or coding are especially secured against counterfeiting.

(5) Section 149, to the extent that it refers to counterfeiting of official stamps, and section 150, paragraph (2), apply accordingly.

SECTION 152B. COUNTERFEITING PAYMENT CARDS WITH GUARANTEE FUNCTION AND BLANKS FOR EUROCHECKS

(1) Whoever commits one of the acts designated in section 152a, paragraph (1), in connection with payment cards with guarantee function or blanks for euro checks will be punished by imprisonment from 1 year up to 10 years.

(2) If the perpetrator acts for gain or as member of a gang which has combined for the continuous commission of criminal acts pursuant to paragraph (1), punishment will be imprisonment of at least 2 years.

(3) In less serious cases of paragraph (1), imprisonment from 3 months up to 5 years, and in less serious cases of paragraph (2) imprisonment from 1 year up to 10 years shall be imposed.

(4) Payment cards with guarantee function within the meaning of paragraph (1) are credit cards, euro check cards and other cards that—

1. Make it possible to cause the issuing agency in payment transactions to make a guaranteed payment, and

2. Due to their design or coding are especially secured against counterfeiting.

(5) Section 149, to the extent that it refers to counterfeiting of money, and section 150, paragraph (2), apply accordingly.

CHAPTER NINE
FALSE UNSWORN STATEMENT AND PERJURY

SECTION 153. FALSE UNSWORN STATEMENT

Whoever, as a witness or expert before a court or before another agency authorized to examine witnesses or experts under oath, gives false testimony not confirmed by oath, will be punished by imprisonment from 3 months up to 5 years.

SECTION 154. PERJURY

(1) Whoever makes a false statement confirmed by oath before a court or another agency authorized to administer oaths will be punished by imprisonment for not less than 1 year.

(2) In less severe cases the punishment will be imprisonment from 6 months up to 5 years.

SECTION 155. VERIFICATIONS

Equivalent to an oath is the—

1. Verification replacing an oath.

2. Reference to a previous oath or to a previous verification.

SECTION 156. FALSE AFFIRMATIONS IN LIEU OF AN OATH

Whoever, before an authority competent for the administration of an affirmation in place of an oath, gives such affirmation falsely or, with reference to such affirmation, testifies falsely, will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 157. STATEMENTS MADE UNDER DURESS

(1) If a witness or expert has become guilty of perjury or made a false unsworn statement, the court may, in its discretion, mitigate the punishment (sec 49, para (2)) and, in the case of an unsworn statement, refrain altogether from punishment if the perpetrator falsely testified in order to prevent the danger that one of his relatives or he himself be punished or might become subject to a measure of reform or security involving deprivation of liberty.

(2) The court may, in its discretion, also mitigate the punishment (sec 49, para (2)) or refrain altogether from punishment if a person who is not of age to be sworn has made a false statement not confirmed by oath.

SECTION 158. CORRECTION OF A FALSE STATEMENT

(1) The court may, in its discretion, mitigate the punishment (sec 49, para (2)) for perjury, for false affirmation in lieu of an oath, or for false unsworn statement, or refrain altogether from punishment if the perpetrator corrects the false statement within due time.

(2) The correction is belated when it can no longer be used in rendering the decision, a detriment to another has resulted from the act, or a criminal complaint already has been made against the perpetrator or an investigation has been initiated.

(3) The correction may be submitted to the authority to which the false statement was made or to the authority which has to consider it in proceedings, as well as to any court, prosecutor, or police agency.

SECTION 159. ATTEMPT AT INSTIGATION TO FALSE TESTIMONY

For the attempt to induce another to make a false unsworn statement (sec 153) and a false affirmation in lieu of an oath (sec 156), section 30, paragraph (1), and section 31, paragraph (1), number 1, and paragraph (2), apply accordingly.

SECTION 160. SUBORNATION OF FALSE STATEMENT

(1) Whoever induces another to take a false oath, will be punished by imprisonment not exceeding 2 years or by a fine; whoever induces another to render a false affirmation in lieu of an oath or a false unsworn statement, will be punished by imprisonment not exceeding 6 months or by a fine not exceeding 180 daily rates.

(2) The attempt is punishable.

SECTION 161. FALSE SWEARING THROUGH NEGLIGENCE; NEGLIGENT FALSE AFFIRMATION IN LIEU OF AN OATH

(1) If one of the acts described in sections 154 through 156 has been committed through negligence, imprisonment not exceeding 1 year or a fine will be imposed.

(2) No punishment will be imposed if the perpetrator corrects the false statement in due time. The provisions of section 158, paragraphs (2) and (3), apply accordingly.

SECTION 162. INTERNATIONAL COURTS; NATIONAL INVESTIGATION COMMITTEES

(1) Sections 153 to 161 shall also be applied to false statements made in proceedings before an international court which was established by a legal instrument with binding effect for the Federal Republic of Germany.

(2) To the extent that they refer to false unsworn statements, sections 153 and 157 to 160 shall also be applied to false statements made before an investigation committee of a legislative body of the Federation or the *Länder*.

SECTION 163. (RESCINDED)

CHAPTER TEN
FALSE SUSPICION

SECTION 164. FALSE SUSPICION

(1) Whoever , contrary to his better knowledge, falsely accuses another to an authority or to an official designated to receive complaints or to a military superior or publicly, of an unlawful act or of the violation of official duty with the intention to cause official proceedings or other official measures to be taken against him or to be continued, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished whoever, with the same intention and contrary to better knowledge, wrongfully makes some other type of assertion of factual nature about another, either to one of the agencies designated in paragraph (1) or publicly, which is likely to bring about or cause to continue official proceedings or other official measures against him.

(3) Imprisonment from six months up to ten years will be imposed on a person who casts a false suspicion in order to achieve mitigation of or refraining from punishment pursuant to section 46b of this Law or section 31 of the Narcotics Law. In less severe cases punishment will be imprisonment of 3 months up to 5 years.

SECTION 165. PUBLICATION OF CONVICTION

(1) If the act pursuant to section 164 has been committed publicly or by dissemination of writings (sec 11, para (3)) and punishment has been imposed because of it, it will be ordered, on motion of the injured person, that the conviction for false suspicion will be publicly announced on demand. If the injured person dies, the right to make the motion is transferred to the dependents designated in section 77, paragraph (2). Section 77, paragraphs (2) through (4), applies accordingly.

(2) Section 200, paragraph (2), applies accordingly to the manner of publication.

CHAPTER ELEVEN
CRIMINAL ACTS RELATING TO RELIGION AND IDEOLOGY

SECTION 166. DEFAMATION OF DENOMINATIONS, RELIGIOUS GROUPS, AND IDEOLOGICAL ASSOCIATIONS

(1) Whoever defames the contents of a religious or ideological denomination publicly or through the dissemination of writings (sec 11, para (3)) in a manner susceptible to disturb public peace, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever, publicly or through the dissemination of writings (sec 11, para (3)) defames a church or any other religious society or ideological association in the Federal Republic of Germany, their institutions or customs in a manner likely to disturb public peace, will be punished likewise.

SECTION 167. DISTURBING THE PRACTICE OF RELIGION

(1) Whoever—

1. Intentionally and grossly disturbs divine services or an act of worship of a church or other religious society existing in Germany, or

2. Commits profaning acts at a place dedicated to religious services of such a religious society,

will be punished by imprisonment not exceeding 3 years or by a fine.

(2) The ceremonies of an ideological association existing in the Federal Republic of Germany are equal to religious services.

SECTION 167A. DISTURBING A FUNERAL

Whoever, intentionally or knowingly, disturbs a funeral will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 168. DISTURBING THE PEACE OF THE DEAD

(1) Whoever, without being authorized, removes a corpse, parts of a corpse, a dead unborn child, parts of it, or the ashes of a deceased from the custody of a person entitled thereto or commits profaning acts on them will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever destroys or damages a grave, mortuary, or public memorial or commits profaning acts on them.

(3) The attempt is punishable.

CHAPTER TWELVE
CRIMINAL ACTS AGAINST PERSONAL STATUS, MARRIAGE, AND FAMILY

SECTION 169. FALSIFICATION OF PERSONAL STATUS

(1) Whoever falsely attributes the true parentage of a child or falsely states or suppresses the personal status of another to an authority competent to keep registers of vital statistics or to determine personal status will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The attempt is punishable.

SECTION 170. VIOLATION OF THE OBLIGATION TO PROVIDE SUPPORT

(1) Whoever evades a legal obligation to provide support so that the essential needs of the person entitled to support are endangered or would be endangered without the assistance of others, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever is obliged to provide support to a pregnant woman and fails to do so in a reprehensible manner thereby causing an abortion, will be punished by imprisonment not exceeding 5 years or by a fine.

SECTION 171. VIOLATION OF THE OBLIGATION TO PROVIDE CARE AND EDUCATION

Whoever grossly violates his obligation to care and education towards a person under 16 years of age and thereby exposes the ward to the danger of being considerably impaired in his physical or mental development, leading a criminal life, or pursuing prostitution, will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 172. BIGAMY

Whoever contracts a marriage although he is married, or contracts a marriage with a married person, will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 173. SEXUAL INTERCOURSE BETWEEN RELATIVES

(1) Whoever engages in sexual intercourse with a descendant offspring will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever engages in sexual intercourse with a relative in the ascending line, will be punished by imprisonment not exceeding 2 years or by a fine; this also applies if kinship is terminated. Sexual intercourse between siblings will be punished likewise.

(3) Offspring and siblings will not be punished pursuant to this provision if, at the time of the act, they have not yet completed their 18th year of age.

CHAPTER THIRTEEN
CRIMINAL ACTS AGAINST SEXUAL SELF-DETERMINATION

SECTION 174. SEXUAL ABUSE OF WARDS

(1) Whoever performs sexual acts upon—

1. A person under 16 years of age entrusted to him for upbringing, education, or care concerning his way of life,

2. A person under 18 years of age entrusted to him for upbringing, education, or care concerning his way of life, or subordinate to him due to a relationship of work or employment, by abuse of a dependency in connection with the relationship of upbringing, education, care, work, or employment, or

3. His descendant or adopted child not yet 18 years of age,

or allows such acts to be performed on him by the ward, will be punished by imprisonment from 3 months up to 5 years.

(2) Whoever, under the prerequisites of paragraph (1), numbers 1 through 3—

1. Performs sexual acts in the presence of his ward, or

2. Induces his ward to perform sexual acts in his presence,

in order to sexually arouse himself or the ward, will be punished by imprisonment not exceeding 3 years or by a fine.

(3) The attempt is punishable.

(4) In the cases of paragraph (1), number 1, or of paragraph (2), in connection with paragraph (1), number 1, the court may abstain from imposing punishment pursuant to this provision if, taking into consideration the conduct of the ward, the wrongfulness of the act is negligible.

SECTION 174A. SEXUAL ABUSE OF PRISONERS, PERSONS IN OFFICIAL CONFINEMENT, OR PATIENTS AND PERSONS IN NEED OF ASSISTANCE IN INSTITUTIONS

(1) Whoever, by abuse of his position, performs sexual acts upon, or allows such acts to be performed on himself by a prisoner or person in custody by official order who is entrusted to him for upbringing, education, supervision, or care, will be punished by imprisonment from 3 months up to 5 years.

(2) Whoever, in taking advantage of their sickness or helplessness, abuses inmates of an institution for the sick or needy entrusted to him for supervision or care by performing sexual acts on them, or by allowing such acts to be performed on him by the inmate, will be punished likewise.

(3) The attempt is punishable.

SECTION 174B. SEXUAL ABUSE BY TAKING ADVANTAGE OF AN OFFICIAL POSITION

(1) Whoever, as a holder of public office who is engaged in criminal proceedings or proceedings concerning a measure of prevention and reform involving deprivation of liberty or official custody, performs sexual acts on the person against whom the proceedings are directed or allows such acts to be performed on him by such person, taking advantage of the dependency arising from the proceedings, will be punished by imprisonment from 3 months up to 5 years.

(2) The attempt is punishable.

SECTION 174C. SEXUAL ABUSE BY TAKING ADVANTAGE OF A RELATIONSHIP BASED ON PROVIDING CONSULTATION, TREATMENT, OR CARE

(1) Whoever, by taking advantage of a relationship based on providing consultation, treatment or care, performs sexual acts on, or has such acts performed on him by a person entrusted to him for consultation, treatment or care because of a mental or psychological illness or handicap, including an addiction, or because of a physical illness or disablement will be punished by imprisonment from 3 months up to 5 years.

(2) Likewise will be punished whoever, by abuse of the relationship based on providing treatment, performs sexual acts on, or has such acts performed on him by, a person entrusted to him for psychotherapeutical treatment.

(3) The attempt is punishable.

SECTION 175. (RESCINDED)

SECTION 176. SEXUAL ABUSE OF CHILDREN

(1) Whoever performs sexual acts on a person under 14 years of age (child), or allows such acts to be performed on him by the child, will be punished by imprisonment from 6 months up to 10 years.

(2) Whoever induces the child to perform sexual acts on a third person or allows such acts to be performed on the child by a third person, will be punished likewise.

(3) In particularly severe cases imprisonment of at least 1 year shall be imposed.

(4) Whoever,

1. Performs sexual intercourse in the presence of a child,

2. Orders a child to perform sexual acts, unless the offense is punishable pursuant to paragraph (1) or (2),

3. Influences a child by means of literature (sec 11, para (3)) in order to make it perform sexual acts, to be performed with or in the presence of the perpetrator or with a third person or to have such act performed on it by the perpetrator or a third person, or

4. Influences a child by presenting pornographic pictures or illustrations, by playing sound carriers of pornographic contents, or by equivalent conversation,

will be punished by imprisonment from three months up to 5 years.

(5) A person who offers to make a child available or to provide information of a child for an offense pursuant to paragraphs (1) through (4), or who meets with another person to commit such an act will be punished by imprisonment from three months up to five years.

(6) The attempt is punishable; this does not apply to acts pursuant to paragraph (4), numbers 3 and 4, and paragraph (5).

SECTION 176A. SEVERE CASES OF SEXUAL ABUSE OF CHILDREN

(1) In the cases of section 176, paragraphs (1) and (2), sexual abuse of children will be punished by imprisonment of at least 1 year if the perpetrator was been finally convicted for such an offense within the last 5 years.

(2) In the cases of section 176, paragraphs (1) and (2), sexual abuse of children will be punished by imprisonment of at least 2 years if—

1. A person over 18 years of age engages in sexual intercourse with the child or performs similar sexual acts on the child, or has the child perform such acts on him, which involve penetration into the body,

2. The act is committed jointly by several persons,

3. Through the act, the perpetrator puts the child at risk to suffer serious injury to health or a considerable damage to the physical or emotional development.

(3) Whoever, in the cases of section 176, paragraphs (1) through (3), (4), number 1 or 2, or of section 176, paragraph (6), as perpetrator or a person involved in any other way, acts with the intention to make the criminal act the subject-matter of pornographic literature (sec 11, para (3)) for the purpose of dissemination pursuant to section 184, paragraph (3) or (4), will be punished by imprisonment of at least 2 years.

(4) In less severe cases of paragraph (1), imprisonment from 3 months up to 5 years shall be imposed, in less severe cases of paragraph (2), imprisonment from 1 year up to 10 years is to be imposed.

(5) Whoever, in the cases of section 176, paragraphs (1) and (3), seriously mistreats the child during the act, or places the child at risk of death by the act will be punished by imprisonment of at least 5 years.

(6) The period designated in paragraph (1) shall not include the time during which the perpetrator was committed to an institution upon official order. In the cases of paragraph (1), a conviction for an offence in a foreign country is considered equal to a domestic conviction for an offense if, in accordance with German criminal law, such offense would be a criminal act pursuant to section 176, paragraph (1) or (2).

SECTION 176B. SEXUAL ABUSE OF CHILDREN RESULTING IN DEATH

If the perpetrator negligently causes the death of the child by the sexual abuse (secs 176 and 176a), punishment will be lifetime imprisonment or imprisonment of at least 10 years.

SECTION 177. SEXUAL COERCION; RAPE

(1) Whoever by—

1. Use of force

2. Threat of present danger to life or limb, or

3. Taking advantage of a situation where the victim is at the perpetrator's mercy

coerces another person to tolerate sexual acts performed by the perpetrator or a third person or to perform such acts on the perpetrator or a third person, will be punished by imprisonment not under 1 year.

(2) In especially severe cases the punishment will be at least 2 years. An especially severe case exists if the—

1. Perpetrator has sexual intercourse with the victim or performs similar sexual acts on the victim, or has the victim perform such acts on him, which are especially humiliating for the victim, in particular if they involve penetration into the body (rape), or

2. Act is committed jointly by several persons.

(3) Imprisonment of at least 3 years shall be imposed if the perpetrator—

1. Carries a weapon or another dangerous tool,

2. Carries any other tool or means in order to avoid or overcome the resistance of another person by use of force or threatening to use force, or

3. By the act, causes the victim to suffer serious health injury.

(4) Punishment of at least 5 years shall be imposed if the perpetrator—

1. Uses a weapon or other dangerous tool for the act, or

2.a. Inflicts extreme cruelty on the victim during the act, or

b. By the act, places the victim in the danger of death.

(5) In less severe cases of paragraph (1), imprisonment from 6 months up to 5 years shall be imposed; in less severe cases of paragraphs (3) and (4), imprisonment from 1 year up to 10 years shall be imposed.

SECTION 178. SEXUAL COERCION AND RAPE RESULTING IN DEATH

If the perpetrator negligently causes the death of the victim by sexual coercion or rape (sec 177), punishment will be imprisonment for life or imprisonment of at least 10 years.

SECTION 179. SEXUAL ABUSE OF PERSONS UNABLE TO OFFER RESISTANCE

(1) Whoever abuses another who—

1. Due to a mental or psychogenic illness or disability, including an addiction, or to a profound disturbance of consciousness, or

2. Physically

is unable to offer resistance, by performing sexual acts on that person or allowing that person to perform such acts on him, taking advantage of the person's inability to offer resistance, will be punished by imprisonment from 6 months up to 10 years.

(2) Likewise will be punished whoever abuses a person unable to offer resistance (para (1)) by causing him to perform sexual acts on a third person or to tolerate such acts being performed on him by a third person, taking advantage of his inability to offer resistance.

(3) In particularly serious cases imprisonment of at least one year shall be imposed.

(4) The attempt is punishable.

(5) Imprisonment of at least two years shall be imposed if the—

1. Perpetrator has sexual intercourse with the victim or performs similar sexual acts on him, or allows the victim to perform such acts on him, which involve penetration into the body,

2. Act is committed jointly by several people, or

3. Perpetrator, by the act, exposes the victim to the danger of serious injury to his health or mental development.

(6) In less severe cases of paragraph (5), imprisonment from 1 year up to 10 years shall be imposed.

(7) Section 177, paragraph (4), number 2, and section 178 apply accordingly.

SECTION 180. PROMOTING SEXUAL ACTS OF MINORS

(1) Whoever promotes sexual acts of a person under 16 years of age on or in the presence of a third person or promotes sexual acts of a third person on a person under 16 years of age by—

1. Acting as agent, or

2. Granting or procuring an opportunity

will be punished by imprisonment not exceeding 3 years or by a fine. Sentence 1, number 2, is not to be applied if the person entrusted with the care of the minor is acting; this does not apply if the person entrusted with the care of the minor grossly violates his educational obligation by promoting such acts.

(2) Whoever induces a person under 18 years of age to perform, for remuneration, sexual acts upon, or in the presence of, a third person, or allows a third person to perform such acts on him or whoever promotes such acts by acting as an agent, will be punished by imprisonment not exceeding 5 years or by a fine.

(3) Whoever induces, by taking advantage of a dependency in connection with a relationship of upbringing, education, care, work, or employment, a person under 18 years of age entrusted to him for upbringing, education, or care concerning his way of life, or subordinate to him due to a relationship arising out of work or employment, to perform sexual acts upon, or in the presence of, a third person, or to allow such acts to be performed on him by a third person, will be punished by imprisonment not exceeding 5 years or by a fine.

(4) In the cases of paragraphs (2) and (3), the attempt is punishable.

SECTION 180A. EXPLOITATION OF PROSTITUTES

(1) Whoever, as a trade, maintains or supervises a facility where persons engage in prostitution and where—

These persons are kept in personal or economic dependency,

will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever—

1. Provides to a person under 18 years of age, for the purpose of engaging in prostitution, an apartment or lodgings or temporary stay for gain.

2. Encourages to prostitution another whom he provides quarters for the purpose of engaging in prostitution or in connection with it exploits such person.

SECTION 180B. (RESCINDED)

SECTION 181. (RESCINDED)

SECTION 181A. PANDERING

(1) Whoever—

1. Exploits another engaged in prostitution, or

2. For his financial advantage, supervises another's pursuit of prostitution, determines place, time, extent, or other circumstances of engagement in prostitution or takes measures to prevent the other from giving up prostitution,

and in view thereof maintains relations with the other exceeding an individual case, will be punished by imprisonment from 6 months up to 5 years.

(2) Whoever impairs the personal or economic independence of another person by professionally encouraging the other person's engagement in prostitution through procurement of sexual intercourse and, for that purpose, maintains relationships with that person in more than one case, will be punished by imprisonment up to 3 years or with a fine.

(3) Whoever undertakes the acts designated in paragraph (1), numbers 1 and 2, or the promotion designated in paragraph (2) with respect to his spouse, also will be punished pursuant to paragraphs (1) and (2).

SECTION 181B. SUPERVISION OF CONDUCT

In the cases of sections 174 through 174c, 176 through 180, 181a, the court may order supervision of conduct (sec 68, para (1)).

SECTION 181C. FINES LEVIED ON PROPERTY AND EXTENDED FORFEITURE

In the cases of section 181a, paragraph (1), number 2, sections 43a and 73d are to be applied if the perpetrator acts as a member of a gang which has combined for continuous commission of such acts. Section 73d shall also apply if the perpetrator acts for gain.

SECTION 182. SEXUAL ABUSE OF JUVENILES

(1) Whoever, by taking advantage of a situation of duress, abuses a person under 18 years of age by—

1. Performing sexual acts upon that person or having the person perform such acts on him, or

2. Ordering such person to perform sexual acts on a third person or having a third person perform such acts on him

will be punished by imprisonment up to 5 years or by a fine.

