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German Criminal Code

(Strafgesetzbuch – StGB)

Criminal Code in the version published on 13 November 1998 (Federal Law Gazette I, p. 3322), as last amended by Article 2 of the Act of 19 June 2019 (Federal Law Gazette I, p. 844)

General Part

Chapter 1
The criminal law

Title 1
Scope of application

Section 1
No punishment without law

An act can only incur a penalty if criminal liability was established by law before the act was committed.

Section 2
Temporal application

(1) The penalty and any incidental legal consequences are determined by the law which is in force at the time of the act.
(2) If the threatened penalty is amended during the commission of the act, the law which is in force at the time the act is completed is to be applied.
(3) If the law in force at the time of the completion of the act is amended before judgment, the most lenient law is to be applied.
(4) A law which was intended to be in force only for a determinate time is, as a rule, still to be applied to acts committed whilst it was in force even after it ceases to be in force. This does not apply to the extent that a law provides otherwise.
(5) Subsections (1) to (4) apply accordingly to the confiscation and rendering unusable of objects.
(6) Unless otherwise provided by law, decisions as to measures of reform and prevention are to be taken according to the law which is in force at the time of decision.

Section 3
Application to offences committed on German territory

German criminal law applies to offences committed on German territory.

Section 4
Application to offences committed on German ships and aircraft

Regardless of which law is applicable at the place where the offence was committed, German criminal law applies to offences committed on a ship or an aircraft which is entitled to fly the federal flag or to carry the national insignia of the Federal Republic of Germany.

Section 5
Offences committed abroad with specific domestic connection

Regardless of which law is applicable at the place where the offence was committed, German criminal law applies to the following offences committed abroad:

1. (repealed)

2. high treason (sections 81 to 83);

3. endangering the democratic state under the rule of law

   a) in the cases under section 89, section 90a (1) and section 90b if the offender is a German national whose livelihood is based within the territorial scope of this statute and

   b) in the cases under section 90 and section 90a (2);

4. treason and endangering external security (sections 94 to 100a);

5. offences against national defence

   a) in the cases under section 109 and sections 109e to 109g and

   b) in the cases under sections 109a, 109d and 109h if the offender is a German national whose livelihood is based within the territorial scope of this statute;

6. offences against personal liberty

   a) in the cases under sections 234a and 241a if the offence is directed against a person who is a German national and that person's domicile or habitual residence is in Germany at the time of the offence,

   b) in the cases under section 235 (2) no. 2 if the offence is directed against a person whose domicile or habitual residence is in Germany at the time of the offence and

   c) in the cases under section 237 if the offender is a German national at the time of the offence or if the offence is directed against a person whose domicile or habitual residence is in Germany at the time of the offence;

7. violation of the business or trade secrets of a business which is physically located within the territorial scope of this statute or of an enterprise which has its seat therein, or of an enterprise which has its seat abroad and which is dependent on an enterprise which has its seat within the territorial scope of this statute and which forms a corporate group with the latter;

8. offences against sexual self-determination in the cases under section 174 (1), (2) and (4), sections 176 to 178 and section 182 if the offender is a German national at the time of the offence;

9. offences against life

   a) in the cases under section 218 (2) sentence 2 no. 1 and (4) sentence 1 if the offender is a German national at the time of the offence and

b) in the other cases under section 218 if the offender is a German national at the time of the offence whose livelihood is based in Germany;

9a. offences against physical integrity

a) in the cases under section 226 (1) no. 1, in conjunction with (2), in the case of loss of the ability to procreate if the offender is a German national at the time of the offence and

b) in the cases under section 226a if the offender is a German national at the time of the offence or if the offence is directed against a person whose domicile or habitual residence is in Germany;

10. false testimony, perjury and false declarations in lieu of an oath (sections 153 to 156) in proceedings pending before a court or another German authority within the territorial scope of this statute which has the authority to administer oaths or declarations in lieu of an oath;

10a. sports betting fraud and manipulation of professional sports competitions (sections 265c and 265d) if the offence relates to a competition which takes place in Germany;

11. offences against the environment under sections 324, 326, 330 and 330a which are committed within Germany's exclusive economic zone insofar as international conventions on the protection of the sea allow for their prosecution as criminal offences;

11a. offences under section 328 (2) nos. 3 and 4, (4) and (5), also in conjunction with section 330, if the offender is a German national at the time of the offence;

12. acts committed by a German public official or a person entrusted with special public service functions whilst on official business or in connection with official duties;

13. acts committed by a foreigner in the capacity as a public official or a person entrusted with special public service functions;

14. acts committed against public officials, persons entrusted with special public service functions or soldiers in the Federal Armed Forces in the discharge of their duties or in connection with their duties;

15. offences under sections 331 to 337 committed in public office if

a) the offender is a German national at the time of the offence,

b) the offender is a European official whose authority has its seat in Germany at the time of the offence,

c) the offence is committed in relation to a public official, a person entrusted with special public service functions or a soldier in the Federal Armed Forces or

d) the offence is committed in relation to a European official or arbitrator who is a German national at the time of the offence, or a person deemed equal under section 335a who is a German national at the time of the offence;

16. taking of bribes by and giving of bribes to elected officials (section 108e) if

a) the offender is, at the time of the offence, a member of a German parliament or is a German national or

b) the offence is committed against a member of a German parliament or a person who is a German national at the time of the offence;

17. trafficking in human organs and tissue (section 18 of the Transplantation Act (*Transplantationsgesetz*)) if the offender is a German national at the time of the offence.

Section 6
Offences committed abroad against internationally protected legal interests

Regardless of which law is applicable at the place where they are committed, German criminal law further applies to the following offences committed abroad:

1. (repealed)

2. serious crimes involving nuclear energy, explosives and radiation under section 307 and section 308 (1) to (4), section 309 (2) and section 310;

3. attacks on air and maritime traffic (section 316c);

4. human trafficking (section 232);

5. unauthorised sale of narcotics;

6. dissemination of pornographic material under section 184a, section 184b (1) and (2) and section 184c (1) and (2), each also in conjunction with section 184d (1) sentence 1;

7. counterfeiting money and securities (sections 146, 151 and 152), counterfeiting guaranteed payment cards and blank Eurocheques (section 152b (1) to (4)) as well as the relevant preparatory acts (sections 149, 151, 152 and section 152b (5));

8. subsidy fraud (section 264);

9. offences which, based on an international agreement which is binding on the Federal Republic of Germany, are to be prosecuted even though they are committed abroad.

Section 7
Other offences committed abroad

(1) German criminal law applies to offences committed abroad against a German national if the act is a criminal offence at the place of its commission or if that place is not subject to any criminal law jurisdiction.
(2) German criminal law applies to other offences committed abroad if the act is a criminal offence at the place of its commission or if that place is not subject to any criminal law jurisdiction and if the offender

1. was a German national at the time of the offence or became a German national after its commission or

2. was a foreign national at the time of the offence, was found to be staying in Germany and, although extradition legislation would permit extradition for such an offence, is not extradited because no request for extradition is made within a reasonable period, is rejected or the extradition is not feasible.

Section 8
Time of offence

An offence is deemed to have been committed at the time when the offender or the participant acted or, in the case of an omission, was required to act. The time when the result occurs is irrelevant.

Section 9
Place of commission of offence

(1) An offence is deemed to have been committed at every place where the offender acted or, in the case of an omission, was required to act or in which the result, if it is an element of the offence, occurs or was to have occurred as envisaged by the offender.
(2) Acts of participation are not only committed at the place where the offence was committed, but also at every place where the participant acted or, in the case of an omission, was required to act or where, as envisaged by the participant, the offence was to have been committed. If the participant to an offence committed abroad acted within the territory of the Federal Republic of Germany, German criminal law applies to the participation even if the act is not a criminal offence according to the law of the place of its commission.