(2) A person over 18 years of age who abuses a person under 18 years of age by performing sexual acts on that person or having sexual acts performed by that person on him for payment will be punished likewise.

(3) A person over 21 years of age who abuses a person under 16 years of age by—

1. Performing sexual acts on that person or allowing that person to perform such acts on him, or

2. Inducing that person to perform sexual acts on a third person or allowing a third person to perform such acts on him

taking advantage of the victim's lacking capability to sexual self-determination, will be punished by imprisonment up to 3 years or by a fine.

(4) The attempt is punishable.

(5) In the cases of paragraph (3), the act will only be prosecuted upon request unless the prosecuting authority considers it necessary to intervene officially, because of the special public interest in the prosecution.

(6) In the cases of paragraphs (1) through (3), the court may refrain from imposing punishment if, in consideration of the conduct of the person against whom the act was directed, the wrongfulness of the act is negligible.

SECTION 183. EXHIBITIONISTIC ACTS

(1) A man who molests another person by an exhibitionistic act, will be punished by imprisonment not exceeding 1 year or by a fine.

(2) The act will be prosecuted only on request unless the prosecuting authority, due to special public interest, considers an intervention *ex officio* to be necessary.

(3) The court even may suspend on probation the execution of imprisonment if it is to be expected that, after an extensive therapy only, the perpetrator will not commit any further exhibitionistic acts.

(4) Paragraph (3) also applies if a man or a woman is punished for an exhibitionistic act pursuant to—

1. Another provision that provides for maximum term of imprisonment not exceeding 1 year or a fine, or

2. Section 174, paragraph (2), number 1, or section 176, paragraph (4), number 1.

SECTION 183A. AROUSING PUBLIC INDIGNATION

Whoever publicly performs sexual acts and thereby intentionally or knowingly arouses public indignation, will be punished by imprisonment not exceeding 1 year or by a fine, provided the act is not punishable pursuant to section 183.

SECTION 184. DISTRIBUTION OF PORNOGRAPHIC LITERATURE

(1) Whoever—

1. Offers, hands over, or makes pornographic literature (sec 11, para (3)) accessible to a person under 18 years of age,

2. Displays, posts, presents, or otherwise makes it accessible at a place to which persons under 18 years have access or which may be inspected by them,

3. Offers or hands it over to another in retail trade outside business premises, at newsstands, or other sales facilities usually not entered by the customer, by mail order trade or at commercial lending libraries or magazine subscription services,

3a. Offers or hands it over to another by means of commercial lease or comparable commercial granting of use, except in stores not accessible to and visible by persons under 18 years of age,

4. Undertakes to introduce it into the territorial scope of this law by mail order trade,

5. Publicly offers, advertises, or commends it at a place accessible to persons under 18 years of age or that may be inspected by them, or by dissemination of writings outside the normal course of business,

6. Allows it to be transferred to another without being requested to do so,

7. Presents it in a public film presentation for a fee demanded in whole or predominantly for this presentation,

8. Produces, obtains, delivers, keeps it in stock, or undertakes to import it into the territorial scope of this law, to use it or copies to be produced from it within the meaning of numbers 1 through 7, or to make such use possible for another, or

9. Undertakes to export it in order to distribute it or copies produced from it to make it publicly accessible or to make such use possible in a foreign country in violation of the criminal provisions in force therein,

will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Paragraph (1), number 1, shall not be applied if the person entitled to care and custody acts; this does not apply if the person entitled to care and custody grossly violates his obligation regarding care and upbringing by offering the literature, making it available or making it accessible. Paragraph (1), number 3a, does not apply if the act is performed as a business transaction with commercial borrowers.

SECTION 184A. DISTRIBUTION OF VIOLENT PORNOGRAPHIC LITERATURE OR PORNOGRAPHY WITH ANIMALS

Anybody who—

1. Disseminates,

2. Publicly exhibits, posts, presents, or makes accessible in any other way, or

3. Produces, procures, supplies, stores, offers, announces, pushes, undertakes to import or export, in order to use it or parts gained from it within the meaning of number 1 or number 2 or to enable another person such use,

pornographic literature (sec 11, para (3)) containing violent acts or sexual acts between human beings and animals will be punished by imprisonment up to 3 years or by a fine.

SECTION 184B. DISTRIBUTION, ACQUISTION AND POSSESSION OF PORNOGRAPHIC LITERATURE WITH CHILDREN

(1) Anybody who—

1. Distributes,

2. Publicly exhibits, posts, presents, or makes accessible in any other way, or

3. Produces, procures, supplies, stores, offers, announces, pushes, undertakes to import or export, in order to use it or parts gained from it within the meaning of number 1 or number 2 or to enable another person such use,

pornographic literature (sec 11, para (3)) containing sexual acts of, on, or in front of children (sec 176, para (1)) (pornographic literature with children) will be punished by imprisonment from 3 months up to 5 years.

(2) A person who undertakes to bring another person into possession of pornographic literature with children reflecting real or realistic acts will also be punished.

(3) In the cases of paragraph (1) or (2), imprisonment from 6 months up to 10 years shall be imposed if the perpetrator acts for profit or as a member of a gang which has combined for continued commission of such acts and the pornographic literature with children reflects real or realistic acts.

(4) Anybody who undertakes to procure pornographic literature with children reflecting real or realistic acts will be punished by imprisonment up to two years or a fine. The same punishment will be imposed on anybody who possesses the literature designated in sentence 1.

(5) Paragraphs (2) and (4) do not apply to acts serving exclusively to meet legal or professional obligations.

(6) Section 73d shall be applied in the cases o paragraph (3). Items connected to a criminal act pursuant to paragraph (2) or (4) shall be confiscated. Section 74a shall be applied.

SECTION 184C. DISTRIBUTION, ACQUISITION AND POSSESSION OF PORNOGRAPHIC LITERATURE WITH JUVENILES

(1) Whoever—

1. Distributes,

2. Publicly displays, posts, presents, or makes otherwise accessible, or

3. Produces, acquires, furnishes, stores, offers, announces, advertises, undertakes to import or export in order to use it or parts taken from it as described in number 1 or number 2, or in order to make such use possible to a third person

pornographic literature (sec 11, para (3)) containing sexual acts performed by, on or in front of persons between 14 and 18 years of age (pornographic literature with juveniles) will be punished by imprisonment up to 3 years or by a fine.

(2) Likewise will be punished who undertakes to make pornographic literature with juveniles reflecting actual or realistic events available to a third person.

(3) In the cases of paragraph (1) or (2), punishment shall be from 3 months up to 5 years if the perpetrator acts for profit or as member of a gang which has combined for a continued commission of such offenses and the pornographic literature with juveniles reflects actual or realistic events.

(4) Whoever undertakes to gain possession of pornographic literature with juveniles reflecting actual events, or whoever possesses such literature will be punished by imprisonment up to one year or by a fine. Sentence 1 shall not apply to acts of persons with respect to such pornographic literature with juveniles which they produced at the age of under 18 years with the consent of the depicted persons.

(5) Section 184b, paragraphs (5) and (6), apply accordingly.

SECTION 184D. DISTRIBUTION OF PORNOGRAPHIC PRESENTATIONS BY RADIO BROADCASTING, PROVIDERS OF MEDIA SERVICES OR TELESERVICES

Anybody who distributes a pornographic performance by radio broadcasting, providers of media services or telecommunication services will also be punished pursuant to sections 184 to 184c. Sentence 1 shall not be applied in the cases of section 184, paragraph (1), in case of distribution by providers or media services or teleservices, if it is ensured by technical or other precautions that pornographic performances are not accessible to persons under 18 years of age.

SECTION 184E. ENGAGEMENT IN PROHIBITED PROSTITUTION

Whoever persistently contravenes a prohibition, issued by statutory order, to engage in prostitution at certain places or at certain times, will be punished by imprisonment not exceeding 6 months or by a fine not exceeding 180 daily rates.

SECTION 184F. PROSTITUTION HARMFUL TO JUVENILES

Whoever engages in prostitution in—

1. The vicinity of a school or another place intended to be visited by persons under 18 years, or

2. A house where persons under 18 years reside,

in a manner endangering the morals of these persons, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 184G. DEFINITIONS

Within the meaning of this law —

1. Sexual acts are—

only acts which, with regard to the affected object of legal protection, are of certain relevance.

2. Sexual acts in the presence of another are—

only those performed in the presence of another who notices the incident.

CHAPTER FOURTEEN
INSULT

SECTION 185. INSULT

Insult will be punished by imprisonment not exceeding 1 year or by a fine and, if the insult is perpetrated by means of violence, by imprisonment not exceeding 2 years or by a fine.

SECTION 186. CALUMNY

Whoever, in relation to another asserts or disseminates a fact likely to cause him to be held in contempt or to suffer loss in public esteem will, if this fact is not verifiably true, be punished by imprisonment not exceeding 1 year or by a fine and, if the act was committed in public or through dissemination of writings (sec 11, para (3)), by imprisonment not exceeding 2 years or by a fine.

SECTION 187. DEFAMATION

Whoever, contrary to better knowledge, asserts or disseminates in regard to another an untrue fact likely to cause him to be held in contempt, to suffer loss in public esteem or to endanger his credit, will be punished by imprisonment not exceeding 2 years or by a fine and, if the act was committed in public, at a meeting or through dissemination of writings (sec 11, para (3)), by imprisonment not exceeding 5 years or by a fine.

SECTION 188. CALUMNY AND DEFAMATION OF PERSONS IN POLITICAL LIFE

(1) If an act of calumny (sec 186) is committed publicly against a person active in the political life of the nation, at a meeting or by the dissemination of writings (sec 11, para (3)) from motives connected with the position of the insulted person in public life, and if the act is likely to render his public activities considerably more difficult, the punishment will be imprisonment from 3 months up to 5 years.

(2) Under the same prerequisites, defamation (sec 187) will be punished by imprisonment from 6 months up to 5 years.

SECTION 189. DEFILING THE MEMORY OF THE DEAD

Whoever defiles the memory of a deceased person will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 190. PROOF OF TRUTH BY CRIMINAL COURT JUDGMENT

If the asserted or disseminated fact is a criminal act, proof of the truth will be regarded as established if the insulted person has been finally convicted of this act. However, proof of the truth is precluded if the insulted person has been finally acquitted before the assertion or dissemination.

SECTION 191. (RESCINDED)

SECTION 192. INSULT DESPITE PROOF OF TRUTH

Proof of the truth of the alleged or disseminated fact does not preclude punishment pursuant to section 185 if the existence of an insult arises from the form of the assertion or dissemination or from the circumstances under which it occurred.

SECTION 193. PRESERVATION OF LEGITIMATE INTERESTS

Critical judgments concerning scientific, artistic, or commercial services, likewise statements made in the exercise or in defense of rights or for the preservation of legitimate interests, as well as reproofs and reprimands of subordinates by superiors, official complaints or judgments on the part of a civil servant and similar cases are punishable only insofar as the existence of an insult arises from the form of the statement or from the circumstances under which it occurred.

SECTION 194. REQUEST FOR CRIMINAL PROSECUTION[1]

(1) Insult will be prosecuted only on request. If the act has been committed by disseminating or making accessible to the public a writing (sec 11, para (3)), at an assembly or by broadcasting a program on the radio, no request is required if the injured person as a member of a group has been persecuted under National Socialist or any other despotic and arbitrary rule, if this group is a part of the population and the insult is in connection with this persecution. However, the act may not be prosecuted *ex officio* if the injured person objects. The objection may not be withdrawn. If the injured person dies, the right to file a request and the right to file an objection is transferred to the dependents designated in section 77, paragraph (2).

(2) If the memory of a deceased person has been disparaged, the dependents designated in section 77, paragraph (2), are entitled to file a request. If the act has been committed by disseminating or making accessible to the public a writing (sec 11, para (3)), at an assembly or by broadcasting a program on the radio, no request is necessary if the deceased has lost his life as a victim of National Socialist or any other despotic and arbitrary rule and the disparagement is interconnected therewith. However, the act may not be prosecuted *ex-officio* if a person entitled to file a request objects to the prosecution. The objection may not be withdrawn.

(3) If the insult is committed against a holder of public office, a person especially engaged in the civil service, or a soldier of the Federal Armed Forces during the exercise of his duty or in connection with his duty, it also will be prosecuted at the request of the superior. If the act is directed against a governmental agency or any other agency observing duties of public administration, it will be prosecuted at the request of the head of the governmental agency or the head of the supervisory governmental agency. The same applies to holders of public office and agencies of churches and other religious societies under public law.

(4) If the act is directed against a legislative body of the Federal Republic or of a *Land* or any other political corporation within the territorial applicability of this law, it will be prosecuted only with the authorization of the corporation concerned.

SECTION 195. (RESCINDED)

SECTION 196. (RESCINDED)

SECTION 197. (RESCINDED)

SECTION 198. (RESCINDED)

SECTION 199. RECIPROCALLY COMMITTED INSULTS

If an insult is returned on the spot, the judge may exempt both or one of the insulting parties from punishment.

SECTION 200. PUBLICATION OF THE CONVICTION

(1) If the insult has been committed publicly or by dissemination of writings (sec 11, para (3)) and if a sentence is imposed for such insult, it will be ordered, at the request of the injured person or a person authorized to request prosecution, that the conviction for insult be publicly announced on demand.

(2) The method of publication is to be determined in the judgment. If the insult has been committed by publication in a newspaper or magazine, the announcement also will be made in a newspaper or magazine, if possible in the same in which the insult was printed; this applies accordingly to insults committed by publication in radio broadcasts.

CHAPTER FIFTEEN
VIOLATION OF THE PERSONAL SPHERE AND SECRECY

SECTION 201. VIOLATION OF THE CONFIDENTIALITY OF THE WORD

(1) There will be punished by imprisonment not exceeding 3 years or by a fine whoever, without being authorized—

1. Records on a sound recording device the word of another not publicly spoken or

2. Uses a so produced recording or makes it accessible to a third person.

(2) Likewise will be punished whoever, without being authorized —

1. Monitors the not publicly spoken word of another not intended for his knowledge by use of a monitoring device.

2. Publicly announces the not publicly spoken word of another recorded pursuant to paragraph (1), number 1, or monitored pursuant to paragraph (2), number 1, word for word or in its essential contents.

The act pursuant to sentence 1, number 2, is only punishable if the public announcement is suitable to impair legitimate interests of another person. It is not unlawful if a public announcement is made for the safeguarding of superior public interests.

(3) There will be punished by imprisonment not exceeding 5 years or by a fine whoever, as a holder of public office or as a person especially engaged in civil service, violates the confidentiality of the word (paras (1) and (2)).

(4) The attempt is punishable.

(5) The sound recording and monitoring devices used by the perpetrator or accessory may be confiscated. Section 74a is to be applied.

201A. VIOLATION OF A PERSON'S STRICTLY PERSONAL SPHERE OF LIFE BY TAKING PHOTOGRAPHS

(1) Whoever, without authorization, takes or transmits a photograph of another person while that person stays in his home or in a room particularly screened from views from the outside, thereby violating that person's strictly personal sphere of life, will be punished by imprisonment up to 1 year or a fine.

(2) Likewise will be punished whoever uses or makes available to a third person a photograph taken by an act pursuant to paragraph (1).

(3) Whoever makes available a photograph of another person that was taken with authorization when that person stayed in his home or in a room particularly screened from views from the outside, to a third person knowing that this is not authorized, thereby violating that person's strictly personal sphere of life, will be punished by imprisonment up to one year or a fine.

(4) The image carriers as well as image recorders or other technical devices which were used by the perpetrator may be confiscated. Section 74a shall be applied.

SECTION 202. VIOLATION OF THE SECRECY OF MAIL

(1) Whoever, without being authorized—

1. Opens a sealed letter or another sealed document not intended for his knowledge, or

2. Procures himself knowledge of the contents of such a document by application of technical means without breaking the seal,

will be punished by imprisonment not exceeding 1 year or by a fine if the act is not subject to punishment pursuant to section 206.

(2) Likewise will be punished whoever, without being authorized, procures knowledge of the contents of a document not intended for his knowledge and especially protected against disclosure by a locked container after he has opened the container for this purpose.

(3) Equivalent to a document within the meaning of paragraphs (1) and (2) is an illustration.

SECTION 202A. ILLEGAL ACQUISITION OF DATA

(1) Whoever, without being authorized, obtains access for himself or another person to data which are not intended for him and are particularly secured against unauthorized access by circumventing the access protection, will be punished by imprisonment up to 3 years or by a fine.

(2) Data within the meaning of paragraph (1) are only such data stored or transmitted electronically, magnetically or in a manner precluding their immediate perception.

SECTION 202B. INTERCEPTION OF DATA

Whoever, without authorization by use of technical means obtains for himself or another person data not intended for him (sec 202a, para (2)) from a private data transmission or from an electromagnetic radiation of a data processing system will be punished by imprisonment up to two years or a fine, unless the act is subject to a more severe punishment under other legal provisions.

SECTION 202C. PREPARATIONS FOR SPYING OUT AND INTERCEPTION OF DATA

(1) Whoever prepares an illegal act pursuant to section 202a or section 202b by creating—

1. Passwords or other protection codes allowing access to data (sec 202a), or

2. Computer programs whose purpose is the commission of such an act,

by obtaining them for himself or another person, selling them, making them available to another person, disseminating them or making them accessible in any other way, will be punished by imprisonment up to one year or a fine.

(2) Section 149, paragraphs (2) and (3), shall apply accordingly.

SECTION 203. VIOLATION OF PRIVATE SECRETS

(1) Whoever, without being authorized, discloses a secret of another, in particular a secret relating to his personal life, or an industrial or business secret that has been entrusted to him or otherwise became known to him in his capacity as a─

1. Physician, dentist, veterinarian, pharmacist, or member of another medical profession requiring state-regulated training for a profession or for the bearing of a professional designation,

2. Professional psychologist with a state- recognized scientific final diploma,

3. Attorney at law, patent attorney, notary public, defense counsel in legally regulated proceedings, certified public accountant, sworn accountant, tax advisor, tax agent, or a body or member of a body of an association of attorneys, patent attorneys, certified public accountants, auditors, or tax advisors,

4. Marriage, education, or youth consultant and consultant concerning drug problems at a consultation center recognized by a government agency or corporation, institution or foundation under public law,

4a. Member or authorized representative of a recognized consultation center pursuant to sections 3 and 8 of the Law on Conflict Situations in Connection with a Pregnancy (*Schwangerschaftskonfliktgesetz*)

5. State-recognized social worker or state-recognized social education worker, or

6. Member of an enterprise of private health, accident, or life insurance company or of a clearing office for private physicians, tax advisors, or lawyers

will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Likewise will be punished whoever, without being authorized, discloses a secret of another, in particular a secret relating to his personal life, or an industrial or business secret that has been entrusted to him or has otherwise become known to him as a—

1. Holder of public office,

2. Person especially engaged in civil service,

3. Person performing duties or responsibilities pursuant to personnel representation legislation (*Personalvertretungsrecht*),

4. Member of an investigation committee acting for a legislative body of the Federation or of a *Land*, any other committee, or council, who himself is not a member of the legislative body, or an assistant to such committee or council,

5. Officially appointed expert formally obligated to conscientious fulfillment of his duties on the basis of a law, or

6. Person who has been formally obligated on the basis of a law to carefully fulfill his duty to observe secrecy in the performance of scientific research projects.

Equal to a secret within the meaning of sentence 1 are individual details concerning personal or factual relationships of another that have been obtained for public administration purposes and this is not prohibited by law.

(2a) Paragraphs (1) and (2) apply accordingly if a person who is in charge of data protection without authority discloses a secret of another within the meaning of these provisions, which was entrusted in one of the persons mentioned in paragraphs 1 and 2 in his professional capacity or otherwise became known to him, and which the former learned about when fulfilling his duties as the person in charge of data protection.

(3) Equal to the attorneys mentioned in paragraph (1), number 3, are other members of a bar association. Equal to the persons mentioned in paragraph (1) and sentence 1 are their professional assistants and the persons working for them in preparation of their profession. Equal to the persons designated in paragraph (1) and in sentences 1 and 2, after the death of the person obligated to protection of the secret, is further whoever obtained knowledge of the secret from the deceased or from his estate.

(4) Paragraphs (1) through (3) also are to be applied if the perpetrator, without being authorized, discloses the secret of another after the death of the person concerned.

(5) If the perpetrator acts for remuneration or with the intention to enrich himself or another or to cause detriment to another, the punishment will be imprisonment not exceeding 2 years or a fine.

SECTION 204. MAKING USE OF ANOTHER'S SECRETS

(1) Whoever, without being authorized, makes use of a secret of another, in particular an industrial or business secret, the confidentiality of which he is required to maintain pursuant to section 203, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Section 203, paragraph (4), applies accordingly.

SECTION 205. REQUEST FOR CRIMINAL PROSECUTION

(1) In the cases of section 201, paragraphs (1) and (2), and sections 201a, 202, 203, and 204, the act will be prosecuted only on request. This applies also in the cases of sections 202a and 202b, unless the prosecuting authority considers an intervention ex officio necessary because of a particular public interest in the prosecution.

(2) If the injured person dies, the right to file a request passes to the dependents pursuant to section 77, paragraph (2); this does not apply in the cases of sections 202a and 202b. If the secret does not pertain to the personal life of the injured person, the right to file a request in cases of criminal acts pursuant to sections 203 and 204 passes to his heirs. Sentences 1 and 2 apply accordingly if the perpetrator discloses or uses the secret after the death of the person concerned in cases of sections 203 and 204.

SECTION 206. VIOLATION OF THE SECRECY OF MAIL OR TELECOMMUNICATIONS

(1) Whoever, without being authorized, discloses facts to another which are subject to the secrecy of mail or telecommunications and which have become known to him as the owner or employee of a company providing mail or telecommunication services on a commercial basis, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished, whoever, without being authorized, as an owner or employee of a company designated in paragraph (1)—

1. Opens a sealed mail item which was entrusted to such a company, or obtains knowledge of its contents without breaking the seal by using technical means,

2. Withholds an item which was entrusted to such a company for transmission, or

3. Allows or encourages one of the acts designated in paragraph (1) or under number 1 or 2.

(3) Paragraphs (1) and (2) also apply to persons who—

1. Perform supervisory functions in a company designated in paragraph (1),

2. Have been entrusted or authorized by such company to provide postal or telecommunication services, or

3. Are responsible for the manufacturing of equipment used to operate such a company or work on such equipment.

(4) Whoever, without being authorized, discloses facts to another person which have become known to him as holder of a public office working outside the mail and telecommunication field, by authorized or unauthorized interference with the secrecy of mail or telecommunications, will be punished by imprisonment up to 2 years or by a fine.

(5) The particular circumstances of postal relations of certain persons as well as the contents of postal items are subject to the secrecy of mail. The contents of telecommunication and its particular circumstances are subject to the secrecy of telecommunications, in particular the fact, whether a person is or was participating in a telecommunication operation. The secrecy of telecommunications also extends to the particular circumstances of futile attempts to establish a connection.

SECTION 207. (RESCINDED)

SECTION 208. (RESCINDED)

SECTION 209. (RESCINDED)

SECTION 210. (RESCINDED)

CHAPTER SIXTEEN
CRIMINAL ACTS AGAINST LIFE

SECTION 211. MURDER

(1) The murderer will be punished by imprisonment for life.

(2) A murderer is whoever—

From lust to kill, in order to satisfy his sexual drive, from avarice or other base motives,
Treacherously or cruelly by means causing a public danger, or
In order to make possible or to conceal another criminal act,

kills a human being.

SECTION 212. MANSLAUGHTER

(1) Whoever kills a human being without being a murderer, will be punished for manslaughter by imprisonment for not less than 5 years.

(2) In especially severe cases, imprisonment for life is imposed.

SECTION 213. LESS SEVERE CASE OF MANSLAUGHTER

If the person committing manslaughter, through no fault of his own, has been aroused to anger by the deceased through ill treatment or serious insult inflicted on himself or on one of his dependents and was thereby provoked to commit the act on the spot or if a less severe case otherwise exists, the punishment will be imprisonment from 1 year up to 10 years.

SECTION 214. (RESCINDED)

SECTION 215. (RESCINDED)

SECTION 216. KILLING ON DEMAND

(1) If someone has been persuaded to kill another by the express and earnest demand of the deceased, imprisonment from 6 months up to 5 years will be imposed.

(2) The attempt is punishable.

SECTION 217. (RESCINDED)

SECTION 218. TERMINATION OF PREGNANCY

(1) Whoever terminates a pregnancy will be punished by imprisonment not exceeding 3 years or by a fine. Acts taking effect prior to the complete implantation of the egg in the uterus are not considered terminations of pregnancy within the meaning of this statute.

(2) In especially severe cases, the punishment will be imprisonment from 6 months up to 5 years. An especially severe case exists, as a rule, if the perpetrator—

1. Acts against the will of the pregnant woman, or

2. Negligently causes the danger of death or a grave injury to the health of the pregnant woman.

(3) If the pregnant woman commits the act, punishment will be imprisonment up to 1 year or a fine.

(4) The attempt is punishable. The pregnant woman will not be punished for the attempt.

SECTION 218A. TERMINATION OF PREGNANCY NOT SUBJECT TO PUNISHMENT

(1) The elements of an offense pursuant to section 218 are not fulfilled if—

1. The pregnant woman requests the physician to terminate the pregnancy and if she has proven to him by presentation of a certificate pursuant to section 219, paragraph (2), sentence 2, that she obtained consultation at least 3 days prior to the termination,

2. The termination of pregnancy is performed by a physician, and

3. No more than 12 weeks have elapsed since conception.

(2) A termination of pregnancy performed by a physician with the consent of the pregnant woman is not unlawful if the termination of pregnancy , by taking into consideration the present and future life situation of the pregnant woman, is advisable in view of medical findings in order to avert danger to life or a danger of a grave impairment of the physical or mental state of health of the pregnant woman, if the danger cannot be averted in some other manner acceptable to her.

(3) The prerequisites of paragraph (2) are also considered fulfilled in case of a termination of pregnancy performed by a physician with the consent of the pregnant woman, if pursuant to medical findings the pregnant woman was the victim of an illegal act pursuant to sections 176 through 179 of the German Criminal Code, cogent reasons support the assumption that the pregnancy was caused by the act, and no more than 12 weeks have elapsed since conception.

(4) The pregnant woman is not subject to punishment pursuant to section 218 if the termination of pregnancy was performed by a physician after consultation (sec 219) and no more than 22 weeks have elapsed after conception. The court may refrain from imposing punishment pursuant to section 218 if the pregnant woman was in a particularly stressful situation at the time of the termination of pregnancy.

SECTION 218B. TERMINATION OF PREGNANCY WITHOUT MEDICAL OPINION; INCORRECT MEDICAL OPINION

(1) Whoever, in the cases of section 218a, paragraph (2) or (3), terminates a pregnancy without having had available the written determination of a physician, who himself does not perform the termination of pregnancy, whether the prerequisites of section 218a, paragraph (2) or (3), exist, will be punished by imprisonment up to 1 year or by a fine, unless the act is punishable under section 218. Whoever as a physician, contrary to better knowledge, makes an incorrect determination on the prerequisites of section 218a, paragraph (2) or (3), for submission pursuant to sentence 1 will be punished by imprisonment not exceeding 2 years or by a fine, unless the act is punishable under section 218. The pregnant woman is not subject to punishment pursuant to sentence 1 or 2.

(2) A physician may not make determinations pursuant to section 218a, paragraph (2) or (3), if the competent agency has prohibited him from doing so because he has been finally convicted of an illegal act pursuant to paragraph (1), sections 218, 219a, or 219b, or because of some other legal act he committed in connection with a termination of pregnancy. The competent agency may prohibit a physician temporarily from making determinations pursuant to section 218a, paragraphs (2) and (3), if main proceedings have been initiated against him for a suspected unlawful act designated in sentence 1.

SECTION 218C. VIOLATION OF DUTY AS PHYSICIAN IN CASE OF TERMINATION OF PREGNANCY

(1) Whoever terminates a pregnancy—

1. Without having given the woman the opportunity to explain to him the reasons for her demand to terminate the pregnancy,

2. Without having advised the woman, from a medical viewpoint, of the importance of the termination, in particular about the course, consequences, risks, possible physical and psychological effects,

3. Without having determined in the cases of section 218a, paragraphs (1) and (3), the duration of the pregnancy by a medical examination, or

4. Although he consulted the woman pursuant to section 219 in a case of section 218a, paragraph (1),

will be punished by imprisonment not exceeding 1 year or by a fine if the act is not punishable under section 218.

(2) The pregnant woman is not subject to punishment pursuant to paragraph (1).

SECTION 219. CONSULTATION OF THE PREGNANT WOMAN IN A SITUATION OF DISTRESS AND CONFLICT

(1) Consultation serves the protection of the unborn life. Its main goal shall be to encourage the woman to continue the pregnancy and to show her perspectives of a life with the child; the purpose of the consultation is to assist her in making a responsible and conscientious decision. The woman needs to be aware that at each stage of the pregnancy the unborn child has its own right to life independent from her and that therefore, in accordance with the legal system, a termination of pregnancy may only be considered in exceptional cases where having the child would put such a heavy and exceptional burden on the woman which would go beyond the acceptable limits of sacrifices. By providing advice and assistance, the consultation shall contribute to cope with the situation of conflict arising from the pregnancy and to overcome a situation of distress. Further details are stipulated in the Law on Conflict Situations in Connection with a Pregnancy (*Schwangerschaftskonfliktgesetz*).

(2) Pursuant to the Law on Conflict Situations in Connection with a Pregnancy, consultation shall be provided by a recognized consultation center for conflict situations in connection with a pregnancy. Upon completion of the consultation, the consultation center shall issue a certificate stating the date of the last consultation session and the name of the pregnant woman as required by the Law on Conflict Situations in connection with a Pregnancy. The physician performing the termination of pregnancy is excluded as consultant.

SECTION 219A. ADVERTISING FOR THE TERMINATION OF PREGNANCY

(1) Whoever publicly, at a meeting or through the dissemination of writings (sec 11, para (3)), for his personal profit or in a grossly offensive manner, offers, announces, commends—

1. His own or another's services for the performance or promotion of a termination of pregnancy, or

2. Means, objects or techniques likely to induce a termination of a pregnancy by referring to this possibility,

or makes statements of such contents, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Paragraph (1), number 1, does not apply if it serves to inform physicians or recognized consultation centers, as to which physicians, hospitals, or institutions are prepared to perform a termination of pregnancy under the prerequisites of section 218a, paragraphs (1) through (3).

(3) Paragraph (1), number 2, does not apply if the act is committed against physicians or persons who are authorized to market the means or objects referred to in paragraph (1), number 2, or through publication in medical or pharmaceutical journals.

SECTION 219B. BRINGING INTO CIRCULATION THE MEANS OF TERMINATION OF PREGNANCY

(1) Whoever, with the intention of promoting illegal acts pursuant to section 218, puts into circulation means or objects likely to induce termination of pregnancy, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The participation of the woman who prepares the termination of her pregnancy is not punishable pursuant to paragraph (1).

(3) Means or objects to which the act relates may be confiscated.

SECTION 220. (RESCINDED)

SECTION 220A. (RESCINDED)

SECTION 221. EXPOSURE

(1) Whoever—

1. Puts a person in a helpless position, or

2. Abandons him in a helpless position, although he is under his care or he is otherwise obligated to provide him assistance,

thereby exposing him to the danger of death or serious bodily injury, will be punished by imprisonment from 3 months up to 5 years.

(2) Punishment from 1 year up to 10 years shall be imposed if the perpetrator—

1. Commits the act against his child or a person entrusted to him for upbringing or guidance in the conduct of life,

2. Causes serious bodily injury to the victim by the act.

(3) If the perpetrator causes the death of the victim by the act punishment will be imprisonment for at least 3 years.

(4) In less severe cases of paragraph (2), punishment shall be imprisonment from 6 months up to 5 years; in less severe cases of paragraph (3), punishment shall be imprisonment from 1 year up to 10 years.

SECTION 222. NEGLIGENT HOMICIDE

Whoever causes the death of a human being through negligence will be punished by imprisonment not exceeding 5 years or by a fine.

CHAPTER SEVENTEEN
CRIMINAL ACTS AGAINST PHYSICAL INTEGRITY

SECTION 223. BODILY INJURY

(1) Whoever physically mistreats or injures the health of another will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 224. AGGRAVATED ASSAULT

(1) Whoever commits bodily injury—

1. By administering poison or other substances detrimental to health,

2. By means of a weapon or other dangerous tool,

3. By means of an insidious attack,

4. Jointly with another person, or

5. By means of a treatment endangering life,

will be punished by imprisonment from 6 months up to 10 years; in less severe cases punishment will be imprisonment from 3 months up to 5 years.

(2) The attempt is punishable.

SECTION 225. MISTREATMENT OF WARDS

(1) Whoever torments or brutally mistreats persons under 18 years of age or a person defenseless due to infirmity or illness who—

1. Is under his care or custody,

2. Belongs to his household,

3. Has been left to his control by the person responsible for his care, or

4. Is dependent on him due to an employment or work relationship,

or whoever injures such a person's health by maliciously neglecting his duty to take care of him, will be punished by imprisonment from 6 months up to 10 years.

(2) The attempt is punishable.

(3) Imprisonment of at least 1 year shall be imposed if the perpetrator by the act exposes the person under his care to the danger of—

1. Death or a serious injury to health, or

2. A considerable damage to the physical or mental development.

(4) In less severe cases of paragraph (1), punishment will be imprisonment from 3 months up to 5 years; in less severe cases of paragraph (3), punishment will be imprisonment from 6 months up to 5 years.

SECTION 226. SERIOUS BODILY INJURY

(1) If bodily injury results in the injured person—

1. Losing the sight of one eye or both eyes, hearing, speech or procreative capacity,

2. Losing an important limb of the body or not being able to permanently use it, or

3. Being permanently disfigured to a considerable extent or falling into invalidism, paralysis, or mental illness, or handicap,

the punishment will be imprisonment from 1 year up to 10 years.

(2) If the perpetrator, by the act, causes one of the effects designated in paragraph (1) intentionally or knowingly, punishment will be imprisonment of at least 3 years.

(3) In less severe cases of paragraph (1), punishment will be imprisonment from 6 months up to five years; in less severe cases of paragraph (2), punishment will be imprisonment from 1 year up to 10 years.

SECTION 227. BODILY INJURY RESULTING IN DEATH

(1) If the perpetrator causes the death of the injured person by the bodily injury (secs 223 through 226) punishment will be imprisonment for not less than 3 years.

(2) In less severe cases, imprisonment from 1 year up to 10 years shall be imposed.

SECTION 228. CONSENT OF THE INJURED PERSON
Whoever causes bodily injury with the consent of the injured person only commits an unlawful act if the act is against morality despite the consent.

SECTION 229. BODILY INJURY CAUSED BY NEGLIGENCE

Whoever causes bodily injury to another person by negligence will be punished by imprisonment up to 3 years or by a fine.

SECTION 230. REQUEST FOR CRIMINAL PROSECUTION

(1) Intentional bodily injury pursuant to section 223 and bodily injury caused by negligence pursuant to section 229 are prosecuted only on request unless the prosecution authority, due to special public interest in prosecution considers an intervention ex officio to be necessary. If the injured person dies, the right to file a request pursuant to section 77, paragraph (2), passes to the dependents in case of intentional bodily injury.

(2) If the act has been committed against a holder of public office, a person especially engaged in civil service, or a soldier of the Federal Armed Forces during the exercise of his duty or in relation to his duty, it also will be prosecuted at the request of the superior. The same applies to office holders of churches and other religious societies under public law.

SECTION 231. PARTICIPATION IN AN AFFRAY

(1) If the death of a human being or serious bodily injury (sec 226) was caused by an affray or by an attack of several persons, every person who participated in the affray or attack will, by mere reason of such participation, be punished by imprisonment not exceeding 3 years or by a fine.

(2) A person who became involved in the affray or attack through no fault of his own will not be subject to punishment pursuant to paragraph (1).

CHAPTER EIGHTEEN
CRIMINAL ACTS AGAINST PERSONAL LIBERTY

SECTION 232. SLAVE TRADE FOR THE PURPOSE OF SEXUAL EXPLOITATION

(1) Whoever, by taking advantage of the fact that a person is in a position of constraint or helplessness in connection with his stay in a foreign country, influences that person to engage in or continue to engage in prostitution, or makes that person perform sexual acts, which constitute exploitation, on the perpetrator or in his presence, or on a third person, or have such acts performed on him by the perpetrator or a third person, will be punished by imprisonment from six months up to ten years. Whoever influences a person under twenty one years of age to engage in or continue to engage in prostitution or makes that person perform the other sexual acts designated in sentence 1, will also be punished.

(2) The attempt is punishable.

(3) Punishment from 1 year up to 10 years shall be imposed if the—

1. Victim of the offense is a child (sec 176, para (1));

2. Perpetrator seriously abuses the victim in the act or causes danger to life by the act;

3. Perpetrator commits the offense for profit or, as a member of a gang, which has combined for a continued commission of such criminal acts.

(4) Likewise will be punished pursuant to paragraph (3) whoever—

1.Causes another person to engage in or continue to engage in prostitution or to perform the other sexual acts designated in paragraph (1), sentence 1, by the use of force, threat to inflict harm or injury or by using a ruse, or

2. Gets control over a person by force, by threat to inflict harm or injury, or by a ruse in order to make that person engage in prostitution or continue to engage in prostitution or to make the person perform the other sexual acts designated in paragraph (1), sentence 1.

In less severe cases of paragraph (1), the punishment shall be 3 months to 5 years of imprisonment; in less severe cases of paragraphs (3) and (4), imprisonment of 6 months to 5 years shall be imposed.

SECTION 233. SLAVE TRADE FOR THE EXPLOITATION OF LABOR

(1) Whoever, by taking advantage of a situation of constraint or helplessness in connection with staying in a foreign country causes a person to live in slavery, serfdom or debt bondage, or to take up or continue an employment with him or a third person under working conditions which are markedly out of proportion to those of other employees performing the same or comparable work, will be punished by imprisonment from six months up to ten years. Likewise will be punished whoever causes a person under twenty-one years of age to live in slavery, serfdom, or debt bondage or to take up or continue employment of the type described in sentence 1.

(2) The attempt is punishable

(3) Section 232, paragraphs (3) to (5), shall apply accordingly.

SECTION 233A. PROMOTION OF SLAVE TRADE

(1) Whoever aids and abets slave trade pursuant to section 232 or 233, by soliciting, transporting, transferring another person, by providing him accommodation or taking him in, will be punished by imprisonment of 3 months to 5 years.

(2) Imprisonment from 6 months up to 10 years shall be imposed if the—

1. Victim of the offense is a child (sec 176, para (1));

2. Perpetrator seriously abuses the victim in the act or causes danger to life by the act;

3. Perpetrator commits the offense with force or by threat to inflict harm or injury, or for profit or as a member of a gang, which has combined for a continued commission of such criminal acts.

(3) The attempt is punishable.

SECTION 233B. SUPERVISION OF CONDUCT, EXTENDED FORFEITURE

(1) The court may order supervision of conduct in the cases of sections 232 to 233a (sec 68, para (1)).

(2) Section 73d shall be applied in the cases of sections 232 to 233a if the perpetrator acts for profit or as a member of a gang which has combined for a continued commission of such criminal acts.

SECTION 234. KIDNAPPING

(1) Whoever kidnaps a person by use of force, by threatening to inflict serious harm or injury, or by a ruse, in order to abandon him in a helpless state or to bring him into a foreign military or paramilitary organization, will be punished by imprisonment of 1 year to ten years.

(2) In less severe cases, punishment will be imprisonment of 6 months to 5 years.

SECTION 234A. ABDUCTION

(1) Whoever, by trick, threat, or force, takes another person outside the territorial jurisdiction of this law or causes him to proceed there, or prevents his return and thereby exposes him to danger of being persecuted for political reasons, and hereby in contradiction to the principles of the rule of law, by despotic or arbitrary measures, causes him to suffer injury to life or limb, to be deprived of liberty, or to be considerably impaired in his professional or economic position, will be punished by imprisonment for not less than 1 year.

(2) In less severe cases, the punishment will be imprisonment from 3 months up to 5 years.

(3) Whoever prepares such an act, will be punished by imprisonment up to 5 years or by a fine.

SECTION 235. CHILD STEALING

(1) Whoever removes or withholds a—

1. Person under 18 years of age by force, by threatening to inflict serious harm or by trick, or

2. Child, without being a relative of the child,

from the parents, one parent or the guardian or custodian, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished whoever—

1. Removes a child in order to bring it to a foreign country, or

2. Withholds a child in a foreign country after having brought it to that country or after the child went there

from his parents, one parent, the guardian or custodian.

(3) In the cases of paragraph (1), number 2, and paragraph (2), number 1, the attempt is punishable.

(4) Imprisonment from 1 year up to 10 years shall be imposed if the perpetrator—

1. Exposes the victim to the danger of death or a serious injury to health or of suffering a considerable damage to the physical or mental development, or

2. Commits the act for money or with the intent to enrich himself or another.

(5) If the perpetrator causes the victim's death by the act, punishment shall be imprisonment of at least 3 years.

(6) In less severe cases of paragraph (4), punishment shall be imprisonment from 6 months up to 5 years; in less severe cases of paragraph (5), punishment shall be imprisonment from 1 year up to 10 years.

(7) In the cases of paragraphs (1) through (3), removal of minors will only be prosecuted upon request unless the prosecution authority deems it necessary to intervene ex officio because of a special public interest in the prosecution.

SECTION 236. TRAFFICKING IN CHILDREN

(1) Whoever, through gross neglect of his responsibility for the care and upbringing, permanently leaves his child under 18 years of age or his ward under 18 years with another person either for money or with the intent to enrich himself or another person, will be punished by imprisonment up to 5 years or by a fine. Likewise will be punished whoever, in the cases of sentence 1, permanently accommodates the child or ward against payment.

(2) Whoever, without being authorized—

1. Acts as an intermediary in the adoption of a person under 18 years of age, or

2. Acts in the capacity of an intermediary with the intent that another person permanently accommodates a person under 18 years of age,

against payment or with the intent to enrich himself or another person, will be punished by imprisonment up to 3 years or by a fine. Likewise will be punished who, as an intermediary in the adoption of a person under 18 years of age, pays a reward to a person for giving the necessary consent to the adoption. If, in the cases of sentence 1, the perpetrator arranges that the person intended for adoption is brought into Germany or a foreign country, punishment will be imprisonment up to 5 years or a fine.

(3) The attempt is punishable.

(4) Imprisonment from 6 months up to 10 years shall be imposed if the perpetrator—

1. Acts for the purpose of gain, on a commercial basis, or as a member of a gang which was established to commit continued trafficking in children, or

2. By the act, exposes the child or the person intended for adoption to the danger of suffering considerable harm in the physical and mental development.

(5) If in the cases of paragraphs (1) and (3), the guilt of accessories, and in the cases of paragraphs (2) and (3), the guilt of participants in the act is minor in view of the physical and mental well-being of the child or the person intended for adoption, the court may mitigate the punishment at its discretion (sec 49, para (2)) or may refrain from punishment pursuant to paragraphs (1) through (3).

SECTION 237. FORCED MARRIAGE

(1) Whoever forces an individual to enter into a marriage illegally by use of violence or by threat of harm will be punished by imprisonment from 6 months up to 5 years. The act is illegal if the use of violence or the threat of harm for the intended purpose is considered immoral.

(2) Whoever, in order to commit an act as described in paragraph (1), transfers an individual to an area outside the territorial scope of this law, causes the individual to go there, or prevents the individual from returning from that area by use of violence, threat of harm, or by a ruse will also be punished.

(3) The attempt is punishable.

(4) In less severe cases, the punishment will be imprisonment of up to 3 years or a fine.

SECTION 238. STALKING

(1) Whoever stalks a person without authorization by persistently—

1. Seeking to be near that person,

2. Trying to contact that person by use of telecommunication media or other means of communication, or through third persons ,

3. Ordering goods or services for him by misuse of his personal data, or causing third persons to contact him,

4. Threatening to cause harm to the life, physical well-being, health, or liberty of the person himself or of a person close to him, or

5. Taking other similar action,

thereby severely impairing that person's way of living, will be punished by imprisonment up to 3 years or by a fine.