Section 10
Special provisions for juveniles and young adults

This statute only applies to offences committed by juveniles and young adults to the extent that the Youth Courts Act (*Jugendgerichtsgesetz*) does not provide otherwise.

Title 2
Terminology applied

Section 11
Definitions

(1) For the purposes of this statute,

1. ‘relative’ means any member of the following group of people:

   a) relations by blood or marriage in the direct line, the spouse, life partner, fiancé or fiancée, siblings, the spouses or life partners of siblings, siblings of spouses or life partners, even if the marriage or life partnership upon which the relationship is based no longer exists, or if the relationship by blood or marriage has ceased to exist,

   b) foster parents and foster children;

2. ‘public official’ means any person who, under German law,

   a) is a civil servant or judge,

   b) carries out other public official functions or

   c) has otherwise been appointed to serve with an authority or other agency or has been commissioned to perform public administrative services, regardless of the organisational form chosen to perform such duties;

2a. ‘European official’ means any person who

   a) is a member of the European Commission, the European Central Bank, the European Court of Auditors or any court of the European Union,

   b) is a civil servant or other member of staff of the European Union or of an institution established by European Union law or

   c) is tasked with carrying out the tasks of the European Union or the tasks of an institution established by European Union law;

3. ‘judge’ means any person who, under German law, is either a professional or an honorary judge;

4. ‘person entrusted with special public service functions’ means any person who, without being a public official, is employed by or acts for

   a) an authority or other agency which performs public administrative services or

b) an association or other alliance, business or enterprise which carries out public administrative services for an authority or other agency

and who is formally required by law to perform the duties of those functions in a conscientious manner;

5. ‘unlawful act’ means only an act which fulfils all the elements of a criminal provision;

6. ‘undertaking’ of an offence means both the attempt and its completion;

7. ‘authority’ also means a court;

8. ‘measure’ means any measure of reform and prevention, confiscation and rendering unusable;

9. ‘a consideration’ means any pecuniary benefit given in exchange for someone’s acts.

(2) An act is also deemed intentional for the purposes of this statute if it fulfils the statutory elements of an offence which requires intention in relation to the offender’s conduct but permits negligence to suffice as to a specific result caused thereby.
(3) Audio and visual media, data carriers, images and other depictions are equivalent to material in those provisions which refer to this subsection.

Section 12
Serious and less serious criminal offences

(1) Serious criminal offences (*Verbrechen*) are unlawful acts which are punishable by a minimum term of imprisonment of one year.
(2) Less serious criminal offences (*Vergehen*) are unlawful acts which are punishable by a lesser minimum term of imprisonment or by a fine.
(3) Aggravations or mitigations provided for under the provisions of the General Part or in respect of especially serious or less serious cases are not subject to such classification.

Chapter 2
The act

Title 1
Basic principles of criminal liability

Section 13
Commission by omission

(1) Whoever fails to prevent a result which is an element of a criminal provision is only subject to criminal liability under this law if they are legally responsible for ensuring that the result does not occur and if the omission is equivalent to the realisation of the statutory elements of the offence through a positive act.
(2) The penalty may be mitigated pursuant to section 49 (1).

Section 14
Acting as agent

(1) If a person acts

1. in the capacity as an organ which is authorised to represent a legal entity or as a member of such an organ,

2. in the capacity as a partner who is authorised to represent a partnership with legal capacity or

3. in the capacity as statutory representative of another,

then any law under which special personal attributes, relationships or circumstances (special personal characteristics) give rise to criminal liability also applies to the representative if these characteristics do not exist in the person of that representative but in the entity, partnership or person represented.
(2) If a person, whether by the owner of a business or somebody delegated by the owner to do so,

1. has been commissioned to manage the business in whole or in part or
2. has been expressly commissioned to perform autonomous duties which are incumbent upon the owner of the business

and that person acts on the basis of this commission, then any law under which special personal characteristics give rise to criminal liability also applies to the person commissioned if these characteristics do not exist in the person commissioned but in the person of the owner of the business. An enterprise is equal to a business within the meaning of sentence 1. If a person acts on the basis of a similar commission for an agency performing public administrative services, sentence 1 applies analogously.
(3) Subsections (1) and (2) apply even if the act of commission intended to create the power of representation or the agency is void.

Section 15
Intentional and negligent conduct

Unless the law expressly provides for criminal liability for negligent conduct, only intentional conduct attracts criminal liability.

Section 16
Mistake of fact

(1) Whoever, at the time of the commission of the offence, is unaware of a fact which is a statutory element of the offence is deemed to lack intention. Any criminal liability for negligence remains unaffected.
(2) Whoever, at the time of commission of the offence, mistakenly assumes the existence of facts which would satisfy the elements of a more lenient provision may only be punished for the intentional commission of the offence under the more lenient provision.

Section 17
Mistake of law

If, at the time of the commission of the offence, the offender lacks the awareness of acting unlawfully, then the offender is deemed to have acted without guilt if the mistake was unavoidable. If the mistake was avoidable, the penalty may be mitigated pursuant to section 49 (1).

Section 18
More severe penalty based on specific results of offence

If the law imposes a more severe penalty based on a specific result of an offence, the offender or the participant is only liable to the more severe penalty in the event of being charged with at least negligence with respect to that result.

Section 19
Lack of criminal responsibility of children

Whoever is under 14 years of age at the time of the commission of the offence is deemed to act without guilt.

Section 20
Lack of criminal responsibility due to mental illness

Whoever, at the time of the commission of the offence, is incapable of appreciating the unlawfulness of their actions or of acting in accordance with any such appreciation due to a

pathological mental disorder, a profound disturbance of consciousness, mental deficiency or any other serious mental abnormality is deemed to act without guilt.

Section 21
Diminished responsibility

If the offender's capacity to appreciate the unlawfulness of the act or to act in accordance with any such appreciation is substantially diminished at the time of the commission of the offence due to one of the reasons indicated in section 20, the penalty may be mitigated pursuant to section 49 (1).

Title 2
Attempt

Section 22
Definition

Whoever takes a direct and immediate step towards the realisation of the offence as envisaged by them attempts to commit an offence.

Section 23
Criminal liability for attempt

(1) An attempt to commit a serious criminal offence always entails criminal liability, an attempt to commit a less serious criminal offence only if expressly so provided by law.
(2) A more lenient penalty may be imposed for an attempt than for a completed offence (section 49 (1)).
(3) If the offender fails to realise, due to gross ignorance, that the attempt could under no circumstances have led to the completion of the offence on account of the nature of its object or the means by which it was to be committed, the court may dispense with imposing a penalty or may mitigate the penalty at its discretion (section 49 (2)).

Section 24
Abandonment of attempt

(1) Whoever voluntarily abandons the further commission of the offence or prevents its completion incurs no penalty for attempt. If the offence is not completed without any action on the part of the person abandoning the attempt, no penalty is incurred if that person has made voluntary and earnest efforts to prevent the completion of the offence.
(2) If more than one person participates in the offence, then whoever voluntarily prevents its completion incurs no penalty for attempt. That person's voluntary and earnest efforts to prevent the completion of the offence suffice for exemption from punishment if the offence is not completed without any action on that person's part or it is committed independently of that person's earlier contribution to the offence.

Title 3
Commission and participation

Section 25
Commission of offence

(1) Whoever commits an offence themselves or through another incurs a penalty as an offender.
(2) If several persons commit an offence jointly, each person incurs a penalty as an offender (joint offenders).

Section 26
Abetting

Whoever intentionally induces another to intentionally commit an unlawful act (abettor) incurs the same penalty as an offender.

Section 27
Aiding

(1) Whoever intentionally assists another in the intentional commission of an unlawful act incurs a penalty as an aider.
(2) The penalty for the aider is determined in accordance with the penalty threatened for the offender. It must be mitigated pursuant to section 49 (1).

Section 28
Special personal characteristics

(1) If special personal characteristics (section 14 (1)) which establish the offender's criminal liability are absent in the participant (abettor or aider), the penalty must be mitigated pursuant to section 49 (1).
(2) If the law provides that special personal characteristics aggravate, mitigate or rule out punishment, then this applies only to that party to the offence (offender or participant) in whom they are present.

Section 29
Separate criminal liability of parties to offence

Each party to an offence incurs a penalty according to the measure of their own guilt and irrespective of the guilt of another.

Section 30
Attempted participation

(1) Whoever attempts to induce or incite another to commit a serious criminal offence incurs a penalty under the terms of the provisions governing attempted serious criminal offences. The penalty must, however, be mitigated pursuant to section 49 (1). Section 23 (3) applies accordingly.
(2) Whoever declares their willingness or accepts the offer of another or agrees with another to commit or incite to the commission of a serious criminal offence incurs the same penalty.

Section 31
Withdrawal from attempted participation

(1) Whoever voluntarily

1. abandons the attempt to induce another to commit a serious criminal offence and averts any existing danger that the other may commit the offence,

2. abandons their plans after previously having declared their willingness to commit a serious criminal offence or

3. prevents the commission of an offence after previously having agreed to commit a serious criminal offence or having accepted the offer of another to commit a serious criminal offence

does not incur the penalty under section 30.
(2) If the offence is not completed without any action on the offender's part or if it is committed independently of his or her previous conduct, the offender's voluntary and earnest efforts to prevent the completion of the offence suffices for exemption from punishment.

Title 4
Self-defence and necessity

Section 32
Self-defence

(1) Whoever commits an act in self-defence does not act unlawfully.
(2) 'Self-defence' means any defensive action which is necessary to avert a present unlawful attack on oneself or another.

Section 33
Excessive self-defence

Whoever exceeds the limits of self-defence due to confusion, fear or fright incurs no penalty.

Section 34
Necessity as justification

Whoever, when faced with a present danger to life, limb, liberty, honour, property or another legal interest which cannot otherwise be averted, commits an act to avert the danger from themselves or another is not deemed to act unlawfully if, upon weighing the conflicting interests, in particular the affected legal interests and the degree of the danger facing them, the protected interest substantially outweighs the one interfered with. However, this only applies to the extent that the act committed is an adequate means to avert the danger.

Section 35
Necessity as defence

(1) Whoever, when faced with a present danger to life, limb or liberty which cannot otherwise be averted, commits an unlawful act to avert the danger from themselves, a relative or close person acts without guilt. This does not apply to the extent that the offender could be expected, under the circumstances, to accept the danger, in particular because said offender caused the danger or because of the existence of a special legal relationship; the penalty may, however, be mitigated pursuant to section 49 (1), unless the offender was required to accept the danger on account of the existence of a special legal relationship.
(2) If, at the time of the commission of the act, a person mistakenly assumes that circumstances exist which would provide an excuse under the terms of subsection (1), that person incurs a penalty only if the mistake was avoidable. The penalty must be mitigated pursuant to section 49 (1).

Title 5
Immunity for statements and reports made in parliament

Section 36
Parliamentary statements

Members of the Bundestag, the Federal Convention or of a legislative body of one of the *Länder* may at no time be held liable outside of the body on account of a vote they cast or a statement they made within one of those bodies or one of their committees. This does not apply to defamatory insults.

Section 37
Parliamentary reports

Truthful reports about the public sessions of the bodies referred to in section 36 or their committees do not give rise to any liability.

Chapter 3
Legal consequences

Title 1
Penalties

Imprisonment

Section 38
Term of imprisonment

(1) Imprisonment is for a fixed term, unless the law provides for imprisonment for life.
(2) The maximum term of a fixed-term period of imprisonment is 15 years, the minimum term one month.

Section 39
Determination of term of imprisonment

Imprisonment for a term of less than one year is determined in full weeks and months, imprisonment for a longer term in full months and years.

Fine

Section 40
Daily rates

(1) A fine is imposed in daily rates. The minimum fine is five and, unless otherwise provided by law, the maximum is 360 full daily rates.
(2) The court determines the amount of the daily rate having regard to the offender's personal and financial circumstances. In doing so, it typically bases its assessment on the average net income which the offender earns or could earn in one day. A daily rate is set at no less than 1 euro and no more than 30,000 euros.
(3) The offender's income and assets and other relevant assessment factors may be estimated when setting the amount of the daily rate.
(4) The number and amount of the daily rates are indicated in the decision.

Section 41
Fine in addition to imprisonment

If the offence has led to the actual or attempted enrichment of the offender, then, in addition to a term of imprisonment, a fine which would not otherwise have been provided for, or only in the alternative, may be imposed if, having regard to the offender's personal and financial circumstances, this appears appropriate.

Section 42
Relaxation of payment conditions

If a convicted person cannot, due to personal or financial circumstances, be expected to pay the full fine immediately, the court is to allow a certain time for payment or is to allow payment in specified instalments. The court may order that the privilege of paying the fine in specified instalments is to be revoked if the convicted person fails to pay an instalment in time. The court is also, as a rule, to relax payment conditions if otherwise the offender's restitution of any damage caused by the offence would be substantially impaired; the court may require the convicted person to present proof of restitution having been made.

Section 43
Default imprisonment

If a fine cannot be recovered, it is to be substituted by imprisonment. One daily rate corresponds to one day of imprisonment. The minimum term of default imprisonment for failure to pay a fine is one day.

Additional penalty

Section 44
Driving ban

(1) If a person has been sentenced to imprisonment or to a fine for an offence, the court may ban the offender from driving all classes of motor vehicle or a specific class of motor vehicle on public roads for a period of between one month and six months. Imposition of a driving ban may in particular be considered in cases where the offence was not committed whilst or in connection with the driving of a motor vehicle or in breach of the duties of a driver of a motor vehicle if this appears necessary either to have an influence on the offender or to defend the legal order or if it means imposition of a sentence of imprisonment or its enforcement can thereby be avoided. A driving ban is typically to be imposed in the cases of conviction pursuant to section 315c (1) no. 1 (a), (3) or section 316 if disqualification from driving pursuant to section 69 is not ordered.

(2) The driving ban takes effect when the driving licence is confiscated upon the judgment having become final, but no later than one month after the judgment has become final. National and international driving licences issued by a German authority are to be confiscated for the duration of the ban. This also applies if the driving licence was issued by an authority of a Member State of the European Union or another Contracting Party to the Agreement on the European Economic Area if the holder is ordinarily resident in Germany. The driving ban is endorsed on any other foreign driving licences.
(3) If a driving licence is to be confiscated or the driving ban to be endorsed on a foreign driving licence, the duration of the ban is calculated from the day on which those conditions are met. Any period during which the offender was detained in an institution by official order does not count towards the duration.
(4) If the court has imposed several driving bans against an offender which have become final, the durations of these bans are to be calculated consecutively. The duration of the ban which has become final first runs first. If more than one driving ban becomes final at the same time, the duration of the ban which was imposed first runs first, and if the driving bans were ordered at the same time, the time of the earlier offence is decisive.

Incidental legal consequences

Section 45
Loss of ability to hold public office, to vote and be elected

(1) Whoever is sentenced to imprisonment for a term of at least one year for a serious criminal offence loses the ability, for a period of five years, to hold public office and be elected in public elections.
(2) The court may deprive a convicted person of the abilities referred to in subsection (1) for a period of between two and five years insofar as the law expressly so provides.
(3) At the same time that the loss of ability to hold public office takes effect, the convicted person also loses any corresponding legal positions and rights which he or she may be holding at that time.
(4) At the same time that the loss of ability to be elected in public elections takes effect, the convicted person loses any corresponding legal positions and rights which they may be holding, unless otherwise provided by law.
(5) The court may deprive the convicted person of the right to vote on public matters for a period of between two and five years insofar as the law expressly so provides.