(2) Imprisonment from 3 months up to 5 years shall be imposed if the perpetrator, by the act, exposes the victim, a relative of the victim, or another person close to the victim to the danger of death or a serious health injury.

(3) If the perpetrator, by the act, causes the death of the victim, of a relative of the victim or of another person close to the victim, imprisonment from 1 year up to 10 years shall be imposed.

(4) In the cases of paragraph (1), the offense will only be prosecuted upon request, unless the prosecuting authority considers an intervention ex officio to be necessary because there is a special public interest in the prosecution.

SECTION 239. DEPRIVATION OF LIBERTY

(1) Whoever imprisons a human being or otherwise deprives him of his liberty will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) Imprisonment from 1 year up to 10 years shall be imposed if the perpetrator—

1. Deprives the victim of his liberty for more than 1 week, or

2. By the act or an action committed in the course of the act, causes a serious injury to the victim's health.

(4) If the death of the victim is caused by the act or by an action in the course of the act, punishment shall be imprisonment of at least 3 years.

(5) In less severe cases of paragraph (3), punishment shall be imprisonment from 6 months up to 5 years; in less severe cases of paragraph (4), punishment shall be imprisonment from 1 year up to 10 years.

SECTION 239A. EXTORTION BY KIDNAPPING

(1) Whoever, in order to commit extortion (sec 253), abducts another person or seizes another in order to take advantage of the victim's anxiety for his welfare or a third person's anxiety for the welfare of the victim, or whoever takes advantage of a situation of another he created by such act to commit extortion, will be punished by imprisonment for not less than 5 years.

(2) In less severe cases punishment will be imprisonment for not less than 1 year.

(3) If the perpetrator negligently causes the death of the victim by the act, the punishment will be imprisonment for life or imprisonment for not less than 10 years.

(4) The court may mitigate the punishment pursuant to section 49, paragraph (1), if the perpetrator, under renunciation of the planned benefit, allows the victim to return to his home. If this effect takes place in the absence of any contribution on the perpetrator's part, his sincere endeavor to achieve the effect is sufficient.

SECTION 239B. TAKING OF HOSTAGES

(1) Whoever abducts a person or seizes a person, in order to coerce the victim or a third person, by threat of death or serious bodily injury (sec 226) to the victim, or his deprivation of liberty for more than 1 week, to commit, tolerate, or omit an act, or whoever takes advantage of the situation of another caused by his act for such coercion, will be punished by imprisonment for not less than 5 years.

(2) Section 239a, paragraphs (2) through (4), applies accordingly.

SECTION 239C. SUPERVISION OF CONDUCT

In the cases of sections 239a and 239b, the court may order supervision of conduct (sec 68, para (1)).

SECTION 240. COERCION

(1) Whoever illegally coerces another with force or by threat of considerable harm to commit, tolerate, or omit an act, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) The act is illegal if the use of force or threat of harm is deemed reprehensible for the contemplated purpose.

(3) The attempt is punishable.

(4) In especially severe cases punishment will be imprisonment from 6 months up to 5 years. Usually, an especially severe case exists if the perpetrator—

1. Coerces another person to perform a sexual act,

2. Coerces a pregnant woman to terminate the pregnancy, or

3. Abuses his authority or position as office holder.

SECTION 241. THREAT

(1) Whoever threatens another with the commission of a felony directed against him or a person closely associated with him will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Likewise punished will be whoever, against his better judgment, simulates to another that the realization of a felony directed against him or a person closely associated with him is imminent.

SECTION 241A. CASTING POLITICAL SUSPICION UPON ANOTHER PERSON

(1) Whoever, by complaint or by casting suspicion, exposes another to the danger of being persecuted for political reasons and hereby, contrary to the principle of the rule of law, by despotic or arbitrary measures, causes him to suffer injury to life and limb, to be deprived of his liberty, or to be considerably impaired in his professional or economic position, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished whoever furnishes or transmits information concerning another and thereby exposes him to the danger of political persecution as described in paragraph (1).

(3) The attempt is punishable.

(4) If the complaint, casting of suspicion on or the information against another, contains an untrue allegation or if the act is committed with the intention of bringing about one of the consequences specified in paragraph (1) or if the case is especially severe for other reasons, imprisonment from 1 year up to 10 years may be imposed.

CHAPTER NINETEEN
LARCENY AND EMBEZZLEMENT

SECTION 242. LARCENY

(1) Whoever takes away another's movable property with the intention to appropriate it unlawfully for himself or a third party, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 243. GRAND LARCENY

(1) In especially severe cases, larceny will be punished by imprisonment from 3 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. In execution of the act, breaks or climbs into a building, work or business space or another enclosed area, or enters by force by use of a skeleton key or another tool not intended for regular opening, or hides in the room.

2. Steals an object especially protected against removal by a locked container or another protective device.

3. Steals professionally.

4. Steals, from a church or any other building or room serving the practice of religion, an object devoted to religious services or serving religious worship.

5. Steals an object of significance for science, art, or history or for technical development belonging to a collection accessible to the public or publicly exhibited.

6. Steals by taking advantage of the helplessness of another, an accident, or a common danger.

7. Steals a small arm, requiring permit of acquisition according to the Weapons Law, a machinegun, submachine gun, fully automatic or semiautomatic gun, or weapon of war containing explosives within the meaning of the Law on the Control of Weapons of War, or explosives.

(2) In the cases of paragraph (1), sentence 2, numbers 1 through 6, an especially severe case is excluded if the act refers to an object of small value.

SECTION 244. LARCENY WITH WEAPONS; GANG ROBBERY; BURGLARY

(1) Whoever—

1. Commits a larceny during which he or another person involved carries—

a. A firearm,

b. Any other tool or means in order to prevent or overcome the resistance of another person through force or threat of force;

2. As a member of a gang which has combined for the continued commission of robbery or theft steals with the participation of another member of the gang,

3. Commits a larceny during which he breaks or climbs into a residence, enters by force using a skeleton key or a tool not intended for regular opening, or hides in the residence

will be punished by imprisonment from 6 months up to 10 years.

(2) The attempted larceny is punishable.

(3) In less severe cases, punishment will be imprisonment for 3 months up to 5 years.

(4) Section 73d shall apply to the cases described in paragraph (1), number 2.

SECTION 244A. GRAND GANG LARCENY

(1) There will be punished by imprisonment from 1 year up to 10 years whoever commits larceny under the circumstances described in section 243, paragraph (1), sentence 2, or in the cases of section 244, paragraph (1), number 1 or 3, as member of a gang which has combined for continuous commission of robbery or larceny with the participation of another gang member.

(2) In less severe cases, the punishment shall be imprisonment from 6 months up to 5 years.

(3) Sections 43a and 73d shall be applied.

SECTION 245. SUPERVISION OF CONDUCT

In the cases of sections 242 through 244a, the court may order supervision of conduct (sec 68, para (1)).

SECTION 246. EMBEZZLEMENT

(1) Whoever illegally appropriates to himself or a third party another's movable property will be punished by imprisonment not exceeding 3 years or by a fine unless the act is subject to more severe punishment pursuant to other provisions.

(2) If, in the cases of paragraph (1), the property was entrusted to the perpetrator, punishment will be imprisonment up to 5 years or a fine.

(3) The attempt is punishable.

SECTION 247. LARCENY IN THE HOME AND FAMILY

If a dependent, guardian or custodian is the injured party of a larceny or embezzlement or if the injured party lives with the perpetrator in one household, the act will be prosecuted only on request.

SECTION 248. (RESCINDED)

SECTION 248A. LARCENY AND EMBEZZLEMENT OF OBJECTS OF SMALL VALUE

Larceny and embezzlement of objects of small value will, in the cases of sections 242 and 246, be prosecuted only on request unless the prosecution authority, due to the special public interest in prosecution, considers an intervention *ex officio* to be necessary.

SECTION 248B. UNAUTHORIZED USE OF A VEHICLE

(1) Whoever uses a motor vehicle or a bicycle against the will of the person entitled thereto, will be punished by imprisonment not exceeding 3 years or by a fine, if the act is not punishable by severer punishment under other provisions.

(2) The attempt is punishable.

(3) The act will be prosecuted only on request.

(4) Motor vehicles within the meaning of this provision are vehicles propelled by mechanical power, but vehicles for use on land only insofar as they are not confined to railroad tracks.

SECTION 248C. ABSTRACTION OF ELECTRICAL ENERGY

(1) Whoever abstracts electrical energy not his own from an electrical plant or facility by means of a conductor not intended for the regular withdrawal of energy from the plant or facility, will be punished by imprisonment not exceeding 5 years or by a fine if he commits the act with the intention of illegally appropriating the electrical energy into his own use or the use of a third party.

(2) The attempt is punishable.

(3) Sections 247 and 248a apply accordingly.

(4) If the act specified in paragraph (1) is committed with the intention of illegally causing detriment to another, imprisonment not exceeding 2 years or a fine will be imposed. The act will be prosecuted only on request.

CHAPTER TWENTY
ROBBERY AND EXTORTION

SECTION 249. ROBBERY

(1) Whoever, by force against a person or by use of threats with present danger to limb or life, takes another's movable property away from him with the intention to appropriate the same unlawfully to himself or a third party, will be punished by imprisonment for not less than 1 year.

(2) In less severe cases, the sentence is imprisonment from 6 months up to 5 years.

SECTION 250. AGGRAVATED ROBBERY

(1) Imprisonment for not less than 3 years will be imposed if the—

1. Perpetrator or another party involved in the robbery—

a. Carries a firearm.

b. Carries any other tool or means in order to prevent or overcome the resistance of another by force or threat of force.

c. Brings another into danger of death or serious bodily injury by the act, or

2. Perpetrator, as a member of a gang formed for continuous commission of robbery or theft, commits the robbery with the participation of another member of the gang.

(2) Imprisonment for not less than 5 years will be imposed if the perpetrator or another party involved in the robbery—

1. Uses a weapon or other dangerous tool for the act,

2. Carries a weapon in the cases of paragraph (1), number 2, or

3.a. Seriously mistreats another person in the act, or

b. Brings another person into danger of death.

(3) In less severe cases of paragraphs (1) and (2), punishment will be imprisonment from 1 year up to 10 years.

SECTION 251. ROBBERY RESULTING IN DEATH

If the perpetrator carelessly causes the death of another by the robbery (secs 249 and 250), the punishment will be imprisonment for life or for not less than 10 years.

SECTION 252. THEFT ACCOMPANIED BY THE USE OF FORCE

Whoever, being caught in the act of larceny, employs force against a person or uses threats with present danger to life or limb to retain possession of the stolen goods, will be punished as a robber.

SECTION 253. EXTORTION

(1) Whoever illegally coerces another with force or by threat of considerable harm to commit, tolerate, or omit an act and thereby causes prejudice to the property of the party coerced or of another in order to enrich himself or a third party illegally, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The act is illegal if the use of force or the threat of harm is deemed reprehensible for the contemplated purpose.

(3) The attempt is punishable.

(4) In especially severe cases punishment will be imprisonment of at least 1 year. An especially severe case usually exists if the perpetrator acts for gain or as a member of a gang which has combined for the continued commission of extortion.

SECTION 254. (RESCINDED)

SECTION 255. EXTORTIONARY ROBBERY

If the extortion is committed by means of force against a person or by the use of threats with present danger to life or limb, the perpetrator will be punished as a robber.

SECTION 256. SUPERVISION OF CONDUCT; FINES LEVIED ON PROPERTY; EXTENDED FORFEITURE

(1) In the cases of sections 249 through 255, the court may order supervision of conduct (sec 68, para (1)).

(2) Sections 43a and 73d shall be applied in the cases of sections 253 and 255 if the perpetrator acts as a member of a gang which has combined for the continued commission of such acts. Section 73d shall also be applied if the perpetrator acts for gain.

CHAPTER TWENTY-ONE
AIDING AND ABETTING AND RECEIVING STOLEN GOODS

SECTION 257. AIDING AND ABETTING

(1) Whoever renders aid to another who has committed an illegal act with the intention to secure for him the benefits of the act, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The punishment may not be more severe than the punishment provided for the prior act.

(3) Whoever is subject to punishment for participation in the prior act will not be punished for aiding and abetting. This does not apply to a person who instigates another person not involved in the prior act to aid and abet.

(4) Aiding and abetting is prosecuted only on request, with authorization or on request for penalty, if the person who committed the act of aiding and abetting as perpetrator or party to the prior act may be prosecuted only on request, with authorization or on request for penalty. Section 248a applies accordingly.

SECTION 258. OBSTRUCTION OF PROSECUTION AND EXECUTION OF SENTENCE

(1) Whoever, intentionally or knowingly in whole or in part, prevents another from being punished for an illegal act or from being subject to a measure (sec 11, para (1), no. 8) pursuant to criminal law will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished whoever, willfully or knowingly in whole or in part, prevents execution of the sentence or measure imposed on another.

(3) The punishment may not be more severe than the punishment provided for the prior act.

(4) The attempt is punishable.

(5) A person who at the same time intends by the act, in whole or in part, that he will not be punished himself or be subject to a measure, or that a punishment or measure imposed on him will not be executed, will not be punished for obstruction of prosecution.

(6) Whoever commits the acts in favor of a dependent is not subject to punishment.

SECTION 258A. OBSTRUCTION OF PROSECUTION AND EXECUTION OF SENTENCE BY A PERSON HOLDING PUBLIC OFFICE

(1) If, in the cases of section 258, paragraph (1), the perpetrator, as a holder of public office, has the duty to participate in the criminal proceedings or in the proceedings to the order of the measure (sec 11, para (1), no. 8) or if, in the cases of section 258, paragraph (2), as a holder of public office, he has the duty to participate in executing the sentence or measure, the punishment will be imprisonment from 6 months up to 5 years, in less severe cases imprisonment not exceeding 3 years or a fine.

(2) The attempt is punishable.

(3) Section 258, paragraphs (3) and (6), shall not to be applied.

SECTION 259. RECEIVING STOLEN GOODS

(1) Whoever buys or otherwise procures for his own benefit or for the benefit of a third person, or sells or helps to sell in order to enrich himself or a third party an object stolen or obtained by an illegal act committed by another against the property of another will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Sections 247 and 248a apply accordingly.

(3) The attempt is punishable.

SECTION 260. PROFESSIONALLY RECEIVING STOLEN GOODS, RECEIVING OF STOLEN GOODS COMMITTED BY A GANG

(1) There will be punished by imprisonment from 6 months up to 10 years whoever receives stolen goods—

1. Professionally, or

2. As a member of a gang which has combined for the continuous commission of robbery, larceny, or for receiving stolen goods.

(2) The attempt is punishable.

(3) Sections 43a and 73d shall be applied in the cases of paragraph (1), number 2. Section 73d shall also be applied in the cases of paragraph (1), number 1.

SECTION 260A. PROFESSIONALLY RECEIVING STOLEN GOODS COMMITTED BY A GANG

(1) There will be punished by imprisonment from 1 year up to 10 years whoever professionally receives stolen goods as a member of a gang which has combined for continuous commitment of robbery, larceny, or receiving stolen goods.

(2) In less severe cases the punishment shall be imprisonment from 6 months up to 5 years.

(3) Sections 43a and 73d shall be applied.

SECTION 261. MONEY LAUNDERING, CONCEALMENT OF UNLAWFULLY ACQUIRED ASSETS

(1) Whoever hides an object originating from an unlawful act designated in sentence 2 below, conceals its origin or frustrates or endangers the determination of its origin, the location, forfeiture, confiscation or seizure of such object will be punished by imprisonment from 3 months up to 5 years. Unlawful acts within the meaning of sentence 1 are—

1. Felonies,

2. Offenses pursuant to—

a. Section 332, paragraph (1), also in conjunction with paragraph (3), and section 334,

b. Section 29, paragraph (1), sentence 1, number 1, of the Narcotics Law and section 19, paragraph (1), number 1, of the Law on the Control of Basic Materials (*Grundstoffüberwachungsgesetz*),

3. Offenses pursuant to section 373 and pursuant to section 374, paragraph (2), of the Tax Code (*Abgabenordnung*), both also in conjunction with section 12, paragraph (1), of the Law on the Implementation of the Common Organizations of the Market and Direct Payments (*Gesetz zur Durchführung der Gemeinsamen Marktorganisationen und der Direktzahlungen*),

4. Offenses pursuant to—

a. Sections 152a; 181a; 232, paragraphs (1) and (2); section 233, paragraphs (1) and (2); sections 233a; 242; 246; 253; 259; 263 through 264; 266; 267; 269; 271; 284; 326, paragraphs (1), (2), and (4); section 328, paragraphs (1), (2), and (4), as well as section 348,

b. Section 96 of the Residence Act (*Aufenthaltsgesetz*); section 84 of the Law Governing the Procedures on Political Asylum (*Asylverfahrensgesetz*); section 370 of the Tax Code; section 38, paragraphs (1) through (3) and (5), of the Law on Trading in Securities (*Wertpapierhandelsgesetz*); as well as pursuant to sections 143, 143a, and 144 of the Law on Trademarks (*Markengesetz*); sections 106 through 108b of the Copyright Act (*Urheberrechtsgesetz*); section 25 of the Utility Model Act (*Gebrauchsmustergesetz*); sections 51 and 65 of the Design Act (*Geschmacksmustergesetz*); section 142 of the Patent Law (*Patentgesetz*); section 10 of the Semiconductor Protection Act (*Halbleiterschutzgesetz*); and section 39 of the Plant Varieties Protection Law (*Sortenschutzgesetz*),

which were committed for gain or by a member of a gang which combined for the continued commission of such acts, and

5. Offenses pursuant to section 89a and pursuant to sections 129 and 129a, paragraphs (3) and (5), both also in connection with section 129b, paragraph (1), as well as offenses committed by a member of a criminal or terrorist organization (secs 129 and 129a, both also in connection with sec 129b, para (1)).

Sentence 1 applies in the cases of commercial or gang tax evasion pursuant to section 370 of the Tax Code for the expenses saved by tax evasion and illegally obtained tax compensations and benefits as well as in the cases of sentence 2, number 3 also for an item with regard to which taxes were evaded.

(2) There will also be punished whoever—

1. Procures for himself or a third person, or

2. Being aware of the object's origin at the time of its procurement, holds in custody or uses for himself or a third person,

an object designated in paragraph (1).

(3) The attempt is punishable.

(4) In especially severe cases, the punishment shall be imprisonment from 6 months up to 10 years. An especially severe case is a case where the perpetrator acts on a commercial basis or as a member of a gang which has combined for the continuous commission of money laundering.

(5) Whoever, in the cases of paragraph (1) or (2), negligently fails to recognize that the object originates from an illegal act designated in paragraph (1) committed by a third person, shall be punished by imprisonment up to 2 years or a fine.

(6) The act is not punishable under paragraph (2) if a third person has obtained the object before, without thereby committing a crime.

(7) Objects which are related to the act may be confiscated. Section 74a shall be applied. Section 73d shall be applied if the perpetrator acts on a commercial basis or as member of a gang which has combined for the continuous commission of money laundering.

(8) Objects originating from acts of the type designated in paragraph (1) which were committed outside the territorial scope of this law are equal to those mentioned in paragraphs (1), (2), and (5) if the acts are also punishable at the place of the offense.

(9) There will not be punished pursuant to paragraphs (1) through (5) whoever—

1. Voluntarily reports the act to the competent authority or voluntarily induces such report unless the act had already been discovered in whole or in part at that time and the perpetrator was aware of that fact or had to expect it by reasonable assessment of the state of affairs, or

2. In the cases of paragraph (1) or (2) under the prerequisites stated in number 1, brings about the seizure of the object which is related to the criminal act.

There will also not be punished pursuant to paragraphs (1) through (5) whoever is punishable for participation in the act before.

SECTION 262. SUPERVISION OF CONDUCT

In the cases of sections 259 through 261, the court may order supervision of conduct (sec 68, para (1)).

CHAPTER TWENTY-TWO
FRAUD AND BREACH OF TRUST

SECTION 263. FRAUD

(1) Whoever, with the intention to procure an unlawful pecuniary benefit for himself or a third party, damages the property of another by causing or maintaining a misconception through pretenses of false facts or through misrepresentation or suppression of true facts will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) In especially severe cases the punishment will be imprisonment from 6 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. Acts for gain or as a member of a gang which has combined to continually commit falsification of documents or fraud,

2. Causes a large-scale loss of property or acts with the intention to expose a large number of people to the danger of loosing their assets by continued commission of fraud,

3. Brings a person into economic distress,

4. Abuses his authority or position as official office holder, or

5. Feigns an insured loss after he or another person, for this purpose, set fire to an object of high value or partly or entirely destroyed such object by setting fire to it, or after having sunk or run aground a ship.

(4) Section 243, paragraph (2), as well as sections 247 and 248a apply accordingly.

(5) Whoever commits fraud for gain as a member of a gang which combined for the continued commission of acts pursuant to sections 263 through 264 or 267 through 269, shall be punished by imprisonment from 1 year up to 10 years, in less severe cases by imprisonment from 6 months up to 5 years.

(6) The court may order supervision of conduct (sec 68, para (1)).

(7) Sections 43a and 73d shall be applied if the perpetrator acts as a member of a gang which combined for the continued commission of criminal acts pursuant to sections 263 through 264, or 267 through 269. Section 73d shall also be applied if the perpetrator acts on a commercial basis.

SECTION 263A. COMPUTER FRAUD

(1) Whoever, with the intention to procure an unlawful benefit for himself or a third party, damages the property of another by influencing the result of a data processing operation by an incorrect program layout, by using incorrect or incomplete data, using data without permission, or by any other unauthorized interference with the process, will be punished by imprisonment up to 5 years or by a fine.

(2) Section 263, paragraphs (2) through (7), apply accordingly.

(3) Whoever prepares a criminal act pursuant to paragraph (1) by writing computer programs whose purpose is to commit such act, procures such programs for himself or another person, offers them for sale, stores them, or makes them available to another person, will be punished by imprisonment up to 3 years or a fine.

(4) In the cases of paragraph (3), section 149, paragraphs (2) and (3), apply accordingly.