Section 45a
Entry into effect and calculation of duration

(1) The loss of the abilities, legal status and rights takes effect upon the judgment becoming final.
(2) The duration of the loss of an ability or of a right is calculated from the day on which the sentence of imprisonment has been served, barred by the statute of limitations or remitted. If a measure of reform and prevention involving deprivation of liberty was ordered in addition to imprisonment, the duration begins on the day on which that measure was disposed of.
(3) If enforcement of the sentence, the remainder of the sentence or the measure was suspended on probation or by an act of clemency, any probation period is included when calculating the duration if, after its expiry, the sentence or the remainder thereof was remitted or the measure was disposed of.

Section 45b
Reinstatement of abilities and rights

(1) The court may reinstate any abilities and rights lost pursuant to section 45 (1) and (2) and any rights lost pursuant to section 45 (5) if

1. the loss has been in effect for half of its intended duration and

2. it is to be expected that the convicted person will commit no further intentional offences.

(2) Any period during which the convicted person was detained in an institution by official order is not taken into account.

Title 2
Fixing of penalties

Section 46
General principles

(1) The offender's guilt provides the basis on which the penalty is fixed. The effects which the penalty can be expected to have on the offender's future life in society are to be taken into account.
(2) When fixing the penalty the court weighs the circumstances which speak in favour of and those which speak against the offender. The following, in particular, may be taken into consideration:

the offender's motives and objectives, in particular including racist, xenophobic or other motives evidencing contempt for humanity,

the attitude reflected in the offence and the degree of force of will involved in its commission,

the degree of the breach of the offender's duties,

the modus operandi and the consequences caused by the offence to the extent that the offender is to blame for them,

the offender's prior history, personal and financial circumstances, and

the offender's conduct in the period following the offence, in particular efforts to make restitution for the harm caused as well as efforts at reconciliation with the victim.

(3) No consideration may be given to circumstances which are already statutory elements of the offence.

Section 46a
Victim–offender mediation, restitution

If the offender,

1. in an effort to achieve reconciliation with the victim (victim–offender mediation), has made restitution for the act committed in full or to a substantial degree or has earnestly striven to make restitution or

2. in a case in which making restitution for the harm caused required substantial personal effort or personal sacrifice on the offender's part, has made compensation to the victim in full or to a substantial degree,

then the court may mitigate the penalty pursuant to section 49 (1) or, if the sentence to be imposed on the offender is no more than imprisonment for a term not exceeding one year or a fine not exceeding 360 daily rates, it may dispense with imposing a penalty.

Section 46b
Contributing to discovery or prevention of serious crimes

(1) If the perpetrator of a criminal offence which is punishable by an increased minimum sentence of imprisonment or imprisonment for life

1. has, by voluntarily disclosing what he or she knows, contributed substantially to the detection of one of the offences under section 100a (2) of the Code of Criminal Procedure (*Strafprozeßordnung*) which is related to his or her own offence or

2. voluntarily discloses what he or she knows to an authority in time to prevent the completion of one of the offences under section 100a (2) of the Code of Criminal Procedure which is related to his or her own offence, the planning of which the perpetrator is aware of,

then the court may mitigate the penalty pursuant to section 49 (1), whereby the threatened penalty of imprisonment for life is substituted by imprisonment for a term of at least 10 years. In order to determine whether an offence is punishable by an increased minimum sentence of imprisonment, only aggravations for especially serious cases are taken into account but no mitigations. If the offender participated in the act, the contribution made to its detection in accordance with sentence 1 no. 1 must exceed the offender's own contribution to the act. Instead of reducing the sentence, the court may dispense with imposing a penalty if the threatened penalty for the offence is only a determinate sentence of imprisonment and the offender would not be sentenced to a term exceeding three years.
(2) In arriving at its decision under subsection (1), the court must have particular regard to:

1. the nature and scope of the disclosed facts and their relevance to the discovery or prevention of the offence, the time of disclosure, the degree of support which the offender gave to the prosecuting authorities and the severity of the offence to which the offender's disclosure relates as well as

2. the relationship between the circumstances referred to in no. 1 and the severity of the offence committed and the degree of the offender's guilt.

(3) Mitigation of penalty or dispensing with imposing a penalty in accordance with subsection (1) is ruled out if the offender does not disclose what he or she knows until after main proceedings have been opened against him or her (section 207 of the Code of Criminal Procedure).

Section 47
Short terms of imprisonment only as exception

(1) The court only imposes a term of imprisonment of less than six months where special circumstances exist, either in the offence or the offender's character, which strictly require the imposition of imprisonment either to have an influence on the offender or to defend the legal order.
(2) If the law does not provide for a fine and a term of imprisonment of six months or more is ruled out, the court imposes a fine, unless the imposition of a sentence of imprisonment is strictly required under subsection (1). If the law provides for an increased minimum sentence of imprisonment, the minimum fine in the cases under sentence 1 is determined by the minimum sentence of imprisonment; 30 daily rates correspond to one month's imprisonment.

Section 48
(repealed)

Section 49
Special mitigating circumstances established by law

(1) If the law requires or allows for mitigation under this provision, the following applies:

1. Imprisonment for life is substituted by imprisonment for a term of at least three years.

2. In cases of imprisonment for a fixed term, no more than three quarters of the statutory maximum sentence may be imposed. In case of a fine, the same applies to the maximum number of daily rates.

3. Any increased minimum statutory term of imprisonment is reduced as follows:

in the case of a minimum term of ten or five years, to two years,

in the case of a minimum term of three or two years, to six months,

in the case of a minimum term of one year, to three months,

in all other cases to the statutory minimum.

(2) If the court may, at its discretion, mitigate the penalty pursuant to a law which refers to this provision, it may reduce the penalty to the statutory minimum or impose a fine instead of imprisonment.

Section 50
Multiple mitigating circumstances

A circumstance which, alone or together with other circumstances, justifies the assumption that the case is a less serious one and which simultaneously represents a special statutory mitigating circumstance as referred to in section 49 may only be considered once.

Section 51
Crediting of time spent in remand detention

(1) If a convicted person was remanded in detention or otherwise subjected to deprivation of liberty because of an offence which is or was the subject of the proceedings, that time is credited against a determinate sentence of imprisonment or a fine. The court may, however, order that such time not be credited in whole or in part if, in the light of the convicted person's conduct after the offence, this is not justified.
(2) If, in subsequent proceedings, another sentence is substituted for a previously imposed sentence after that sentence becomes final, time served under or credited against the earlier sentence is credited against the new sentence.
(3) If a convicted person has already been sentenced abroad for the same offence, the foreign sentence, to the extent it has been enforced, is credited against the new sentence. Subsection (1) applies accordingly to any other deprivation of liberty suffered abroad.
(4) When crediting a fine against time spent in remand detention or vice versa, one day in which a person is deprived of their liberty corresponds to one daily rate. Where a foreign penalty or deprivation of liberty is to be credited, the court determines the rate at its discretion.
(5) When crediting a period of provisional disqualification from driving (section 111a of the Code of Criminal Procedure) against a driving ban in accordance with section 44, subsection (1) applies accordingly. To that end, the taking into custody, securing or seizure of the driving licence (section 94 of the Code of Criminal Procedure) is equivalent to provisional disqualification from driving.

Title 3
Fixing of penalties for multiple offences

Section 52
Several offences committed by one act

(1) If the same act violates more than one criminal statute or the same criminal statute more than once, only one penalty is imposed.
(2) If more than one criminal statute has been violated, the penalty is determined according to the statute which provides for the most severe penalty. The penalty may not be more lenient than the other applicable statutes permit.
(3) Under the conditions of section 41, the court may separately impose a fine in addition to a sentence of imprisonment.
(4) Additional penalties, incidental legal consequences and measures (section 11 (1) no. 8) must or may be imposed if one of the applicable statutes so requires or allows.

Section 53
Joinder of offences

(1) If a person has committed several offences, all of which are to be adjudicated at the same time, and that person has incurred more than one sentence of imprisonment or more than one fine, an aggregate sentence is imposed.
(2) If a sentence of imprisonment concurs with a fine, an aggregate sentence is imposed. The court may, however, impose a separate fine; where a fine is to be imposed in such cases for more than one offence, an aggregate fine is imposed.
(3) Section 52 (3) and (4) applies analogously.

Section 54
Fixing of aggregate sentence

(1) If one of the penalties for the individual offences is imprisonment for life, an aggregate sentence of imprisonment for life is imposed. In all other cases, the aggregate sentence is fixed by increasing the most severe individual sentence incurred and, in the case of different kinds of penalties, by increasing the sentence which is most severe in nature. The person of the offender and the individual offences are considered in their totality.
(2) The aggregate sentence may not exceed the sum of the individual sentences. In the case of determinate sentences of imprisonment, it may not exceed 15 years and in the case of a fine 720 daily rates.
(3) Where an aggregate sentence is to be formed of a sentence of imprisonment and a fine, one daily rate corresponds to one day's imprisonment for the purpose of calculating the sum of the individual sentences.

Section 55
Subsequent fixing of aggregate sentence

(1) Sections 53 and 54 also apply to a convicted person who has had a sentence imposed by final judgment if that person is convicted of another offence committed prior to the earlier conviction before the original sentence is enforced, barred by the statute of limitations or remitted. The earlier conviction is the judgment in those proceedings in which the underlying findings of fact were last examined.
(2) Additional penalties, incidental legal consequences and measures (section 11 (1) no. 8) imposed in the earlier decision are to be upheld to the extent they have not been rendered moot by the new decision.

Title 4
Suspension of sentence on probation

Section 56
Suspension of sentence

(1) If a person is sentenced to imprisonment for a term not exceeding one year, the court suspends enforcement of the sentence on probation if there are reasons to believe that the sentence itself will serve as sufficient warning to the convicted person and that the convicted person will commit no further offences even without having to serve the sentence. The court is, in particular, to take account of the convicted person's character and previous history, the circumstances of the offence committed, the convicted person's circumstances and conduct in the period following the offence, and the effects to be expected from the suspension.
(2) Under the conditions of subsection (1), the court may also suspend enforcement of a sentence of imprisonment not exceeding two years on probation if, after an overall evaluation of the offence and of the convicted person's character, special circumstances are deemed to exist. In making its decision, the court is, in particular, to take account of any efforts on the convicted person's part to make restitution for the harm caused by the offence.
(3) Enforcement of imprisonment for a term of at least six months is not suspended if the defence of the legal order so requires.

(4) The suspension may not be limited to a part of the sentence. It is not ruled out by any crediting of time spent in remand detention or another form of deprivation of liberty.

Section 56a
Probation period

(1) The court determines the length of the period of probation. It may not exceed five years nor be less than two years.
(2) The probation period commences when the decision to suspend the sentence becomes final. It may subsequently be reduced to the minimum or extended to the maximum before its expiry.

Section 56b
Conditions

(1) The court may impose conditions on the convicted person which serve to make amends for the harm caused. No unreasonable demands may be made of the convicted person.
(2) The court may require the convicted person

1. to make every effort at restitution for the harm caused by the offence,
2. to pay a sum of money to a charitable organisation if this appears appropriate in the light of the offence and the offender's character,
3. to perform community service or
4. to pay a sum of money to the Treasury.

The court is, as a rule, only to impose a condition as required by sentence 1 nos. 2 to 4 if fulfilment of the condition poses no obstacle to the making of restitution for the harm caused.
(3) If the convicted person offers to render appropriate services for the purpose of making amends for the harm caused, the court typically preliminarily dispenses with imposing conditions if it is to be expected that the offer will be fulfilled.

Section 56c
Directions

(1) The court is to issue directions to the convicted person for the duration of the probation period if that person requires such assistance in order to abstain from committing further offences. No unreasonable demands may be made in respect of the convicted person's lifestyle.
(2) The court may, in particular, direct the convicted person

1. to follow instructions relating to residence, education, work or leisure, or to getting his or her financial affairs in order,
2. to report at certain times to the court or another authority,
3. not to make contact or associate with the injured party or specific persons or persons from a specific group who may induce the convicted person to commit further offences, nor to employ, train or accommodate them,
4. not to possess, carry or entrust to another for safekeeping certain objects which could induce the convicted person to commit further offences or
5. to meet maintenance obligations.

(3) A direction

1. to undergo medical treatment of an invasive nature or addiction treatment or
2. to take up residence in a suitable home or suitable institution

may only be given with the convicted person's consent.

(4) If the convicted person gives assurances relating to his or her future conduct, the court typically provisionally refrains from issuing directions if it is to be expected that the assurances will be fulfilled.

Section 56d
Probation services

(1) The court places the convicted person under the supervision and guidance of a probation officer for all or part of the probation period if this appears necessary to prevent the convicted person from committing criminal offences.
(2) The court typically issues directions as required by subsection (1) if it suspends a sentence of imprisonment of more than nine months and the convicted person is under 27 years of age.
(3) The probation officer offers assistance and support to the convicted person. In consultation with the court, the probation officer monitors compliance with conditions and directions as well as with offers and assurances made and, at intervals determined by the court, reports on the convicted person's conduct. The probation officer must inform the court about serious or persistent breaches of the conditions, directions, offers or assurances.
(4) The probation officer is appointed by the court. The court may give the probation officer instructions in regard to the functions under subsection (3).
(5) The functions of a probation officer are exercised as a main occupation or in an honorary capacity.

Section 56e
Subsequent decisions

The court may also make, modify or set aside decisions pursuant to sections 56b to 56d at a later date.

Section 56f
Revocation of suspension of sentence

(1) The court is to revoke the suspension of the sentence on probation if the convicted person

1. commits an offence during the probation period, and thereby shows that the expectation on which the suspension was based has not been fulfilled,

2. grossly or persistently violates directions or persistently evades the probation officer's supervision and guidance, thereby giving reason to fear that the convicted person will re-offend or

3. grossly or persistently violates conditions.

Sentence 1 no. 1 applies accordingly if the offence was committed in the period between the decision to suspend the sentence being taken and its becoming final or, in the case of subsequent fixing of an aggregate sentence, in the period between the decision to suspend the sentence in a judgment which was included in the aggregate sentence and the date on which the aggregate sentence became final.
(2) The court is, however, not to revoke the suspension of the sentence on probation if it is of the opinion that it would suffice

1. to impose further conditions or issue further directions, in particular to place the convicted person under the supervision and guidance of a probation officer or

2. to extend the probation period or period of supervision of conduct.

In the cases under no. 2, the probation period may not be extended for more than one half of the originally imposed period.
(3) The convicted person is not to be compensated for services rendered in the fulfilment of conditions, offers, directions or assurances. If the suspension on probation is revoked, the court may, however, credit services towards the sentence which the convicted person has

rendered to comply with conditions issued under section 56b (2) sentence 1 nos. 2 to 4 or related offers in accordance with section 56b (3).