SECTION 264. FRAUD REGARDING ELIGIBILITY FOR A SUBSIDY

(1) Whoever—

1. Furnishes for himself or for another incorrect or incomplete information concerning facts relevant to subsidies in his or another's favor to an authority competent to appropriate subsidies or to another agency involved in the subsidy process or to a person granting a subsidy,

2. Uses an object or a payment, whose use is limited by legal provisions or by the agency or person granting a subsidy with regard to a subsidy, in violation of such limitation,

3. Contrary to the legal provisions concerning the appropriation of subsidies, leaves the person or agency granting the subsidy in ignorance of a subsidy or facts relevant to subsidies, or

4. Uses in subsidy administrative proceedings a certificate obtained as a result of incorrect or incomplete statements concerning eligibility for subsidies or facts relevant to subsidies,

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) In especially severe cases, the sentence will be imprisonment from 6 months up to 10 years. An especially severe case exists, as a rule, if the perpetrator—

1. Obtains for himself or another out of gross self-interest or by using copied or falsified vouchers a considerable subsidy he is not entitled to;

2. Abuses his powers or his position as a holder of public office, or

3. Takes advantage of the aid and assistance of a holder of a public office who abuses his powers or his position.

(3) Section 263, paragraph (5), applies accordingly.

(4) Whoever, in the cases of paragraph (1), numbers 1 through 3, acts carelessly will be punished by imprisonment not exceeding 3 years or by a fine.

(5) Whoever voluntarily prevents the granting of a subsidy on the basis of the act will not be punished pursuant to paragraphs (1) and (4). If, without contribution of the perpetrator, the subsidy is not granted, he will not be punished if he voluntarily and earnestly endeavors to prevent the granting of the subsidy.

(6) In addition to imprisonment for not less than 1 year for a criminal act pursuant to paragraphs (1) and (3), the court may deprive the perpetrator of the capacity of holding public office and of acquiring rights from public elections (sec 45, para (2)). Objects used in connection with the act may be confiscated; section 74a is to be applied.

(7) A subsidy within the meaning of this provision is—

1. A payment from public funds pursuant to Federal or *Land* law appropriated to firms or enterprise that is at least in part—

a. Granted in absence of market-induced consideration, and

b. Intended to strengthen the economy,

2. A payment from public funds pursuant to the law of the European Communities granted at least in part in the absence of market-induced consideration.

A firm or enterprise within the meaning of sentence 1, number 1, is also a public enterprise.

(8) Relevant to a subsidy within the meaning of paragraph (1) are facts—

1. That, by law or virtue of a law, are designed to be relevant to subsidies by the agency appropriating subsidies, or

2. On which the approval, granting, counterclaim, continued granting, or conceding of a subsidy, or a subsidy benefit is legally dependent.

SECTION 264A. CAPITAL INVESTMENT FRAUD

(1) Whoever, in conjunction with the—

1. Sale of securities, subscription rights, or shares that are to guarantee an interest in the profit of an enterprise, or

2. Offer to increase the capital invested in such shares,

discloses to a larger group of persons incorrect, advantageous information, or withholds disadvantageous facts in brochures or in presentations or statements on the financial status, regarding the circumstances important for the decision on the acquisition or increase, will be punished by imprisonment up to 3 years or by a fine.

(2) Paragraph (1) applies accordingly if the act refers to shares in property that an enterprise administers in its own name but for the account of a third party.

(3) Whoever, voluntarily prevents that, on the basis of the act, the success dependent on the acquisition or increase is achieved, will not be punished pursuant to paragraphs (1) and (2). If the success, without contribution of the perpetrator, is not attained he will not be punished if he voluntarily and earnestly endeavors to prevent the success.

SECTION 265. INSURANCE FRAUD

(1) Whoever damages, destroys, impairs in its fitness for use, removes, or makes available to another person an object insured against destruction, damage, impairment of fitness for use, loss or theft in order to obtain for himself or a third person payments from the insurance, will be punished by imprisonment up to 3 years or by a fine if the act is not punishable pursuant to section 263.

(2) The attempt is punishable.

SECTION 265A. FRAUDULENT OBTAINING OF SERVICES

(1) Whoever, with the intention not to pay the price, fraudulently obtains the service of a vending machine or a telecommunication system serving public purposes, a conveyance providing transportation, or admission to an event or establishment, will be punished by imprisonment not exceeding 1 year or by a fine if the act is not subject to severer punishment under other provisions.

(2) The attempt is punishable.

(3) Sections 247 and 248a apply accordingly.

SECTION 265B. CREDIT FRAUD

(1) Whoever submits to a firm or enterprise in connection with an application for the granting, maintaining, or altering the conditions of a credit for a firm or an enterprise or a fictitious enterprise—

1. Regarding the economic situation—

a) Incorrect or incomplete records, especially financial statements, accounts of profit and loss, statements on assets or opinions, or

b) Incorrect or incomplete written statements that are advantageous to the person seeking the credit and significant for the decision on such an application, or

2. Fails to report such aggravations of his economic situation described in records or data that are significant for the decision on such an application,

will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever voluntarily prevents the person extending credit from making the payment applied for on the basis of the act, will not be punished pursuant to paragraph (1). If, without an effort of the perpetrator, payment is not made, he will not be punished if he voluntarily and earnestly endeavors to prevent the success.

(3) Within the meaning of paragraph (1)—

1. Firms and enterprises, irrespective of their objects, are such which, because of their type and scope, require that they are set up as business enterprises;

2. Credits are loans of all types, acceptance credits, acquisitions for a fee and the respite of monetary claims, discounting of drafts and checks, and the assumption of suretyships, guarantees, and other warranties.

SECTION 266. BREACH OF TRUST

(1) Whoever abuses the power conferred on him by law, official commission, or legal transaction to dispose of another's property or to obligate another, or who violates the duty imposed on him by law, official commission, legal transaction, or a fiduciary relationship to preserve the property interest of another and thereby causes prejudice to the person whose property interests he has in his trust will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Section 243, paragraph (2), and sections 247, 248a, and 263, paragraph (3), apply accordingly.

SECTION 266A. WITHHOLDING AND MISAPPROPRIATION OF WAGES AND SALARIES

(1) Whoever, as an employer, withholds from the collection agency contributions of the employee intended for payment into the social security system , including the program for the promotion of employment, regardless whether wage payments are made, will be punished by imprisonment up to 5 years or a fine.

(2) Likewise will be punished whoever, as an employer—

1. Makes incorrect or incomplete statements to the agency responsible for the collection of contributions about facts relevant to social security issues, or

2. In violation of his duty fails to inform the agency responsible for the collection of contributions about facts relevant to social security issues,

thereby withholding from such agency social security contributions, including the promotion of employment, which must be paid by the employer, regardless whether or not wage payments are made.

(3) Whoever, as an employer otherwise withholds portions of the employee's wage or salary that he has to pay to another for the employee, however, fails to pay them to the other party and fails to inform the employee about the failure to make payment to the other at the latest on the date the payment became due or immediately thereafter, will be punished by imprisonment up to 5 years or a fine. Sentence 1 does not apply to those parts of the wage or salary withheld as wage tax.

(4) In particular serious cases of paragraphs (1) and (2), the punishment will be imprisonment from 6 months up to 10 years. A particular serious case exists as a rule if the perpetrator—

1. Withholds contributions on a large scale motivated by personal greed,

2. Continues to withhold contributions by use of counterfeited or falsified records, or

3. Takes advantage of the help of an office-holder who misuses his authority or position.

(5) The person contracting out work to a home worker, a tradesperson, or a person equal thereto within the meaning of the Home Industry Law (*Heimarbeitsgesetz*), as well as the intermediary are equal to the employer.

(6) In the cases of paragraphs (1) and (2), the court may refrain from imposing punishment pursuant to this provision if the employer, at the latest on the day of maturity or immediately thereafter, informs the collection agency in writing of—

1. The amount of contributions withheld, and

2. States why payment within due time is not possible although he earnestly endeavored to make payment.

If the prerequisites of sentence 1 exist and if the contributions are paid subsequently within an adequate period determined by the collection agency, the perpetrator will not be punished. In the cases of paragraph (3), sentences 1 and 2, apply accordingly.

SECTION 266B. ABUSE OF CHECK AND CREDIT CARDS

(1) Whoever, on receiving a check or credit card, by deception induces the issuer to make a payment and thereby causes him harm will be punished by imprisonment up to 3 years or by a fine.

(2) Section 248a applies accordingly.

CHAPTER TWENTY-THREE
FORGERY OF DOCUMENTS

SECTION 267. FORGERY OF DOCUMENTS

(1) Whoever, for the purpose of deception in legal transactions, fabricates a false document or falsifies a genuine document or uses a false or falsified document will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) In especially severe cases, the sentence will be imprisonment from 6 months up to 10 years. An especially severe case exists if the perpetrator—

1. Acts for gain or as a member of a gang which has combined for the continued commission of fraud or forgery of documents,

2. Causes a considerable loss of property,

3. Considerably endangers the security of legal relations by a large number of false or falsified documents, or

4. Abuses his powers and position as official office holder.

(4) Whoever commits forgery of documents for gain as a member of a gang which has combined for the continued commission of criminal acts pursuant to sections 263 through 264 or 267 through 269 will be punished by imprisonment from 1 year up to 10 years; in less severe cases, punishment will be from 6 months up to 5 years.

SECTION 268. FALSIFICATION OF TECHNICAL RECORDS

(1) Whoever, for the purpose of deception in legal transactions—

1. Prepares a false technical record or falsifies a technical record, or

2. Uses a false or falsified technical record,

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) A technical record is a display of data, measurements, calculations, conditions, or processes produced by a technical device automatically in whole or in part, which allows substances of the record to be recognized generally or by specialists and which is designed to prove a fact of legal relevance, regardless whether its designated use is defined already during production or later.

(3) It is considered equal to the production of false technical data if the perpetrator influences the results of the record by interfering with the recording process.

(4) The attempt is punishable.

(5) Section 267, paragraphs (3) and (4), apply accordingly.

SECTION 269. FALSIFICATION OF DATA OF PROBATIVE VALUE

(1) Whoever, for the purpose of deception in legal transactions, stores or alters data of probative value in such a way that by their realization a false or falsified document would be produced, or uses such stored or altered data, will be punished by imprisonment up to 5 years or by a fine.

(2) The attempt is punishable.

(3) Section 276, paragraphs (3) and (4), apply accordingly.

SECTION 270. DECEPTION IN LEGAL TRANSACTIONS CONCERNING DATA PROCESSING

Falsely influencing the processing of data in legal transactions is equivalent to deception in legal transactions.

SECTION 271. INDIRECT FALSE CERTIFICATION

(1) Whoever causes statements, hearings, or facts relevant to rights or legal relationships to be certified or stored as having been submitted or occurred in public documents, books, data files, or registers if in fact they have not been submitted or have not occurred at all or if they were submitted or occurred in another way or by a person in an unauthorized capacity or by another person, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever uses a false certification or storage of data of the type described in paragraph (1) for the purpose of deception in legal transactions.

(3) If the perpetrator acts for reward or with the intent to enrich himself or a third person or to cause damage to another, punishment will be imprisonment from 3 months up to 5 years.

SECTION 272. (RESCINDED)

SECTION 273. TAMPERING WITH OFFICIAL IDENTIFICATION DOCUMENTS

(1) Whoever, for the purpose of deception in legal transactions—

1. Removes, defaces, covers or withholds an entry in an official identification document, or removes a page from an official identification document,

2. Uses an identification document modified in such a manner

will be punished by imprisonment up to 3 years or by a fine if the act is not punishable under section 267 or 274.

(2) The attempt is punishable.

SECTION 274. SUPPRESSION OF DOCUMENTS; TAMPERING WITH A BOUNDARY MARKER

(1) Whoever with intention to cause prejudice to another—

1. Destroys, mutilates, or suppresses a document or a technical record that does not belong to him at all or exclusively,

2. Deletes, suppresses, renders unserviceable, or alters data of probative value (sec 202a, para (2)), of which he may not or not exclusively dispose, or

3. Removes, destroys, renders unrecognizable, displaces, or falsely sets up a boundary stone or any other mark intended to indicate a boundary or water level,

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 275. PREPARATION OF FORGERY OF OFFICIAL IDENTIFICATION DOCUMENTS

(1) Whoever prepares a forgery of official identification documents, producing, procuring for himself or another, selling, safekeeping, handing over to another, or importing or exporting—

1. Plates, molds, printing sets, printing blocks, negatives, stencils, or similar devices that, by their nature, can be used for the commission of the act,

2. Paper that resembles or is confusingly similar to the type of paper intended for the preparation of official identification documents and is especially protected against imitation, or

3. Blanks for official identification documents

will be punished by imprisonment not exceeding 2 years or by a fine.

(2) If the perpetrator acts for gain or as a member of a gang which has combined for continued commission of offenses pursuant to paragraph (1), punishment will be imprisonment from 3 months up to 5 years.

(3) Section 149, paragraphs (2) and (3), apply accordingly.

SECTION 276. PROCUREMENT OF FORGED OFFICIAL IDENTIFICATION DOCUMENTS

(1) There will be punished by imprisonment not exceeding 2 years or by a fine whoever—

1. Undertakes to import or export, or

2. With the intent to use it for deception in legal transactions, procures for himself or another person, keeps in safe custody or makes available to another person

a false or falsified official identification document or an official identification document containing a falsified certification of the type designated in sections 271 and 348.

(2) If the perpetrator acts for gain or as a member of a gang which has combined for continued commission of criminal acts pursuant to paragraph (1), punishment will be imprisonment from 3 months up to 5 years.

SECTION 276A. RESIDENCE PAPERS; VEHICLE REGISTRATION DOCUMENTS

Sections 275 and 276 also apply to residence papers, i.e. residence title, and vehicle registration documents, i.e. vehicle certificates and vehicle registration certificates.

SECTION 277. FORGERY OF HEALTH CERTIFICATES

Whoever, under the disguise of a physician or other certified medical personnel or, without being entitled, in the name of such persons, issues a certificate concerning his own or another's state of health or falsifies a genuine certificate of this kind and makes use thereof to deceive governmental agencies or insurance companies will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 278. ISSUANCE OF INCORRECT HEALTH CERTIFICATES

Physicians and other certified medical personnel who, contrary to better knowledge, issue an incorrect certificate as to the state of health of a human being to use it for submittal to a government agency or insurance company will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 279. USE OF INCORRECT HEALTH CERTIFICATES

Whoever, in order to deceive a government agency or an insurance company concerning his own or another person's state of health, makes use of a certificate of the kind indicated in sections 277 and 278 will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 280. (RESCINDED)

SECTION 281. MISUSE OF IDENTITY PAPERS

(1) Whoever, for deception in legal transactions, uses an identity paper that has been issued for another or whoever, for deception in legal transactions, hands over to another an identification paper that has not been issued for such other person will be punished by imprisonment not exceeding 1 year or by a fine. The attempt is punishable.

(2) Certificates and other documents used for identification in transactions are equivalent to an identification paper.

SECTION 282. FINES LEVIED ON PROPERTY, EXTENDED FORFEITURE, AND CONFISCATION

(1) Sections 43a and 73d shall be applied in the cases of sections 267 through 269, 275, and 276 if the perpetrator acts as a member of a gang which has combined for the continued commission of such acts. Section 73d shall also be applied if the perpetrator acts for gain.

(2) Objects connected to a criminal act pursuant to section 267, section 268, section 271, paragraphs (2) and (3), section 273, or section 276, the latter also in conjunction with section 276a, or pursuant to section 279, may be confiscated. In the cases of section 275, also in conjunction with section 276a, the objects of forgery designated therein shall be confiscated.

CHAPTER TWENTY-FOUR
CRIMINAL ACTS INVOLVING BANKRUPTCY

SECTION 283. BANKRUPTCY

(1) There will be punished by imprisonment not exceeding 5 years or by a fine whoever, in case of overindebtedness or imminent or existing insolvency—

1. Removes or conceals parts of his assets, which in the case of institution of bankruptcy proceedings belong to the bankrupt's estate, or destroys, damages, or renders them unserviceable in a manner contrary to the requirements of proper business practice;

2. Engages in transactions resulting in loss or speculative transactions or options dealing with goods or securities in a manner contrary to the requirements of proper business practice, or has spent or owes excessive amounts as a result of uneconomic expenses, gambling, or bets;

3. Procures on credit, sells, or otherwise gives away goods or securities or objects produced from these goods considerably below their value in a manner contrary to the requirements of proper business practice;

4. Pretends the existence of the rights of others or recognizes fictitious rights;

5. Fails to keep commercial accounts that he is legally required to keep or keeps or changes them in such a manner that a survey of his financial situation is rendered difficult;

6. Removes, conceals, destroys, or damages commercial accounts or other records, the safekeeping of which is required by the merchant pursuant to commercial law before the expiration of the time limits for safekeeping to be observed by the person required to keep books and records, thereby rendering difficult a survey of his financial situation;

7. Contrary to commercial law—

a) Draws up financial statements in such a manner that a survey of his financial situation is rendered difficult, or

b) Fails to prepare the financial statement concerning his assets or list of the inventory within the prescribed period of time, or

8. Decreases his assets or conceals or covers up his real business situation in a manner grossly contradicting the requirements of proper business practice.

(2) Whoever, by one of the acts designated in paragraph (1), causes his own overindebtedness or insolvency shall be punished likewise.

(3) The attempt is punishable.

(4) Whoever, in the cases of—

1. Paragraph (1), negligently fails to recognize the overindebtedness or imminent or existing insolvency, or

2. Paragraph (2), causes the indebtedness or insolvency carelessly,

will be punished by imprisonment not exceeding 2 years or by a fine.

(5) Whoever in the cases of—

1. Paragraph (1), number 2, 5, or 7, acts negligently and at least negligently fails to know of the overindebtedness or the insolvency or imminent insolvency, or

2. Paragraph (2) in connection with paragraph (1), number 2, 5, or 7, acts negligently and at least negligently causes the overindebtedness or insolvency

will be punished by imprisonment not exceeding 2 years or by a fine.

(6) The act is punishable only if the perpetrator has stopped payments or if he is adjudged bankrupt or the bankruptcy petition has been rejected for lack of estate.

SECTION 283A. ESPECIALLY SEVERE CASE OF BANKRUPTCY

In especially severe cases of section 283, paragraphs (1) through (3), bankruptcy will be punished by imprisonment from 6 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. Acts out of greed for profit, or

2. Knowingly exposes a great number of persons to the danger of losing their assets entrusted to him or causes them economic difficulties.

SECTION 283B. VIOLATION OF THE OBLIGATION TO KEEP BOOKS

(1) There will be punished by imprisonment not exceeding 2 years or by a fine whoever—

1. Fails to keep commercial accounts that he is legally required to keep, or keeps or changes them in such a manner that a survey of his financial situation is rendered difficult;

2. Removes, conceals, destroys, or damages before the expiration of the legal time limits for safekeeping commercial accounts or other records that he is required to keep pursuant to commercial law, thereby rendering difficult a survey of his financial situation;

3. Contrary to commercial law—

a) Draws up financial statements in such a manner that a survey of his financial situation is rendered difficult, or

b) Fails to draw up the financial statement concerning his assets or inventory within the prescribed period.

(2) Whoever acts negligently in the cases of paragraph (1), number 1 or 3, will be punished by imprisonment not exceeding 1 year or by a fine.

(3) Section 283, paragraph (6), applies accordingly.

SECTION 283C. PREFERENCE OF CREDITORS

(1) Whoever, in knowledge of his insolvency, grants to a creditor security or satisfaction to which the creditor is not entitled or is not entitled regarding kind and time, thereby intentionally or knowingly giving him preference to other creditors, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The attempt is punishable.

(3) Section 283, paragraph (6), applies accordingly.

SECTION 283D. PREFERENCE OF DEBTORS

(1) There will be punished by imprisonment not exceeding 5 years or by a fine whoever—

1. Being aware of the insolvency impending on another person, or

2. After stopping payment, in bankruptcy proceedings, or in proceedings to render a decision on the opening of bankruptcy proceedings of another

removes or conceals with his consent or in his favor, or destroys, damages, or renders unserviceable in a manner contradicting the requirements of proper business practice, parts of another’s assets that in the case of bankruptcy belong to the bankrupt's estate.

(2) The attempt is punishable.

(3) In especially severe cases, the sentence will be imprisonment from 6 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. Acts out of greed for profit, or

2. Knowingly exposes a great number of persons to the danger of losing their assets entrusted to the other person or causes them economic distress.

(4) The act is only punishable if the other person has stopped payments or if he is adjudged bankrupt or the bankruptcy petition has been rejected for lack of estate.

CHAPTER TWENTY-FIVE
PUNISHABLE GREED

SECTION 284. UNAUTHORIZED ORGANIZATION OF A GAME OF CHANCE

(1) Whoever, without official permission, organizes or conducts a game of chance in public or provides the facilities for such game will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Games of chance in clubs or at private parties where games of chance are habitually organized also are considered publicly organized.

(3) Whoever in the cases of paragraph (1)—

1. Acts for gain, or

2. As a member of a gang which has combined for the continuous commission of such acts

will be punished by imprisonment from 3 months up to 5 years.

(4) Whoever advertises a public game of chance (paras (1) and (2)) will be punished by imprisonment up to 1 year or by a fine.

SECTION 285. PARTICIPATION IN AN UNAUTHORIZED GAME OF CHANCE

Whoever participates in a game of chance in public (sec 284) will be punished by imprisonment not exceeding 6 months or by a fine not exceeding 180 daily rates.

SECTION 286. FINES LEVIED ON PROPERTY, EXTENDED FORFEITURE, AND CONFISCATION

(1) Sections 43a and 73d shall be applied in the cases of section 284, paragraph (3), number 2. Section 73d shall also be applied in the cases of section 284, paragraph (3), number 1.

(2) In the cases of sections 284 and 285, the gambling equipment and the money found on the gambling table or in the bank will be confiscated if they belong to the perpetrator or a participant at the time of the decision. Otherwise the objects may be confiscated; section 74a is to be applied.

SECTION 287. UNAUTHORIZED ORGANIZATION OF A LOTTERY OR RAFFLE

(1) Whoever, without official permission, organizes a lottery or raffle of movable or immovable objects, i.e. offers the conclusion of wagering contracts for a public lottery or raffle, or accepts offers intended for the conclusion of such wagering contracts shall be punished by imprisonment not exceeding 2 years or by a fine.