Section 56g
Remission of sentence

(1) If the court does not revoke the suspension of the sentence, the sentence is to be remitted after expiry of the probation period. Section 56f (3) sentence 1 applies.
(2) The court may revoke such remission if the convicted person has been sentenced to imprisonment for a term of at least six months for an intentional offence committed during the probation period. The revocation may only be declared within one year after expiry of the probation period and six months after the new judgment has become final. Section 56f (1) sentence 2 and (3) applies accordingly.

Section 57
Suspension of remainder of determinate sentence of imprisonment

(1) The court suspends enforcement of the remainder of a determinate sentence of imprisonment on probation if

1. two thirds of the imposed sentence, but at least two months, have been served,
2. this can be justified having regard to public security interests and
3. the convicted person consents thereto.

The decision is, in particular, to take into consideration the convicted person's character, previous history, the circumstances of the offence, the importance of the legal interest endangered should the convicted person re-offend, the convicted person's life circumstances and conduct whilst serving the sentence imposed, and the effects which such suspension are expected to have on the convicted person.
(2) After one half of a determinate sentence of imprisonment has been served, but at least six months, the court may suspend enforcement of the remainder of the sentence on probation if

1. the convicted person is serving a first sentence of imprisonment and the term does not exceed two years or
2. following an overall evaluation of the offence, the convicted person's character and development whilst serving the sentence imposed, special circumstances are deemed to exist

and the remaining conditions of subsection (1) are met.
(3) Sections 56a to 56g apply accordingly; the probation period, even if subsequently reduced, may not be less than the remainder of the sentence. If the convicted person has served at least one year of the sentence imposed before the remainder is suspended on probation, the court typically places the convicted person under the supervision and guidance of a probation officer for all or a part of the probation period.
(4) Where a sentence of imprisonment has been reduced by crediting time served, it is deemed to have been served within the meaning of subsections (1) to (3).
(5) Sections 56f and 56g apply accordingly. The court is also to revoke the suspension of the sentence if, in the period between the conviction and the decision to suspend the sentence, the convicted person has committed an offence which could for factual reasons not be taken into account by the court when deciding to suspend the sentence and which would have led to a denial of such suspension had it been known at that time; the judgment in those proceedings in which the underlying findings of fact were last examined counts as the conviction.
(6) The court may dispense with suspending enforcement of the remainder of a determinate sentence of imprisonment on probation if the convicted person makes insufficient or false

statements concerning the whereabouts of objects which are subject to confiscation of the proceeds of crime.
(7) The court may fix a term not exceeding six months before the expiry of which an application by the convicted person for the suspension of sentence on probation is inadmissible.

Section 57a
Suspension of remainder of imprisonment for life

(1) The court suspends enforcement of the remainder of a sentence of imprisonment for life on probation where

1. 15 years of the sentence have been served,
2. the particular severity of the convicted person's guilt does not require its continued enforcement and
3. the conditions of section 57 (1) sentence 1 nos. 2 and 3 are met.

Section 57 (1) sentence 2 and (6) applies accordingly.
(2) Any deprivation of liberty suffered by the convicted person as a result of the offence qualifies as a sentence served within the meaning of subsection (1) sentence 1 no. 1.
(3) The probation period is five years. Section 56a (2) sentence 1, sections 56b to 56g and section 57 (3) sentence 2 and (5) sentence 2 apply accordingly.
(4) The court may fix terms not exceeding two years before the expiry of which an application by the convicted person for the suspension of sentence on probation is inadmissible.

Section 57b
Suspension of remainder of aggregate sentence of imprisonment for life

If imprisonment for life has been imposed as an aggregate sentence, the individual offences are assessed collectively when determining the particular severity of guilt (section 57a (1) sentence 1 no. 2).

Section 58
Aggregate sentence and suspension of sentence

(1) If a person has committed more than one offence, the length of the aggregate sentence is decisive as regards the suspension of sentence in accordance with section 56.
(2) If, in the cases under section 55 (1), enforcement of the previous sentence of imprisonment has been suspended on probation or the remainder of the sentence has been suspended on probation, and if the aggregate sentence has also been suspended on probation, the minimum new probation period is reduced by any probation period which has already expired, but not to less than one year. If the aggregate sentence is not suspended on probation, section 56f (3) applies accordingly.

Title 5
Warning with sentence reserved, dispensing with penalty

Section 59
Conditions for warning with sentence reserved

(1) If a person has incurred a fine not exceeding 180 daily rates, the court may issue a warning at the time of conviction, may indicate the sentence and reserve imposition of the penalty if

1. it is to be expected that the offender will commit no further criminal offences even without the immediate imposition of the sentence,

2. following an overall evaluation of the offence and the offender's character, special circumstances are deemed to exist which render the imposition of a sentence unnecessary and

3. the defence of the legal order does not demand the imposition of a penalty.

Section 56 (1) sentence 2 applies accordingly.
(2) Ancillary orders for confiscation or rendering unusable may be imposed in addition to a warning. A warning with sentence reserved is not permissible in addition to measures of reform and prevention.

Section 59a
Probation period, conditions and directions

(1) The court determines the length of the probation period. It may not exceed two years nor be less than one year.
(2) The court may direct the convicted person

1. to make efforts at reconciliation with the victim or make restitution by other means for the harm caused by the offence,

2. to meet maintenance obligations,

3. to pay a sum of money to a charitable organisation or the Treasury,

4. to undergo outpatient medical treatment or outpatient addiction treatment,

5. to participate in a social training course or

6. to participate in road traffic training.

No unreasonable demands may be made in respect of the convicted person's lifestyle; the conditions and directions referred to in sentence 1 nos. 3 to 6 may also not be disproportionate to the significance of the offence committed. Section 56c (3) and (4) and section 56e apply accordingly.

Section 59b
Imposition of sentence reserved

(1) Section 56f applies accordingly to the imposition of a sentence reserved.
(2) If no reserved sentence is imposed, then upon expiry of the probation period the court declares that the warning is sufficient.

Section 59c
Aggregate sentence and warning with sentence reserved

(1) If a person has committed more than one offence, then, in the case of a warning with sentence reserved, sections 53 to 55 apply accordingly when determining the penalty.
(2) If the convicted person is subsequently sentenced to a fine or to a term of imprisonment for an offence committed before the warning was given, the provisions for fixing an aggregate sentence (sections 53 to 55 and 58) apply, with the proviso that the sentence reserved is, for the purposes of section 55, deemed equivalent to a penalty imposed.

Section 60
Dispensing with penalty

The court dispenses with imposing a penalty if the consequences of the offence suffered by the offender are so serious that the imposition of penalties would clearly be inappropriate. This does not apply if the offender has incurred a penalty of imprisonment for a term of more than one year for the offence.

Title 6
Measures of reform and prevention

Section 61
Overview

Measures of reform and prevention are

1. placement in a psychiatric hospital,
2. placement in an addiction treatment facility,
3. placement in preventive detention,
4. supervision of conduct,
5. disqualification from driving,
6. disqualification from exercising a profession.

Section 62
Principle of proportionality

A measure of reform and prevention may not be ordered if it is disproportionate to the severity of the offence committed by or expected to be committed by the offender and to the degree of danger which the offender poses to society.

Measures involving deprivation of liberty

Section 63
Placement in psychiatric hospital

If a person has committed an unlawful act in a state of criminal irresponsibility (section 20) or in a state of diminished responsibility (section 21), the court orders that person's placement in a psychiatric hospital if the overall evaluation of the offender and of the offence reveals that, due to the offender's condition, he or she represents a danger to the general public on account of it being expected that he or she will in future commit serious unlawful acts which will result in the victims of the offence suffering or being exposed to the considerable danger of severe emotional trauma or physical injury or which will cause serious economic damage. If the unlawful act which has been committed is not an offence as referred to in sentence 1, the court only makes such an order if special circumstances justify the expectation that, due to the offender's condition, the offender will in future commit such serious offences.