(2) Whoever advertises public lotteries or raffles (para (1)) will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 288. OBSTRUCTING EXECUTION

(1) Whoever, in the case of an impending execution of judgment, sells or hides parts of his assets with intention to frustrate satisfaction of the creditors, will be punished by imprisonment not exceeding 2 years or by a fine.

(2) The act will be prosecuted only on request.

SECTION 289. ILLEGAL RECOVERY OF PLEDGED PROPERTY

(1) Whoever, with illegal intention, takes away from the usufructuary, from the lien holder, or from anyone who is entitled to the use or retention of his own movable property or of another's movable property on behalf of its owner will be punished by imprisonment not exceeding 3 years or by a fine.

(2) The attempt is punishable.

(3) The act will be prosecuted only on request.

SECTION 290. UNAUTHORIZED USE OF PLEDGED PROPERTY

Public pawnbrokers who make use of objects taken by them in pawn without being authorized will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 291. USURY

(1) Whoever, by exploiting the position of constraint, inexperience, lack of power of judgment, or marked weak-mindedness of another, obtains for himself or a third party promises or grants of proprietary benefits for—

1. The renting of residential rooms or the incidental services associated therewith,

2. The granting of a credit,

3. Any other service, or

4. Procuring one of the aforementioned services

that are in an obvious disproportion to the service or its procurement, shall be punished by imprisonment not exceeding 3 years or by a fine. If several persons render services or act as agents or are involved in any other way resulting in an obvious disproportion between all proprietary benefits and the service performance, the first sentence shall apply to any person taking advantage of the position of constraint or any weak point of another for himself or a third party for the purpose of acquiring an excessive proprietary benefit.

(2) In especially severe cases, the sentence will be imprisonment from 6 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. By the act causes economic distress to the other,

2. Commits the act for gain,

3. Accepts promises for usurious proprietary benefits by means of a bill of exchange.

SECTION 292. POACHING OF GAME

(1) Whoever, by breach of another's hunting rights—

1. Pursues, catches, kills game, or appropriates it for himself or another person, or

2. Appropriates for himself or another person, damages, or destroys an object protected by hunting rights

will be punished by imprisonment not exceeding 3 years or by a fine.

(2) In especially severe cases punishment will be imprisonment from 3 months up to 5 years. An especially severe case usually exists if the act is committed—

1. For gain or habitually,

2. At night, during closed season, by the use of snares or in any other unsportsmanlike manner, or

3. Jointly by several perpetrators equipped with firearms.

SECTION 293. POACHING OF FISH

Whoever, in breach of another's fishing rights—

1. Fishes, or

2. Appropriates to himself or another person, damages, or destroys an object protected by fishing rights

will be punished by imprisonment up to 2 years or by a fine.

SECTION 294. REQUEST FOR CRIMINAL PROSECUTION

In the cases of section 292, paragraph (1), and section 293, the act will be prosecuted only on request of the person whose rights were infringed, if it was committed by a dependent or in a place in which the perpetrator was entitled to hunt and fish to a limited extent.

SECTION 295. CONFISCATION

Hunting and fishing equipment, dogs and other animals the perpetrator or accessory brought with him or used during the act may be confiscated. Section 74a is to be applied.

SECTION 296 . (RESCINDED)

SECTION 297. ENDANGERMENT OF SHIPS, MOTOR VEHICLES AND AIRCRAFT BY CONTRABAND

(1) Whoever, without knowledge of the ship owner, or as a shipmaster without knowledge of the ship owner, takes on board a German ship an object whose transportation exposes the—

1. Ship or cargo to the danger of attachment or confiscation, or

2. Ship owner or shipmaster to the danger of punishment

will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Likewise will be punished whoever, as a ship owner, brings or takes an object aboard a ship without knowledge of the shipmaster, the transportation of which exposes the shipmaster to the danger of punishment.

(3) Paragraph (1), number 1, also applies for foreign ships that have taken on their cargo in part or entirely in Germany.

(4) Paragraphs (1) through (3) shall be applied accordingly if objects are brought in or taken into motor vehicles or aircraft. The owner and operator of the motor vehicle or aircraft take the place of the ship owner and shipmaster, respectively.

CHAPTER TWENTY-SIX
CRIMINAL ACTS AGAINST FAIR COMPETITION

SECTION 298. COLLUSIVE BIDDING

(1) Whoever, in connection with a tender for goods or commercial services, submits a bid that is based on an illegal agreement intended to induce the soliciting party to accept a certain offer, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) A private award of a contract after competitive participation is equal to a tender within the meaning of paragraph (1).

(3) Pursuant to paragraph (1), also in conjunction with paragraph (2), no punishment will be imposed on a person who voluntarily prevents that the soliciting party accepts the offer or renders its service. If the offer is not accepted or the service of the soliciting party not rendered without interference of the perpetrator, he will not be subject to punishment if he voluntarily and seriously endeavors to prevent acceptance of the offer or rendering of the service.

SECTION 299. CORRUPTIBILITY AND BRIBERY IN BUSINESS TRANSACTIONS

(1) Whoever, as an employee or agent of a business enterprise, in the course of business transactions demands, obtains a promise of, or accepts an advantage for himself or another person for unfairly preferring another person in the course of competition for the procurement of goods or commercial services will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever, in the course of business transactions for the purpose of competition offers, promises or grants an advantage to an employee or agent of a business enterprise for himself or a third person in consideration of an unfair preference of him or another person in the procurement of goods or commercial services.

(3) Paragraphs (1) and (2) are also applicable to transactions concerning foreign competition.

SECTION 300. ESPECIALLY SEVERE CASES OF CORRUPTIBILITY AND BRIBERY IN BUSINESS TRANSACTIONS

In especially severe cases, an act pursuant to section 299 will be punished by imprisonment from 3 months up to 5 years. An especially severe case exists if the—

1. Act is oriented towards an advantage of considerable scope, or

2. Perpetrator acts for gain or as a member of a gang which has combined for the continued commission of such acts.

SECTION 301. REQUEST FOR PROSECUTION

(1) Corruptibility and bribery in business transactions pursuant to section 299 will only be prosecuted upon request unless the prosecuting authority deems an intervention ex officio necessary because of the special public interest in the prosecution.

(2) In addition to the injured party, the persons engaged in a business, associations, and chambers designated in section 8, paragraph (3), numbers 1, 2, and 4, of the Law Against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb*) are also entitled to file a request for prosecution pursuant to paragraph (1).

SECTION 302. FINES LEVIED ON PROPERTY AND EXTENDED FORFEITURE

(1) Section 73d shall be applied in the cases of section 299, paragraph (1), if the perpetrator acts for gain or as a member of a gang which has combined for the continued commission of such acts.

(2) Sections 43a and 73d shall be applied in the cases of section 299, paragraph (2), if the perpetrator acts as a member of a gang which has combined for the continued commission of such acts. Section 73d shall also be applied if the perpetrator acts for gain.

CHAPTER TWENTY-SEVEN
DAMAGE TO PROPERTY

SECTION 303. DAMAGE TO PROPERTY

(1) Whoever illegally damages or destroys property belonging to another will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Whoever, without authorization, considerably and permanently changes the appearance of an object not belonging to him shall be punished in the same manner.

(3) The attempt is punishable.

SECTION 303A. ALTERATION OF DATA

(1) Whoever illegally deletes, suppresses, renders unserviceable, or alters data (sec 202a, para (2)), will be punished by imprisonment up to 2 years or by a fine.

(2) The attempt is punishable.

(3) Section 202c shall apply accordingly for the preparation of a criminal act pursuant to paragraph (1).

SECTION 303B. COMPUTER SABOTAGE

(1) Whoever interferes with data processing which is of fundamental importance to another person by—

1. Committing an act pursuant to section 303a, paragraph (1),

2. Entering or transferring data (sec 202a, para (2)) with the intention to cause a disadvantage to another person, or

3. Destroying, damaging, rendering unserviceable, removing, or altering a data processing system or data carrier,

will be punished by imprisonment up to 3 years or by a fine.

(2) If it concerns data processing that is of fundamental importance for another person's business, another person's enterprise, or an authority, punishment will be up to 5 years or a fine.

(3) The attempt is punishable.

(4) In particularly serious cases of paragraph (2), punishment will be imprisonment from 6 months to 10 years. A particularly serious case is if the perpetrator—

1. Causes considerable loss of property,

2. Acts for business purposes or as a member of a gang which has combined for continued commitment of computer sabotage,

3. By the act impairs the supply of the population with essential commodities or services or impairs the security of the Federal Republic of Germany.

(5) Section 202c applies accordingly to the preparation of a criminal act pursuant to paragraph (1).

SECTION 303C. REQUEST FOR CRIMINAL PROSECUTION

In the cases of sections 303, 303a, paragraphs (1) and (2), as well as section 303b, paragraphs (1) through (3), the act will only be prosecuted only on request unless the prosecution authority, due to special public interest in the prosecution, considers an intervention *ex officio* to be necessary.

SECTION 304. DAMAGE TO COMMUNITY PROPERTY

(1) Whoever unlawfully damages or destroys objects of veneration of any religious society existing in Germany or objects dedicated to religious services or tombs, public monuments, natural monuments, objects of art, of science and learning, or of commerce preserved in public collections or publicly exhibited, or objects designed for public use or for the embellishment of public ways, places, or parks, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever, without authorization, considerably and permanently changes the appearance of an item designated in paragraph (1) or of an object designated in that paragraph, shall be punished in the same manner.

(3) The attempt is punishable.

SECTION 305. DESTRUCTION OF BUILDINGS

(1) Whoever illegally destroys in whole or in part a building, a ship, a bridge, a dam, a constructed road, a railroad, or any other structure owned by another, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 305A. DESTRUCTION OF IMPORTANT WORKING AIDS

(1) Whoever unlawfully destroys, in whole or in part—

1. Technical working aids of considerable value owned by another person and essential to the installation of a facility or an enterprise within the meaning of section 316b, paragraph (1), number 1 or 2, or of a facility necessary for the operation or waste management of such facility or such enterprise, or

2. Mission-essential technical working equipment of the police, Federal Armed Forces, fire department, a disaster service, or rescue service that is of considerable value, or

3. A motor vehicle owned by the police, Federal Armed Forces, fire department, a disaster service, or rescue service,

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

CHAPTER TWENTY-EIGHT
CRIMINAL ACTS ENDANGERING THE PUBLIC

SECTION 306. ARSON

(1) Whoever sets on fire or entirely or partly destroys by fire—

1. Buildings or cabins,

2. Plants or technical equipment, i.e. machines,

3. Warehouses or stocks of merchandise,

4. Motor vehicles, railway vehicles, aircraft or ship,

5. Forests, heath areas, or moors, or

6. Facilities or products of agriculture, food products or forestry facilities or products,

that belong to another person will be punished by imprisonment from 1 year up to 10 years.

(2) In less severe cases punishment will be from 6 months up to 5 years.

SECTION 306A. AGGRAVATED ARSON

(1) Whoever sets on fire, or entirely or partly destroys by fire a—

1. Building, a ship, a cabin or another accommodation serving as a residence for human beings,

2. Church or another building serving the practice of religion, or

3. Room serving temporarily as a residence for human beings, at a time when it is usually frequented by human beings

will be punished by imprisonment for not less than 1 year.

(2) Likewise will be punished whoever sets fire to an object designated in section 306, paragraph (1), numbers 1 through 6, or destroys such object entirely or in part by putting fire to it, thereby exposing another person to the danger of health injury.

(3) In less severe cases of paragraphs (1) and (2), punishment will be imprisonment from 6 months up to 5 years.

SECTION 306B. ESPECIALLY AGGRAVATED ARSON

(1) Whoever, by committing arson pursuant to section 306 or 306a, causes a serious health injury to another person or a health injury to a large group of people will be punished by imprisonment of at least 2 years.

(2) Imprisonment of at least 5 years shall be imposed if the perpetrator in the cases of section 306a—

1. By the act exposes another person to the danger of death,

2. Acts with the intent to make another criminal offence possible or to conceal such an offense, or

3. Prevents the extinction of the fire or renders it difficult.

SECTION 306C. ARSON RESULTING IN DEATH

If the perpetrator, by committing arson pursuant to sections 306 and 306b, at least negligently causes the death of another person, punishment will be life imprisonment or imprisonment of at least 10 years.

SECTION 306D. NEGLIGENT ARSON

(1) Whoever, in the cases of section 306, paragraph (1), or section 306a, paragraph (1), acts negligently, or, in the cases of section 306a, paragraph (2), causes the danger negligently, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever, in the cases of section 306a, paragraph (2), acts negligently or causes the danger negligently will be punished by imprisonment up to 3 years or by a fine.

SECTION 306E. ACTIVE REGRET

(1) In the cases of sections 306, 306a, and 306b, the court may mitigate the punishment at its discretion (sec 49, para (2)) or refrain from punishment pursuant to these provisions if the perpetrator extinguishes the fire voluntarily before considerable damage is caused.

SECTION 306F. CAUSING A RISK OF FIRE

(1) Whoever causes a risk of fire to—

1. Installations or plants with a big fire hazard,

2. Installations or plants of the agricultural or food producing industry, in which their food products are kept,

3. Forests, heath areas or moors, or

4. Tilled fields or easily flammable agricultural products stored in the field,

belonging to another person, by smoking, by open fire or light, by throwing away burning or smoldering objects, or causes a risk of fire in any other way will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Likewise will be punished whoever causes a risk of fire to an object designated in paragraph (1), numbers 1 through 4, thereby endangering the life or limb of another person or another person's property of considerable value.

(3) Whoever acts negligently in the cases of paragraph (1) or causes the danger negligently in the cases of paragraph (2) will be punished by imprisonment up to 1 year or by a fine.

SECTION 307. CAUSING AN EXPLOSION BY NUCLEAR ENERGY

(1) Whoever undertakes to cause an explosion by the release of nuclear energy and thereby endangers life or limb of another or another's property of considerable value, will be punished by imprisonment for not less than 5 years.

(2) Whoever causes an explosion by the release of nuclear energy and thereby negligently causes a danger to life or limb of another or to another's property of considerable value, will be punished by imprisonment from 1 year up to 10 years.

(3) If the perpetrator, by the act, at least negligently causes the death of another person, punishment will be imprisonment for—

1. Life or for not less than 10 years in the cases described in paragraph (1),

2. Not less than 5 years in the cases described in paragraph (2).

(4) Whoever, in the cases of paragraph (2), acts negligently and causes the danger negligently, will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 308. CAUSING A DETONATION BY EXPLOSIVES

(1) Whoever, other than by the release of nuclear energy, causes an explosion, specifically by explosives and thereby endangers life or limb of another or another's property of considerable value, will be punished by imprisonment for not less than 1 year.

(2) If the perpetrator, by the act, causes serious health injury to another person or health injury to a large number of people imprisonment of at least 2 years shall be imposed.

(3) If the perpetrator causes at least negligently the death of another person by the act, punishment will be imprisonment for life or imprisonment for at least 10 years.

(4) In less severe cases of paragraph (1), imprisonment from 6 months up to 5 years shall be imposed; in less severe cases of paragraph (2), imprisonment from 1 year up to 10 years shall be imposed.

(5) Whoever, in the cases of paragraph (1), causes the danger through negligence will be punished by imprisonment not exceeding 5 years or by a fine.

(6) Whoever, in the cases of paragraph (1), acts negligently and causes the danger through negligence will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 309. ABUSE OF IONIZING RADIATION

(1) Whoever, with the intention to injure the health of another, undertakes to expose him to ionizing radiation apt to injure his health will be punished by imprisonment from 1 year up to 10 years.

(2) If the perpetrator undertakes to expose an incalculable number of persons to such radiation, the sentence will be imprisonment for not less than 5 years.

(3) If, in the cases of paragraph (1), the perpetrator causes a serious injury to the health of another by the act, or an injury to the health of a large number of people, imprisonment of at least 2 years shall be imposed.

(4) If the perpetrator, by the act, causes the death of another person at least negligently punishment will be imprisonment for life or imprisonment of at least 10 years.

(5) In less severe cases of paragraph (1), imprisonment from 6 months up to 5 years; in less severe cases of paragraph (3), imprisonment from 1 year up to 10 years shall be imposed.

(6) Whoever, with the intention to—

1. Impair the usefulness of a third-party object of considerable value,

2. Negatively influence the quality of a water body, the air or the soil on a permanent basis,

3. Cause harm to animals or plants of considerable value which are not his own,

exposes the object, the water body, the air, the soil, the animals or plants to ionizing radiation apt to cause such impairment, negative influence or harm will be punished by imprisonment not exceeding 5 years or by a fine. The attempt is punishable.

SECTION 310. PREPARATION OF A FELONY BY USE OF EXPLOSIVES OR RADIATION

(1) Whoever, for the preparation of a—

1. Certain undertaking within the meaning of section 307, paragraph (1), or of section 309, paragraph (2),

2. Criminal act pursuant to section 308, paragraph (1), to be committed by the use of explosives,

3. Criminal act pursuant to section 309, paragraph (1), or

4. Criminal act pursuant to section 309, paragraph (6)

produces, procures for himself or another, keeps in custody, or hands over to another nuclear fuel, other radioactive material, explosives, or the special devices required for the execution of the act, will be punished, in the cases of number 1, by imprisonment from 1 year up to 10 years, in the cases of number 2 and number 3 by imprisonment from 6 months up to 5 years, and in the cases of number 4, by imprisonment up to 3 years or a fine.

(2) In less severe cases of paragraph (1), number 1, the punishment will be imprisonment from 6 months up to 5 years.

(3) In the cases of paragraph (1), numbers 3 and 4, the attempt is punishable.

SECTION 311. RELEASE OF IONIZING RADIATION

(1) Whoever, by violating duties under administrative law (sec 330d, para (1), nos 4 and 5, and para (2))—

1. Releases Ionizing radiation, or

2. Effects nuclear fission

apt to cause injury to the life or limb of another person, damage to another's property of considerable value, or considerable harm to fauna or flora, the water, air, or soil will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) Whoever, negligently—

1. During operation of a plant, in particular of a factory, commits an act within the meaning of paragraph (1) in a manner apt to cause damage outside the premises of the plant, or

2. In other cases of paragraph (1) acts in gross violation of administrative duties

will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 312. DEFECTIVE CONSTRUCTION OF A NUCLEAR PLANT

(1) Whoever installs or furnishes a defective nuclear plant (sec 330d, no. 2) or objects designed for the construction or operation of such a plant and thereby causing danger to life or limb of another or to another's property of considerable value, which is interconnected with the effect of nuclear fission or the radiation of a radioactive substance, will be punished by imprisonment from 3 months up to 5 years.

(2) The attempt is punishable.

(3) If the perpetrator, by the act, causes a serious injury to the health of another person or a health injury to a large number of people, imprisonment from 1 year up to 10 years shall be imposed.

(4) If the perpetrator causes the death of another person by the act, punishment will be at least 3 years of imprisonment.

(5) In less severe cases of paragraph (3), imprisonment from 6 months up to 5 years; in less severe cases of paragraph (4), imprisonment from 1 year up to 10 years shall be imposed.

(6) Whoever, in the cases of paragraph (1)—

1. Causes the danger negligently, or

2. Acts carelessly and causes the danger through negligence

will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 313. CAUSING A FLOOD

(1) Whoever causes a flood and thereby endangers the life and limb of another person or third party property of considerable value, will be punished by imprisonment from 1 year up to 10 years.

(2) Section 308, paragraphs (2) through (6), shall apply accordingly.

SECTION 314. CAUSING A POISONING DANGEROUS TO THE PUBLIC

(1) Imprisonment from 1 year up to 10 years will be imposed on a person who poisons—

1. Water in tapped springs, wells, water pipes or drinking water storage tanks, or

2. Items intended for public sale or consumption

or adds harmful substances to them or sells, offers for sale or otherwise brings into circulation items within the meaning of number 2 which are poisoned or to which harmful substances were added.

(2) Section 308, paragraphs (2) through (4), shall apply accordingly.

SECTION 314A. ACTIVE REGRET

(1) In the cases of section 307, paragraph (1), and section 309, paragraph (2), the court may mitigate the punishment at its discretion (sec 49, para (2)), if the perpetrator voluntarily abandons the further execution of the act or otherwise averts the danger.

(2) The court may mitigate the punishment provided in the following provisions at its discretion (sec 49, para (2)) or refrain from punishment pursuant to these provisions, if the perpetrator—

1. In the cases of section 309, paragraph (1), or section 314, paragraph (1), voluntarily abandons further commission of the act or otherwise averts the danger, or

2. In the cases of—

a. Section 307, paragraph (2),

b. Section 308, paragraphs (1) and (5),

c. Section 309, paragraph (6),

d. Section 311, paragraph (1),

e. Section 312, paragraphs (1) and (6), number 1,

f. Section 313, also in conjunction with section 308, paragraph (5),

voluntarily averts the danger before considerable damage is caused.

(3) Not punished pursuant to the following provisions will be whoever—

1. In the cases of—

a. Section 307, paragraph (4),

b. Section 308, paragraph (6),

c. Section 311, paragraph (3),

d. Section 312, paragraph (6), number 2,

e. Section 313, paragraph (2), in conjunction with section 308, paragraph (6),

voluntarily averts the danger before considerable damage is caused or

2. In the cases of section 310, voluntarily abandons further commission of the act or otherwise averts the danger.

(4) If, without any contribution of the perpetrator, the danger is averted, his voluntary and earnest efforts to attain this goal are sufficient.

SECTION 315. DANGEROUS INTERFERENCE WITH RAIL, SHIP, AND AIR TRAFFIC

(1) Whoever impairs the safety of rail, cable car, ship or air traffic by—

1. Destroying, damaging, or removing installations or means of transportation,

2. Setting up obstacles,

3. Giving false signs or signals, or

4. A comparable, similarly dangerous interference

and thereby endangers life or limb of another person or another person's property of considerable value, will be punished by imprisonment from 6 months up to 10 years.

(2) The attempt is punishable.

(3) If the perpetrator—

1. Acts with the intention to—

a. Cause an accident, or

b. Make possible or conceal another criminal act, or

2. Causes serious injury to another person's health or the health of a large number of people

imprisonment of at least 1 year shall be imposed.