Section 64
Placement in addiction treatment facility

If a person has an addiction to alcoholic drinks or other intoxicating substances and is convicted of an unlawful act which was committed in a state of intoxication or as a result of an addiction, or the person is not convicted only on account of the finding of a lack criminal responsibility or the lack of criminal responsibility cannot be ruled out on the evidence, the court is, as a rule, to order placement in an addiction treatment facility if there is a danger that said person will in future commit serious unlawful acts as a consequence of this proclivity. Such order is only to be made if there is a sufficiently reasonable prospect that the person can be cured within the period referred to in section 67d (1) sentence 1 or 3 by way of placement in an addiction treatment facility or that a relapse into addictive behaviour and the commission of serious unlawful acts caused by that proclivity can be prevented for a substantial period of time.

Section 65
(repealed)

Section 66
Placement in preventive detention

(1) The court orders preventive detention in addition to a sentence of imprisonment where

1. a person has been sentenced for an intentional offence to imprisonment for a term of at least two years and

a) the offence was directed against life, physical integrity, personal liberty or sexual self-determination,

b) the offence falls under Chapter 1, 7, 20 or 28 of the Special Part or under the Code of Crimes against International Law (*Völkerstrafgesetzbuch*) or the Narcotics Act (*Betäubungsmittelgesetz*) and the maximum possible sentence is imprisonment for a term of at least 10 years or

c) the conditions of section 145a are met insofar as an order was made for the supervision of conduct on the basis of an offence under letter (a) or (b), or if the conditions of section 323a are met insofar as the offence committed in a state of intoxication was one of those referred to in letter (a) or (b),

2. the offender has twice been sentenced to imprisonment for a term of at least one year in each case for offences under no. 1 which were committed prior to the present offence,

3. the offender has served at least a two-year sentence of imprisonment or was under a measure of reform and prevention involving deprivation of liberty for at least one of these offences prior to the present offence and

4. an overall evaluation of the offender and the offences committed leads to the conclusion that, on account of the propensity to commit serious crimes, in particular of a type which results in severe emotional trauma or physical injury to the victim, the offender poses a danger to the general public at the time of the conviction.

Section 12 (3) applies accordingly in respect of the classification of an offence under sentence 1 no. 1 (b) and section 68 (1) sentence 4 for the termination of the supervision of conduct referred to in sentence 1 no. 1 (c).
(2) If a person has committed three offences of the type referred to in subsection (1) sentence 1 no. 1, for each of which a penalty of imprisonment for a term of at least one year was incurred and a sentence of imprisonment for a term of at least three years for one or more of these offences was imposed, the court may, under the conditions of subsection (1) sentence 1 no. 4, order preventive detention in addition to the sentence of imprisonment even if there was no prior deprivation of liberty (subsection (1) sentence 1 nos. 2 and 3).
(3) If a person is sentenced to imprisonment for a term of at least two years for a serious criminal offence which fulfils the conditions of subsection (1) sentence 1 no. 1 (a) or (b), or for an offence under section 89a (1) to (3), section 89c (1) to (3), section 129a (5) sentence 1 alternative 1, also in conjunction with section 129b (1), sections 174 to 174c, section 176, section 177 (2) no. 1, (3) and (6), sections 180, 182 and 224 and section 225 (1) or (2), or for an intentional offence under section 323a, insofar as the offence committed in a state of intoxication is one of the aforementioned unlawful acts, then the court may order preventive detention in addition to the sentence if the offender was already sentenced to imprisonment for a term of at least three years for one or more such offences committed prior to the new offence and if the conditions of subsection (1) sentence 1 nos. 3 and 4 are met. If a person has committed two of the offences referred to in sentence 1 for each of which they have incurred a penalty of imprisonment for a term of at least two years, and if they are sentenced to imprisonment for a term of at least three years for one or more such offences, then the court may, under the conditions of subsection (1) sentence 1 no. 4, order preventive detention in addition to the sentence even in the absence of a prior conviction or deprivation of liberty (subsection (1) sentence 1 nos. 2 and 3). Subsections (1) and (2) remain unaffected.
(4) Within the meaning of subsection (1) sentence 1 no. 2, an aggregate sentence is deemed to be a single sentence. If time spent in remand detention or other deprivation of liberty is

credited against a sentence of imprisonment, it is deemed to be time served for the purposes of subsection (1) sentence 1 no. 3. A previous offence is not considered if more than five years have elapsed between its commission and the subsequent offence; in the case of offences against sexual self-determination, this period is 15 years. Any period during which the offender was detained in an institution by official order is not included is not taken into account. An offence adjudicated outside the territorial scope of this statute is deemed to be equivalent to an offence adjudicated within the territorial scope of this statute if it would represent an offence of the type referred to in subsection (1) sentence 1 no. 1, under German criminal law or, in the cases under subsection (3), it would be a criminal offence of the type referred to in subsection (3) sentence 1.

Section 66a
Preventive detention reserved

(1) The court may reserve preventive detention if

1. a person is convicted of one of the offences under section 66 (3) sentence 1,

2. the remaining conditions of section 66 (3) are met, unless that provision makes reference to section 66 (1) sentence 1 no. 4 and

3. it is not possible to determine with sufficient certainty but it is probable that the conditions of section 66 (1) sentence 1 no. 4 are met.

(2) The court may also reserve preventive detention if

1. a person is sentenced to imprisonment for a term of at least five years for one or more serious criminal offences directed against life, physical integrity, personal liberty, sexual self-determination, under Chapter 28 or under sections 250 and 251, also in conjunction with section 252 or 255,

2. the conditions of section 66b are not met and

3. it is possible to determine with sufficient certainty or it is at least probable that the conditions of section 66 (1) sentence 1 no. 4 are met.

(3) The court of first instance may take a decision in regard to preventive detention reserved in accordance with subsections (1) or (2) no later than the date on which the prisoner will have served the sentence imposed in full; this also applies where enforcement of the remainder of the sentence was suspended on probation and the remainder of the sentence is being enforced. The court makes the order if an overall evaluation of the convicted person, the offence or offences committed and also the convicted person’s development up until the date of the decision indicate that there is less likelihood of any further serious offences being committed by that person resulting in severe emotional trauma or physical injury to the victims.

Section 66b
Subsequent order of preventive detention

If placement in a psychiatric hospital has been declared disposed of in accordance with section 67d (6) on account of the condition leading to a lack of criminal responsibility or diminished responsibility on which the order was based not existing at the time of that declaration, the court may subsequently order preventive detention where

1. placement in a psychiatric hospital in accordance with section 63 was ordered based on more than one of the offences set forth in section 66 (3) sentence 1 or if the person had either previously been sentenced to imprisonment for a term of at least three years or was placed in a psychiatric hospital on account of having committed one or more such offences prior to the offence leading to placement in a psychiatric hospital in accordance with section 63 and

2. an overall evaluation of the person concerned, the offences committed and that person's development up until the date of the decision indicate that it is highly likely that said person will commit serious crimes resulting in severe emotional trauma or physical injury to the victims.

This also applies where, following a period of placement pursuant to section 63, a sentence of imprisonment imposed at the same time is to be enforced in full or in part.