(4) In less severe cases of paragraph (1), imprisonment from 3 months up to 5 years shall be imposed; in less severe cases of paragraph (3), imprisonment of 6 months up to 5 years shall be imposed.

(5) Whoever, in the cases of paragraph (1), causes the danger negligently will be punished by imprisonment not exceeding 5 years or by a fine.

(6) Whoever, in the cases of paragraph (1), acts negligently and causes the danger through negligence will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 315A. ENDANGERING OF RAIL, SHIP, AND AIR TRAFFIC

(1) Whoever—

1. Operates a rail vehicle or cable car, a ship, or an aircraft although he is not in a position to operate the vehicle safely due to the consumption of alcoholic beverages or other intoxicants or due to mental or physical defects, or

2. As an operator of such a vehicle or as a person responsible for its safety, through gross misconduct, violates provisions of law for the safety of rail, cable car, ship or air traffic

and thereby endangers life or limb of another or another's property of considerable value, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) In the cases of paragraph (1), number 1, the attempt is punishable.

(3) Whoever, in the cases of paragraph (1)—

1. Causes the danger negligently, or

2. Acts negligently and causes the danger negligently,

will be punished by imprisonment not to exceed 2 years or by a fine.

SECTION 315B. DANGEROUS INTERFERENCE IN ROAD TRAFFIC

(1) Whoever impairs the safety of road traffic by—

1. Destroying, damaging or removing installations or vehicles,

2. Setting up obstacles, or

3. A comparable, similarly dangerous act of interference

and thereby endangers life or limb of another person or another person's property of considerable value, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) If the perpetrator acts under the prerequisites of section 315, paragraph (3), the sentence will be imprisonment from 1 up to 10 years; in less severe cases, the sentence will be imprisonment from 6 months up to 5 years.

(4) Whoever, in the cases of paragraph (1), causes the danger negligently, will be punished by imprisonment not exceeding 3 years or by a fine.

(5) Whoever, in the cases or paragraph (1), acts negligently and causes the danger through negligence, will be punished by imprisonment not to exceed 2 years or by a fine.

SECTION 315C. ENDANGERING ROAD TRAFFIC

(1) A person who, in road traffic—

1. Operates a vehicle although, as a result of—

a) The consumption of alcoholic beverages or other intoxicants, or

b) Mental or physical defects,

he is not in a position to drive the vehicle safely, or

2. Through gross and reckless violation of the traffic rules—

a) Disregards the right of way,

b) Wrongly overtakes another vehicle, or otherwise wrongly drives when passing another vehicle,

c) Wrongly drives at pedestrian crosswalks,

d) Drives with excessive speed at locations where vision is obstructed, at intersections, street mergers or railroad crossings,

e) Fails to stay on the right of the driving lane at locations where vision is obstructed,

f) Makes a U-turn, backs up or travels in the wrong direction or attempts this on freeways or expressways, or

g) Fails to give, at a sufficient distance, warning of his stopped or broken down vehicle, although it is required for the safety of traffic,

and thereby endangers life or limb of another or another's property of considerable value, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) In the cases of paragraph (1), number 1, the attempt is punishable.

(3) Whoever, in the cases of paragraph (1)—

1. Causes the danger negligently or

2. Acts negligently and causes the danger negligently,

will be punished by imprisonment up to 2 years or by a fine.

SECTION 315D. STREETCARS IN ROAD TRAFFIC

Insofar as streetcars participate in road traffic, only the provisions pertaining to protection of road traffic (secs 315b and 315c) are to be applied.

SECTION 316. DRUNKEN DRIVING IN ROAD TRAFFIC

(1) Whoever drives a vehicle in traffic (secs 315 through 315d) although he is not in a position to drive the vehicle safely due to the consumption of alcoholic beverages or other intoxicants, will be punished by imprisonment not exceeding 1 year or by a fine if the act is not punishable pursuant to section 315a or section 315c.

(2) Whoever commits the act negligently, will be punished pursuant to paragraph (1).

SECTION 316A. ROBBERLIKE ATTACK ON MOTORISTS

(1) Whoever, for the purpose of committing a robbery (sec 249 or 250), a theft by use of force (sec 252) or a robberlike extortion (sec 255), undertakes an attack on life or limb or the freedom of decision of the driver of a motor vehicle or a passenger, by making use of the special conditions of road traffic, will be punished by imprisonment for not less than 5 years.

(2) In less severe cases, the punishment will be imprisonment from 1 year up to 10 years.

(3) If the perpetrator, by the act, at least negligently causes the death of another person, punishment will be lifetime imprisonment or imprisonment for not less than 10 years.

SECTION 316B. INTERFERENCE WITH PUBLIC UTILITIES

(1) Whoever prevents or interferes with the operation of—

1. Enterprises or utilities serving to provide postal services to the public and public transportation,

2. An installation supplying the public with water, light, heat, or electricity or another enterprise vital for the supply of the population, or

3. A facility or installation serving public order or safety

by destroying, damaging, removing, altering, or rendering unserviceable an object serving the operation thereof or by abstracting the electrical power intended for the operation, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) In especially severe cases, the sentence will be imprisonment from 6 months up to 10 years. As a rule, an especially severe case exists if the perpetrator, by the act, impairs supply of the population with vital goods, in particular water, light, heat, or power.

SECTION 316C. ATTACK ON AIR AND MARITIME TRAFFIC

(1) Punished by imprisonment for not less than 5 years will be whoever—

1. Employs force or constrains the freedom of decision of a person or undertakes any other type of intrigues in order to take control of or to influence the operation of—

a. An in-flight civilian aircraft, or

b. A ship used in civilian maritime traffic.

2. In order to destroy or damage such aircraft or vessel or its onboard cargo, uses firearms or undertakes to cause an explosion or fire.

An aircraft which has already been boarded by members of the crew or by passengers, or the loading of which has already begun, or which has not yet been exited by members of the crew or by passengers according to schedule, or the scheduled unloading of which has not yet been completed, is equal to an in-flight aircraft.

(2) In less severe cases, punishment will be imprisonment from 1 year up to 10 years.

(3) If the perpetrator, by the act, causes at least negligently the death of another person, punishment will be imprisonment for life or imprisonment of at least 10 years.

(4) Whoever, in the preparation of a criminal act pursuant to paragraph (1), produces firearms, explosives, or other material or devices designed to cause an explosion or fire, or procures them for himself or for another, keeps them or hands them over to another person, will be punished by imprisonment from 6 months up to 5 years.

SECTION 317. INTERFERENCE WITH TELECOMMUNICATION SYSTEMS

(1) Whoever prevents or endangers the operation of a telecommunication system serving public needs by destroying, damaging, removing, altering or rendering unserviceable an object serving its operation or by abstracting the electrical power destined for the operation, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) Whoever commits the act negligently, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 318. DAMAGING IMPORTANT INSTALLATIONS

(1) Whoever damages or destroys water systems, locks, weirs, dikes, dams, or other hydraulic structures or bridges, ferries, ways, protecting weirs or equipment used in mining operations for drainage, for ventilation or for the descent and ascent of the workers and, by one of these acts, brings about danger to the life or the health of others, will be punished by imprisonment from 3 months to 5 years.

(2) The attempt is punishable.

(3) If the perpetrator causes a serious health injury to another person or a health injury to a large number of persons by the act, imprisonment from 1 year up to 10 years shall be imposed.

(4) If the perpetrator causes the death of another person by the act, punishment will be imprisonment for not less than 3 years.

(5) In less severe cases of paragraph (3), imprisonment from 6 months up to 5 years shall be imposed; in less severe cases of paragraph (4), imprisonment from 1 year up to 10 years shall be imposed.

(6) Whoever in the cases of paragraph (1)—

1. Causes the danger through negligence, or

2. Acts negligently and causes the danger through negligence

will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 319. ENDANGERMENT BY VIOLATION OF CONSTRUCTION RULES

(1) Whoever, in the planning, supervision or construction of a building or the demolition of a building, violates generally recognized standards of engineering and thereby endangers limb or life of another, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever, in exercising a profession or trade, in the planning, supervision or execution of a project to install technical installations in a building or to alter built-in installations of this type, violates the generally recognized standards of engineering and thereby endangers life and limb of another person, will be punished likewise.

(3) Whoever causes the danger negligently, will be punished by imprisonment not exceeding 3 years or by a fine.

(4) Whoever, in the cases of paragraphs (1) and (2), acts negligently and causes the danger through negligence, will be punished by imprisonment not exceeding 2 years or by a fine.

SECTION 320. ACTIVE REGRET

(1) The court may mitigate the punishment in the cases of section 316c, paragraph (1), at its discretion (sec 49, para (2)) if the perpetrator voluntarily abandons further execution of the act or if he otherwise prevents the effect.

(2) The court may mitigate the punishment provided for in the following provisions at its discretion (sec 49, para (2)) or it may refrain from punishment pursuant to these provisions if the perpetrator in the cases described in—

1. Section 315, paragraphs (1) and (3), number 1, or paragraph (5),

2. Section 315b, paragraph (1), (3), or (4), number 3, in conjunction with section 315, paragraph (3), number 1,

3. Section 318, paragraph (1) or (6), number 1,

4. Section 319, paragraphs (1) through (3),

averts the danger voluntarily before a considerable damage is caused.

(3) Pursuant to the following provisions will not be punished whoever—

1. In the cases described in—

a. Section 315, paragraph (6),

b. Section 315b, paragraph (5),

c. Section 318, paragraph (6), number 2

d. Section 319, paragraph (4),

averts the danger voluntarily before a considerable damage is caused, or

2. In the cases of section 31c, paragraph (4), voluntarily abandons further execution of the act or otherwise averts the danger.

(4) If the danger or the effect of the act is averted without any contribution by the perpetrator, his voluntary and earnest effort to reach this goal is sufficient.

SECTION 321. SUPERVISION OF CONDUCT

In the cases of sections 306 through 307, paragraphs (1) through (3), section 308, paragraphs (1) through (3), section 309, paragraphs (1) through (4), section 310, paragraph (1), and section 316c, paragraph (1), number 2, the court may order supervision of conduct (sec 68, para (1)).

SECTION 322. CONFISCATION

If a criminal act has been committed pursuant to sections 306 through 306c, 307 through 314, or 316c—

1. Objects which were produced by the act or were used or were designed for its commission or preparation, and

2. Objects used in a criminal act pursuant to sections 310 through 312, 314, or 316c

may be confiscated.

SECTION 323. (RESCINDED)

SECTION 323A. TOTAL INTOXICATION

(1) Whoever, intentionally or negligently, by consumption of alcoholic beverages or other intoxicants, puts himself in a state of intoxication, will be punished by imprisonment not exceeding 5 years or by a fine if he commits an illegal act in this state and cannot be punished for this act because, due to the intoxication, he was lacking criminal responsibility or because this cannot be precluded.

(2) The punishment may not be more severe than the punishment provided for the act committed in a state of intoxication.

(3) The act will be prosecuted only on request, with authorization, or on demand of punishment, if the offense of intoxication could only be prosecuted on request, with authorization, or on demand for punishment.

SECTION 323B. ENDANGERING A CURE FOR ALCOHOLICS OR DRUG ADDICTS

Whoever knowingly procures or supplies alcoholic beverages or any other intoxicants to a person who, on the basis of an official order or without his consent, has been committed to an institution for a cure for drug addicts and alcoholics, or whoever induces him to use such intoxicants without the permission of the head of the institution or his authorized representative, will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 323C. FAILURE TO RENDER ASSISTANCE

Whoever, in case of accident or common danger or emergency, fails to render aid although this is necessary and can be expected of him under the circumstances, especially if it is possible to do so without considerable danger to himself and without violation of other important duties, will be punished by imprisonment not exceeding 1 year or by a fine.

CHAPTER TWENTY-NINE
CRIMINAL ACTS AGAINST THE ENVIRONMENT

SECTION 324. WATER POLLUTION

(1) Whoever, without being authorized, contaminates water or otherwise changes its quality in a detrimental way, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

(3) If the perpetrator acts negligently punishment will be imprisonment not exceeding 3 years or a fine.

SECTION 324A. SOIL POLLUTION

(1) Whoever, in violation of duties under administrative law, discharges substances or lets them penetrate into the soil or sets them free, thereby contaminating the soil—

1. In a manner which is likely to injure the health of another person, to harm animals, plants or other objects of considerable value or a body of water or,

2. To a considerable extent

or otherwise changes it in a detrimental way, will be punished by imprisonment not exceeding 5 year or by a fine.

(2) The attempt is punishable.

(3) If the perpetrator acts negligently punishment will be imprisonment not exceeding 3 years or a fine.

SECTION 325. AIR POLLUTION

(1) Whoever, when operating an installation, especially a plant or machine, in violation of duties under administrative law, causes changes of the air which may have harmful effects on the health of other persons, animals, plants or other objects of considerable value outside the area of the installation, will be punished by imprisonment not exceeding 5 years or by a fine. The attempt is punishable.

(2) Whoever, when operating an installation, especially a plant or machine, in violation of duties under administrative law, discharges large amounts of pollutants into the air outside the installation premises will be punished by imprisonment not exceeding 5 years or a fine.

(3) Whoever, in violation of duties under administrative law, releases large amounts of pollutants into the air, will be punished by imprisonment of up to 3 years or by a fine, unless the act is punishable pursuant to paragraph (2).

(4) If, in the cases of paragraphs (1) and (2), the perpetrator acts negligently, punishment will be imprisonment not exceeding 3 years or a fine.

(5) If, in the cases of paragraph (3), the perpetrator acts negligently, punishment will be imprisonment up to 1 year or a fine.

(6) Pollutants within the meaning of paragraphs (2) and (3) are substances that are liable to—

1. Injure the health of others, harm animals, plants or other objects of considerable value, or

2. Cause a long-term contamination of a water body, the air or the soil or otherwise change them in a detrimental way.

(7) In conjunction with paragraph (4), paragraph (1) does not apply to motor vehicles, railway vehicles, aircraft or vessels.

SECTION 325A. CAUSING NOISE, VIBRATIONS, AND NONIONIZING RADIATION

(1) Whoever, when operating an installation, especially a plant or machine, in violation of duties under administrative law, causes noise which is liable to injure the health of others outside the area of the installation, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever, when operating an installation, especially a plant or machine, in violation of duties under administrative law serving the protection against noise, vibrations or nonIonizing radiation, endangers the health of another person, animals not belonging to him, or another person's objects of considerable value, will be punished by imprisonment not exceeding 5 years or by a fine.

(3) If the offender acts negligently the punishment will be in the cases described in—

1. Paragraph (1), imprisonment not exceeding 2 years or a fine,

2. Paragraph (2), imprisonment not exceeding 3 years or a fine.

(4) Paragraphs (1) through (3) do not apply to motor vehicles, railway vehicles, aircraft, or vessels.

SECTION 326. UNAUTHORIZED HANDLING OF WASTE

(1) Whoever, without being authorized, collects, transports, treats, recovers, stores, dumps, discharges, disposes of, brokers, procures, or otherwise manages waste that—

1. May contain or produce poisons or causative agents of dangerous diseases infectious to human beings or animals;

2. Is carcinogenic, reprotoxic, or causes changes of the genotype in human beings;

3. Is explosive, self-inflammable or not only slightly radioactive, or

4. Due to its type, nature, or quantity, is likely to—

a. Cause long-term contamination of water bodies, the air or the soil, or detrimental changes in any other way, or

b. Endanger a livestock of animals or plants,

outside an installation licensed for that purpose or by substantially deviating from a prescribed or permitted procedure, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever ships the following into, out of, or through the territorial scope of this law will also be punished:

1. Waste as defined in Article 2, number 1, of Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14.06.2006 on shipments of waste (OJ L 190 of 12.07.2006, p. 1, L 318 of 28.11.2008, p. 15), last amended by Regulation (EU) No. 413/2010 (OJ L 119 of 13.05.2010, p. 1), in large quantities if the shipment of waste is illegal within the meaning of Article 2, number 35, of Regulation (EC) no. 1013/2006, or

2. Other types of waste within the meaning of paragraph (1) in violation of a prohibition or without the necessary permit.

(3) Whoever, in violation of duties under administrative law, fails to deliver radioactive waste, will be punished by imprisonment not exceeding 3 years or by a fine.

(4) In the cases of paragraphs (1) and (2), the attempt is punishable.

(5) If the perpetrator acts negligently the punishment will be in the cases described in—

1. Paragraphs (1) and (2), imprisonment not exceeding 3 years or a fine,

2. Paragraph (3), imprisonment not exceeding 1 year or a fine.

(6) The act is not punishable if harmful effects on the environment, in particular on human beings, water bodies, the air, the soil, domestic animals or useful plants, are obviously precluded, because of the small quantity of waste.

SECTION 327. UNAUTHORIZED OPERATION OF PLANTS

(1) Whoever, without the required permit or contrary to an enforceable prohibition—

1. Operates a nuclear plant, owns an operational or shut-down nuclear plant or, in whole or in part, dismantles or substantially alters such a plant or its operation, or

2. Considerably alters a plant or the location of a plant where nuclear fuels are used

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Whoever operates—

1. An installation requiring a license or any other installation within the meaning of the Federal Emission Control Act (*Bundesimmissionsschutzgesetz)* whose operation has been prohibited for the protection from dangers,

2. A pipeline system requiring approval used to carry materials liable to pollute water as defined in the Law on Environmental Reviews (*Gesetz über die Umweltverträglichkeitsprüfung*), or

3. A waste disposal plant within the meaning of the Law on the Recycling of Materials (*Kreislaufwirtschaftsgesetz*)

without the permit or official approval of plan required pursuant to the respective law, or contrary to an enforceable prohibition based on the respective law, will be punished by imprisonment not exceeding 3 years or by a fine. Likewise will be punished whoever, without the necessary permit or official approval of a plan or in violation of an enforceable prohibition, operates a plant where hazardous substances or mixed waste is stored or used, or where dangerous activities are performed in another member State of the European Union in a way that is likely to injure life or limb of another individual outside the plant or to cause substantial damage to animals or plants, the water, air, or soil.

(3) If the offender acts negligently, the punishment shall be—

1. In the case of paragraph (1), imprisonment not exceeding 3 years or a fine,

2. In the cases of paragraph (2), imprisonment not exceeding 2 years or a fine.

SECTION 328. UNAUTHORIZED HANDLING OF RADIOACTIVE MATERIAL AND OTHER HAZARDOUS MATERIAL AND GOODS

(1) Whoever, produces, stores, transports, treats, processes or otherwise uses, imports or exports—

1. Nuclear fuel without the necessary permit or contrary to an enforceable prohibition, or

2. Without the necessary permit or contrary to an enforceable prohibition, other radioactive materials, which due to their type, nature or quantity, by ionizing radiation, are liable to cause the death or serious injuries to the health of another person, or substantial damage to animals or plants, the water, air, or soil,

will be punished by imprisonment not exceeding 5 years or by a fine.

(2) Likewise will be punished, whoever—

1. Fails to immediately deliver nuclear fuel, delivery of which is required pursuant to the Nuclear Energy Law (*Atomgesetz)*, or

2. Delivers or arranges the delivery of nuclear fuel or materials designated under paragraph (1), number 2, to unauthorized persons,

3. Causes a nuclear explosion, or

4. Induces another person to perform an act designated in number 3 or promotes such an act.

(3) Whoever, by violation of duties under administrative law—

1. Stores, treats, processes, or otherwise uses radioactive materials or hazardous substances and mixtures pursuant to Article 3 of the Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L353 of 31.12.2008, p. 1), last amended by Regulation (EC) No 790/2009 (OJ L 235 of 05.09.2009, p. 1), when operating an installation, especially a plant or technical facility, or

2. Transports, ships, packs or unpacks, loads or unloads, accepts or leaves to others hazardous goods

thereby causing harm to the health of any person, to animals or plants, the water, air, or soil, or objects of considerable value owned by others, will be punished by imprisonment not exceeding 5 years or by a fine.

(4) The attempt is punishable.

(5) If the offender acts negligently the punishment will be imprisonment not exceeding 3 years or a fine.

(6) Paragraphs (4) and (5) do not apply to acts pursuant to paragraph (2), number 4.

SECTION 329. ENDANGERING AREAS IN NEED OF PROTECTION

(1) Whoever, contrary to a statutory order issued on the basis of the Federal Emission Control Act, operates plants in an area where special protection is required against detrimental ecological effects by air pollution or noise, or where a strong increase of detrimental ecological effects due to air pollution is to be expected during period of atmospheric weather conditions lacking diffusion, will be punished by imprisonment not exceeding 3 years or by a fine. Likewise will be punished whoever operates plants within such an area contrary to an enforceable order issued on the basis of a statutory order designated in sentence 1. Sentences 1 and 2 do not apply for motor vehicles, railway vehicles, aircraft or vessels.

(2) Whoever, contrary to a legal provision issued for the protection of protected water and spring gathering areas or contrary to an enforceable prohibition—

1. Operates industrial installations for the treatment of substances liable to pollute water,

2. Operates pipeline systems to carry substances liable to pollute water or transports such substances, or

3. Within the scope of a commercial enterprise, removes gravel, sand, clay, or other solid material

will be punished by imprisonment not exceeding 3 years or by a fine. An industrial installation within the meaning of sentence 1 is also an installation within a publicly-owned enterprise.

(3) Whoever, contrary to a legal provision issued for the protection of a natural live preserve, or a territory temporarily declared a natural life preserve, or a national park, or contrary to an enforceable prohibition—

1. Removes or exploits mineral resources or other components of soil,

2. Makes excavations or piles up soil,

3. Creates, changes or removes water bodies,

4. Drains moorlands, swamps, marshes or other wetlands,

5. Clears woods,

6. Kills or catches animals belonging to a special protected species within the meaning of the Federal Law on Nature Conservation (*Bundesnaturschutzgesetz*) hunts them or, in whole or in part, destroys or removes their eggs,

7. Damages or removes plants belonging to a special protected species within the meaning of the Federal Law on Nature Conservation, or

8. Erects a building

thereby considerably impairing the specific purpose of protection, will be punished by imprisonment not exceeding 5 years or by a fine.

(4) Whoever, in violation of duties under administrative law, in a Natura 2000 area, causes substantial harm to a—

1. Habitat of a species listed in Article 4, paragraph 2, or Annex I of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20 of 26.01.2010, p. 7) or in Annex II of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, (OJ L 206 of 22.07.1992, p. 7), last amended by Directive 2006/105/EC (OJ L 363 of 20.12.2006, p. 368), or

2. Natural habitat type listed in Annex I of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, (OJ L 206 of 22.07.1992, p. 7), last amended by Directive 2006/105/EC (OJ L 363 of 20.12.2006, p. 368)

relevant to the preservation goals or the protectional purpose of this area, will be punished by imprisonment up to 5 years or by a fine.

(5) If the perpetrator acts negligently, the punishment shall be in the cases described in—

1. Paragraphs (1) and (2), imprisonment not exceeding 2 years or a fine,

2. Paragraph (3), imprisonment not exceeding 3 years or a fine.

(6) If, in the cases of paragraph (4), the perpetrator acts negligently, punishment will be imprisonment up to 3 years or a fine.

SECTION 330. ESPECIALLY SEVERE CRIMINAL ACT AGAINST THE ENVIRONMENT

(1) In especially severe cases, an intentional act pursuant to sections 324 through 329 will be punished by imprisonment from 6 months up to 10 years. An especially severe case usually exists if the perpetrator—

1. Impairs a water body, the soil or a protected area within the meaning of section 329, paragraph (3), in such a manner that the impairment cannot be removed at all, only with exceptional efforts or only after a longer period of time,

2. Endangers the public water supply,

3. Causes long-term damage to a stock of animals or plants of a strictly protected species, or

4. Acts for the purpose of gain.

(2) Whoever, by an intentional act pursuant to sections 324 through 329—

1. Exposes another person to the danger of death or serious health injury or exposes a large number of people to the danger of health injury, or

2. Causes the death of another person

will, in the cases of number 1, be punished by imprisonment from 1 year up to 10 years; in the cases of number 2, by imprisonment of at least 3 years, unless the act is punishable under section 330a, paragraphs (1) through (3).

(3) In less severe cases of paragraph (2), number 1, imprisonment from 6 months up to 5 years; in less severe cases of paragraph (2), number 2, imprisonment from 1 year up to 10 years shall be imposed.

SECTION 330A. SERIOUS ENDANGERMENT BY RELEASE OF POISONS

(1) Whoever spreads or releases substances which may contain or produce poison, thereby causing the danger of death or a serious injury of health of another person or the danger of health injury of a large number of people, will be punished by imprisonment from 1 year up to 10 years.

(2) If the perpetrator causes the death of another person by the act, punishment will be imprisonment of at least 3 years.

(3) In less severe cases of paragraph (1), imprisonment from 6 months up to 5 years; in less severe cases of paragraph (2), imprisonment from 1 year up to 10 years shall be imposed.

(4) Whoever, in the cases of paragraph (1), causes the danger negligently will be punished by imprisonment not exceeding 5 years or by a fine.

(5) Whoever, in the cases of paragraph (1), acts carelessly and causes the danger negligently will be punished by imprisonment not exceeding 3 years or by a fine.

SECTION 330B. ACTIVE REGRET

(1) The court may, in the cases of section 325a, paragraph (2), section 326, paragraphs (1) through (3), section 328, paragraphs (1) through (3), and section 330a, paragraphs (1), (3), and (4), mitigate the punishment at its discretion (sec 49, para 2), or refrain from imposing a punishment pursuant to these provisions if the perpetrator voluntarily averts the danger or eliminates the condition caused by him before considerable damage is caused. Under the same prerequisites, the perpetrator will not be punished pursuant to section 325a, paragraph (3), number 2, section 326, paragraph (5), section 328, paragraph (5), and section 330a, paragraph (5).

(2) If the danger is averted or the condition which had been created in violation of law is eliminated without contribution of the perpetrator, his voluntary and serious efforts to reach this goal are sufficient.

SECTION 330C. CONFISCATION

If a criminal act pursuant to sections 326, 327 paragraph (1) or (2), sections 328, 329, paragraph (1), (2), or (3), the latter also in conjunction with paragraph (5) or (4), the latter also in conjunction with paragraph (6), was committed, objects—

1. Produced by the act or used or designated for its commission or preparation, and

2. Relating to the act

may be confiscated. Section 74a shall be applied.

SECTION 330D. DEFINITION OF TERMS

(1) Within the meaning of this chapter—

1. A water body is: A surface water body, ground water and the sea;

2. A nuclear plant is: A plant for the purpose of producing or treating or processing or splitting nuclear fuel or for the reprocessing of already radiated nuclear fuel;

3. Hazardous goods are: Goods within the meaning of the Law on the Transportation of Hazardous Goods (*Gesetz über die Beförderung gefährlicher Güter*) and the statutory order based on this law and within the meaning of the legal provisions governing international transportation of hazardous goods within the respective scope of application;

4. A duty under administrative law is: A duty arising from –
a) A legal provision,
b) A court decision,
c) An enforceable administrative act,
d) An enforceable condition, or
e) A contract under public law, to the extent that the duty could have also been imposed by an administrative act,

and serving the protection from dangers or harmful effects to the environment, in particular to human beings, animals or plants, water bodies, the air or the soil;

5. An action without permit, official approval of plans or other licensing is: Also an action based on a permit, approval of plans or other licensing which was obtained by threat, bribery or collusion, or which has been obtained surreptitiously by incorrect or incomplete information.

(2) For the application of sections 311, 324a, 325, 326, 327, and 328, in cases where the act was committed in another member State of the European Union—

1. A duty under administrative law,

2. A required or authorized procedure,

3. An interdiction,

4. A prohibition,

5. An approved plant,

6. A permit, and

7. An official approval of plan

is equal to corresponding duties, procedures, interdictions, prohibitions, approved plants, permits, and official approvals of plan that are based on a legal provision of the other EU member State or on a sovereign act of the other EU member State. This applies only if legislation of the European Union or legislation of the European Atomic Energy Community is implemented or applied serving the protection from hazards or harmful effects on the environment in particular on human beings, animals, plants, the water, air, or soil.

CHAPTER THIRTY
CRIMINAL ACTS COMMITTED DURING PERFORMANCE OF OFFICIAL DUTY

SECTION 331. ACCEPTING ADVANTAGES

(1) A holder of public office or a person especially engaged in civil service who demands, allows himself to be promised or accepts an advantage for himself or a third person in return for performance of his official duty, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) A judge or arbitrator who demands, allows himself to be promised or accepts an advantage for himself or a third person in return for a judicial act taken or to be taken in the future, will be punished by imprisonment not exceeding 5 years or a fine. The attempt is punishable.

(3) The act is not punishable pursuant to paragraph (1) if the perpetrator allows himself to be promised or accepts an advantage not demanded by him, and the competent governmental agency within the scope of its powers either previously approved the acceptance, or the perpetrator immediately notified the agency of it and it approved the acceptance.

SECTION 332. VENALITY

(1) A holder of public office or a person especially engaged in civil service who demands, allows himself to be promised or accepts an advantage for himself or a third person in return for an official act performed or for future performance and thereby violates or would violate his official duties, will be punished by imprisonment from 6 months up to 5 years. In less severe cases, punishment will be imprisonment not exceeding 3 years or a fine. The attempt is punishable.

(2) A judge or arbitrator who demands, allows himself to be promised or accepts an advantage for himself or a third person in return for a judicial act taken or to be taken in the future and thereby violates or would violate his judicial duties, will be punished by imprisonment from 1 year up to 10 years. In less severe cases, punishment will be imprisonment from 6 months up to 5 years.

(3) If the perpetrator demands, allows himself to be promised, or accepts the advantage in return for a future performance, paragraphs (1) and (2) are already to be applied if he indicated his willingness to the other—

1. To violate his duties by the act, or

2. Insofar as the act is at his discretion, to have himself influenced by the advantage in exercising his discretion.

SECTION 333. GRANTING AN ADVANTAGE

(1) Whoever offers, promises, or grants an advantage to a holder of a public office, to a person especially engaged in civil service, or to a soldier of the Federal Armed Forces an advantage for himself or a third person in return for performance of his official duty, will be punished by imprisonment not exceeding 3 years or by a fine.

(2) Whoever offers, promises, or grants to a judge or arbitrator an advantage for himself or a third person in return for a judicial act taken or to be taken in the future, will be punished by imprisonment not exceeding 5 years or by a fine.

(3) The act is not punishable pursuant to paragraph (1) if the competent governmental agency within the scope of its powers either previously approved the acceptance of the advantage by the recipient or approves it on immediate notification by the recipient.

SECTION 334. BRIBERY

(1) Whoever offers, promises, or grants to a holder of a public office, to a person especially engaged in civil service, or to a soldier of the Federal Armed Forces an advantage for himself or a third person in return for an official act taken or to be taken in the future and thereby violates or would violate his official duties, will be punished by imprisonment from 3 months up to 5 years. In less severe cases, punishment will be imprisonment not exceeding 2 years or a fine.

(2) Whoever offers, promises, or grants to a judge or arbitrator an advantage for himself or a third person in return for a judicial act—

1. Taken, and thereby violated his judicial duties, or

2. To be taken in the future, and would thereby violate his judicial duties,

will be punished in the cases of number 1 by imprisonment from 3 months up to 5 years, in the cases of number 2 by imprisonment from 6 months up to 5 years. The attempt is punishable.

(3) If the perpetrator offers, promises, or grants the advantage in return for a future performance, paragraphs (1) and (2) are already applicable if he attempts to induce the other—

1. To violate his duties by the act, or

2. Insofar as the act is at his discretion, to have himself influenced by the advantage in exercising the discretion.

SECTION 335. ESPECIALLY SERIOUS CASES OF CORRUPTIBILITY AND BRIBERY

(1) In especially severe cases—

1. An act pursuant to—

a) Section 332, paragraph (1), sentence 1, also in conjunction with paragraph (3), and

b) Section 334, paragraph (1), sentence 1, and paragraph (2), both also in conjunction with paragraph (3),

will be punished by imprisonment from 1 year up to 10 years, and

2. An act pursuant to section 332, paragraph (2), also in conjunction with paragraph (3), will be punished by imprisonment of at least 2 years.

(2) An especially severe case within the meaning of paragraph (1) usually exists if the—

1. Act concerns an advantage of considerable scope,

2. Perpetrator continuously accepts advantages he demanded in return for future official acts to be performed by him, or

3. Perpetrator acts professionally or as a member of a gang which has combined for the continued commission of such acts.

SECTION 336. OMISSION OF AN OFFICIAL ACTION

The omission of an act is equal to the performance of an official act or a judicial act within the meaning of sections 331 through 335.

SECTION 337. REMUNERATION OF AN ARBITRATOR

The remuneration of an arbitrator is an advantage within the meaning of sections 331 through 335 only if the arbitrator demands, allows himself to be promised, or accepts it from a party behind the back of the other, or if a party, behind the back of the other party, offers, promises, or grants him such remuneration.

SECTION 338. FINES LEVIED ON PROPERTY AND EXTENDED FORFEITURE

(1) Section 73d shall be applied in the cases of section 332, also in conjunction with sections 336 and 337, if the perpetrator acts for gain or as a member of a gang which has combined for the continued commission of such acts.

(2) Sections 43a and 73d shall be applied in the cases of section 324, also in conjunction with sections 336 and 337, if the perpetrator acts as a member of a gang which has combined for the continued commission of such acts. Section 73d shall also be applied if the perpetrator acts professionally.

SECTION 339. PERVERSION OF JUSTICE

A judge, another holder of public office, or an arbitrator who, in conducting or deciding a legal matter, renders himself guilty of a willful misapplication of law in favor of or to the disadvantage of one party, will be punished by imprisonment from 1 year up to 5 years.

SECTION 340. INFLICTION OF BODILY INJURY DURING PERFORMANCE OF OFFICIAL DUTY

(1) A holder of public office who, in the exercise of office or in relation thereto, commits or has others commit bodily injury, will be punished by imprisonment from 3 months up to 5 years. In less severe cases the punishment will be imprisonment not exceeding 5 years or a fine.

(2) The attempt is punishable.

(3) Sections 224 through 229 apply accordingly for criminal acts pursuant to paragraph (1), sentence 1.

SECTION 341. (RESCINDED)

SECTION 342. (RESCINDED)

SECTION 343. EXTORTION OF STATEMENTS

(1) Whoever, as a holder of public office, appointed to participate in—

1. Criminal proceedings, in proceedings involving an order of official custody,

2. Administrative fining proceedings, or

3. Disciplinary proceedings or in proceedings before a disciplinary court or professional disciplinary court

physically mistreats another, otherwise uses force against him, threatens him with force, or mentally torments him in order to coerce him to testify or to make a statement or to omit this in the proceedings will be punished by imprisonment from 1 year up to 10 years.

(2) In less severe cases, the sentence will be imprisonment from 6 months up to 5 years.

SECTION 344. PROSECUTION OF INNOCENT PERSONS

(1) Whoever, as a holder of public office, is appointed to participate in criminal proceedings apart from the proceedings involving an order of a measure not relating to deprivation of liberty (sec 11, para (1), no. 8), intentionally or knowingly prosecutes an innocent person or a person who, pursuant to the law, may not be prosecuted, or effects such prosecution will be punished by imprisonment from 1 year up to 10 years, in less severe cases by imprisonment from 3 months up to 5 years. Sentence 1 applies accordingly to a holder of public office who is appointed to participate in proceedings involving an order of official custody.

(2) Whoever, as a holder of public office, is appointed to participate in proceedings involving a measure not relating to deprivation of liberty (sec 11, para (1), no. 8) intentionally or knowingly prosecutes a person who, pursuant to the law, may not be prosecuted, or effects such prosecution will be punished by imprisonment from 3 months up to 5 years. Sentence 1 applies accordingly to a holder of public office who is appointed to participate in—

1. Administrative fining proceedings, or

2. Disciplinary proceedings or in proceedings before a disciplinary court or before a professional disciplinary court. The attempt is punishable.

SECTION 345. EXECUTION AGAINST INNOCENT PERSONS

(1) If a holder of public office, who is appointed to participate in the execution of imprisonment, of a measure of reform and prevention involving deprivation of liberty, or of official custody, executes such sentence, measure or custody, although it must not be executed pursuant to the law, he will be punished by imprisonment from 1 year up to 10 years, in less severe cases by imprisonment from 3 months up to 5 years.

(2) If the perpetrator acts carelessly, the sentence will be imprisonment not exceeding 1 year or a fine.

(3) Whoever, apart from the cases of paragraph (1), as a holder of public office, appointed to participate in executing a sentence or a measure (sec 11, para 1, no. 8), executes a sentence or measure, although it may not be executed pursuant to the law, will be punished by imprisonment from 3 months up to 5 years. Likewise will be punished whoever, as a holder of public office, appointed to participate in the execution of—

1. Youth arrest,

2. An administrative fine or an incidental consequence pursuant to the laws concerning administrative offenses (*Ordnungswidrigkeitenrecht)*

3. A disciplinary fine or a disciplinary confinement, or

4. A disciplinary measure or a measure by a disciplinary court or professional disciplinary court,

executes such legal consequence, although it must not be executed pursuant to the law. The attempt is punishable.

SECTION 346. (RESCINDED)

SECTION 347. (RESCINDED)

SECTION 348. FALSE CERTIFICATION DURING PERFORMANCE OF OFFICIAL DUTY

(1) A holder of public office who, authorized to prepare public records, falsely certifies or enters in public registers, books or data files a legally significant fact within his competence, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The attempt is punishable.

SECTION 349. (RESCINDED)

SECTION 350. (RESCINDED)

SECTION 351. (RESCINDED)

SECTION 352. CHARGING EXCESSIVE FEES

(1) A holder of a public office, lawyer or other legal counsel, who collects fees or other costs for his personal benefit in respect to official acts, will be punished by imprisonment not exceeding 1 year or by a fine if he collects fees or costs which, to his knowledge, the payer does not owe at all or only in a lesser amount.

(2) The attempt is punishable.

SECTION 353. EXCESSIVE LEVYING OF TAXES; DISBURSEMENT DECEIT

(1) A holder of public office who has to collect taxes, fees, or other contributions for a public fund, will be punished by imprisonment from 3 months to 5 years if he collects contributions which, to his knowledge, the payer does not owe at all or only in a lesser amount and fails to deposit the illegal collections into the fund in whole or in part.

(2) Likewise punished will be whoever, as a holder of public office, illegally makes deductions from the recipient on the occasion of official disbursements in cash or kind and enters the disbursement in the account as having been made in full.

SECTION 353A. BREACH OF CONFIDENCE IN DIPLOMATIC SERVICE

(1) Whoever, in representing the Federal Republic of Germany in its relations with a foreign government, an alliance of states, or an intergovernmental institution contravenes official instructions or, with the intention to mislead the Federal Government, renders untrue reports of a factual kind, will be punished by imprisonment not exceeding 5 years or by a fine.

(2) The act will be prosecuted only on authorization of the Federal Government.

SECTION 353B. BREACH OF OFFICIAL SECRETS AND VIOLATION OF SPECIAL OBLIGATION TO MAINTAIN SECRECY

(1) Whoever, without being authorized, discloses a secret entrusted to him or otherwise having become known to him as a—

1. Holder of public office,

2. Person especially engaged in civil service, or

3. Person observing duties and responsibilities pursuant to the personnel-representation legislation

and thereby endangers important public interests, will be punished by imprisonment not exceeding 5 years or by a fine. If the perpetrator has negligently endangered important public interests by the act, he will be punished by imprisonment not exceeding 1 year or by a fine.

(2) Whoever, in cases other than those of paragraph (1), without being authorized, permits another to have access to or makes publicly known an object or information, despite the fact that he has been committed to keep them secret—

1. By decision of a legislative body of the Federal Republic or a *Land* or of one of its committees, or

2. If he has formally been obligated by another official agency and has been advised concerning the punishability of the violation of the obligation of confidentiality

and thereby endangering important public interests, will be punished by imprisonment not exceeding 3 years or by a fine.

(3) The attempt is punishable.

(3a) Aiding and abetting by a person designated in section 53, paragraph (1), sentence 1, number 5, of the Code of Criminal Procedure is not unlawful if such action is restricted to receiving, evaluating, or publishing of the secret or the object or the information, for which a special obligation to observe secrecy exists.

(4) The act will be prosecuted with authorization only. The authorization will be given by the—

1. President of the legislative body in the cases decribed in—

a) Paragraph (1), if the secret became known to the perpetrator during his activity in or for a legislative body of the Federal Republic or one of the *Länder*;

b) Paragraph (2), number 1,

2. Highest Federal Governmental agency in the cases decribed in—

a) Paragraph (1), if the secret became known to the perpetrator during his activity in or for a governmental agency or in any other official agency of the Federal Republic or for such agency,

b) Paragraph (2), number 2, if the perpetrator was obligated by an official agency of the Federal Republic;

3. Highest *Land* authority in all other cases of paragraphs (1) and (2), number 2.

SECTION 353C. (RESCINDED)

SECTION 353D. PROHIBITED INFORMATION CONCERNING COURT PROCEEDINGS

Whoever—

1. Contrary to a legal prohibition publicly furnishes information concerning court proceedings from which the public has been excluded or the contents of an official document concerning the case,

2. Without being authorized, contrary to a duty not to disclose certain facts imposed on him by a court on the basis of a law, discloses facts which came to his knowledge at a hearing in closed court or by an official document relating to the case, or

3. Communicates verbatim in public entirely or in essential parts a bill of indictment or any other official document of criminal proceedings, of administrative fining proceedings, or of disciplinary proceedings before they have been discussed in public proceedings or the proceedings have been terminated,

will be punished by imprisonment not exceeding 1 year or by a fine.

SECTION 354. (RESCINDED)

SECTION 355. VIOLATION OF TAX SECRECY

(1) Whoever, without being authorized, discloses or makes use of—

1. Circumstances of another which have become known to him as a holder of public office—

a. In administrative proceedings or in court proceedings concerning tax matters,

b. In criminal proceedings for tax offenses or in administrative fining proceedings for a tax violation,

c. For any other reason by notification from an internal revenue office or by the legally prescribed submission of a tax assessment or of a certificate concerning the determinations made regarding taxation, or

2. An industrial or business secret of another which became known to him as a holder of public office in proceedings designated in number 1

will be punished by imprisonment not exceeding 2 years or by a fine.

(2) Equal to holder of public office within the meaning of paragraph (1) are—

1. Persons especially engaged in civil service,

2. Officially appointed experts, and

3. Office holders of churches and other religious societies under public law.

(3) The act will be prosecuted only at the request of the official superior or the injured person. In the case of acts by officially appointed experts, the head of the governmental agency whose proceedings are affected, is entitled to file a request in addition to the injured party.

SECTION 356. BETRAYAL OF A CLIENT

(1) A lawyer or another legal counsel who, in matters entrusted to him in that capacity, serves both parties in the same legal matter with advice or counsel contrary to his duty, will be punished by imprisonment from 3 months up to 5 years.

(2) If he acts in agreement with the opponent to the detriment of his own client, imprisonment from 1 year up to 5 years will be imposed.

SECTION 357. INDUCING A SUBORDINATE TO COMMIT A CRIMINAL ACT

(1) A superior who induces or undertakes to induce his subordinates to commit an illegal act in the performance of duty or who allows such illegal act of his subordinates to be committed, is subject to punishment provided for the illegal act.

(2) The same provision applies to a holder of public office to whom supervision or control of the official functions of another holder of public office has been assigned, insofar as the illegal act committed by the latter holder of public office concerns the functions subject to his supervision or control.

SECTION 358. INCIDENTAL CONSEQUENCES

In addition to imprisonment of at least 6 months for a criminal act pursuant to sections 332, 335, 339, 340, 343, 344, 345, paragraphs (1) and (3), sections 348, 352 through 353b, paragraph (1), sections 355 and 357, the court may declare loss of right to hold public offices (sec 45, para (2)).

ENDNOTES

1. For applicability of sections 87, 89, 90a, 92a, 92b, 93 through 100, 101, 101a, 109d, 109e, 109f, 109g, 109i, 109k, 111, 113, 114, 120, 123, 124, 125, 125a, 132, 194, 333, and 334 to Contracting Parties to NATO, see Fourth Law Amending the German Criminal Law of 11 June 1957 (Federal Law Gazette (I 597).