Section 66c
Organisation of preventive detention and preceding imprisonment

(1) Preventive detention is carried out in institutions which

1. offer a level of support to the detainee, based on a comprehensive treatment examination and of a regularly updated detention plan,

   a) which is individualised and intensive and suitable for incentivising and fostering the detainee's cooperation, in particular psychiatric, psychotherapeutic or socio-therapeutic treatment which is tailored to the detainee's needs, insofar as standardised offers do not appear promising and

   b) whose aim is to minimise the detainee's dangerousness to the public to a degree that the measure may be suspended on probation or declared disposed of as soon as possible,

2. guarantee that the placement

   a) burdens the detainee as little as possible, matches the requirements of support under no. 1 and, security interests notwithstanding, is adapted to general conditions of life and

   b) is carried out in special buildings or wings which are separate from the prison regime, unless the treatment under no. 1 exceptionally requires otherwise and

3. in order to achieve the goal referred to in no. 1 (b),

   a) offer measures for an open detention regime and preparations for the detainee's release, unless compelling objections exist, in particular specific factors indicating a danger that the detainee might abscond or use the measures to commit serious offences and

   b) provide follow-up support, in close cooperation with state or private providers, once the detainee is at liberty.

(2) If the court has, in its judgment, ordered preventive detention (section 66), either reserved (section 66a (3)) or subsequently (section 66b), or has reserved such an order for preventive detention (section 66a (1) and (2)), the offender must, during the term of imprisonment imposed, be offered support within the meaning of subsection (1) no. 1, in particular socio-therapeutic treatment, with the aim of making enforcement of the placement (section 67c (1) sentence 1 no. 1) or its order (section 66a (3)) unnecessary wherever possible.

Section 67
Sequence of enforcement

(1) If placement in an institution in accordance with section 63 and section 64 is ordered in addition to a sentence of imprisonment, the measure is enforced before the sentence of imprisonment.
(2) However, the court is to order that all or part of the sentence be enforced before the measure if the purpose of the measure will thereby be more readily achieved. When making the order for placement in an addiction treatment facility in addition to imprisonment for a

term of at least three years, the court is, as a rule, to order that a part of the sentence be enforced before the measure. That part of the sentence is to be calculated in a manner which enables a decision under subsection (5) sentence 1 to be made after the part of the sentence and the measure have been enforced. The court is, as a rule, to further determine that the sentence is to be enforced before the measure if the convicted person is required to leave the country and may be deported from the Federal Republic of Germany and if there is reason to believe that the convicted person's residence within the territorial scope of this statute will be terminated whilst serving the sentence or immediately after the sentence has been served.
(3) The court may subsequently make, modify or set aside an order under subsection (2) sentence 1 or 2 if that is deemed appropriate based on the convicted person's circumstances. The court may also subsequently make the order under subsection (2) sentence 4. If it has made an order in accordance with subsection (2) sentence 4, it then revokes such order if there is reason to believe that the convicted person's residence within the territorial scope of this statute will no longer be terminated whilst serving the sentence or immediately after the sentence has been served.
(4) If the measure is enforced in full or in part before the sentence, the period of enforcement is credited against the sentence up to a maximum of two thirds of the penalty.
(5) If the measure is enforced before the sentence or a remainder of the sentence, the court may suspend enforcement of the remainder of the sentence under the conditions of section 57 (1) sentences 1 and 2 if half of the sentence has been served. If the remainder of the sentence is not suspended, enforcement of the measure continues; the court may, however, order that the sentence be served if this is deemed appropriate based on the convicted person's circumstances.
(6) The court orders that any crediting in accordance with subsection (4) is also to be made in regard to a sentence arising from a separate criminal conviction if its enforcement would mean undue hardship for the convicted person. In particular, consideration is to be given, when taking this decision, to the relationship between the length of the previous deprivation of liberty and the length of the newly imposed sentence, the therapeutic success achieved thus far and the concrete danger the person poses, as well as that person's conduct during enforcement. A measure is, as a rule, not credited against a sentence of the separate criminal conviction where the underlying offence has been committed after the measure was ordered. Subsection (5) sentence 2 applies accordingly.

Section 67a
Transfer to another measure

(1) If placement in a psychiatric hospital or in an addiction treatment facility has been ordered, the court may subsequently transfer the detained person to the other of those two measures if this would improve the chances of that person's successful social rehabilitation.
(2) Under the conditions of subsection (1), the court may also subsequently transfer a person subject to preventive detention to one of the measures referred to in subsection (1). Subsequent transfer may be ordered where the conditions of subsection (1) are met and the transfer is indicated for the purposes of carrying out medical or addiction treatment, including for those persons who are still serving a sentence of imprisonment and whose preventive detention has been ordered or reserved.
(3) The court may modify or set aside a decision taken in accordance with subsections (1) and (2) if it subsequently transpires that this would improve the chances of the detained person's successful social rehabilitation. Further, the court may set aside a decision made in accordance with subsection (2) if it subsequently transpires that enforcing the measures referred to in subsection (1) will not lead to the desired result.
(4) The length of the terms of placement and the periods of review are determined in accordance with the provisions which apply to an order made in a judgment. In the case under subsection (2) sentence 2, up until enforcement of the measure commences the court

is required to carry out a review at regular intervals of no more than one year as to whether the conditions for a decision under subsection (3) sentence 2 are met.

Section 67b
Simultaneous suspension of measure

(1) If the court orders placement in a psychiatric hospital or in an addiction treatment facility, it simultaneously suspends the measure on probation if special circumstances justify the expectation that the purpose of the measure can also be achieved in this manner. Suspension is not to be ordered if the person still has to serve a sentence of imprisonment which was imposed at the same time as the measure and which has not been suspended on probation.
(2) The order for suspension automatically leads to the supervision of conduct.

Section 67c
Deferred start of placement

(1) If a sentence of imprisonment is served prior to a period of placement which has been ordered for the same offence or offences and the review required before the end of the term of imprisonment shows that

1. the purpose of the placement no longer requires its enforcement or

2. placement in preventive detention would be disproportionate because the offender was not, in an overall evaluation of the course of the sentence of imprisonment served, offered sufficient support within the meaning of section 66c (2) in conjunction with section 66c (1) no. 1,

then the court suspends the measure on probation; the order for suspension automatically leads to the supervision of conduct. The review under sentence 1 no. 1 is not required if the preventive detention was ordered by the court of first instance less than one year before the end of the term of imprisonment.
(2) If enforcement of placement has not yet commenced within three years after its order becomes final and if a case under subsection (1) or section 67b does not exist, then the measure may only be enforced if the court so orders. Any period during which the offender was detained in an institution by official order is not taken into account. The court orders enforcement if the purpose of the placement still so requires. If the purpose of the placement has not been achieved yet special circumstances justify the expectation that it may be achieved by suspending enforcement, the court suspends the measure on probation; the order for suspension automatically leads to the supervision of conduct. If the purpose of the measure has been achieved, the court declares it disposed of.

Section 67d
Period of placement

(1) The period of placement in an addiction treatment facility may not exceed two years. This term runs from the start of the measure. Where a measure involving deprivation of liberty is enforced before a sentence of imprisonment imposed at the same time, the maximum period is extended by the length of the term of imprisonment to the extent that the time spent in the measure is credited against the sentence.
(2) If no maximum period is provided for or the period has not yet expired, the court suspends the remainder of the measure on probation if it is to be expected that the person subject to the measure will no longer commit any serious unlawful acts if released. The same applies if, after enforcement of preventive detention has begun, the court finds that its further enforcement would be disproportionate because the preventive detainee was not offered sufficient support within the meaning of section 66c (1) no. 1 before a period set by the court not exceeding six months has elapsed; if sufficient support was not offered, the court is to set such a period when reviewing the suspension of enforcement, indicating the measures to be offered. Suspension under sentence 1 or 2 automatically leads to the supervision of conduct.

(3) Where 10 years of preventive detention have been served, the court declares the measure disposed of if there is no danger that the preventive detainee will commit further serious crimes resulting in severe emotional trauma or physical injury to the victims. The order for release automatically leads to the supervision of conduct.
(4) Once the maximum period has expired, the detainee is released. The measure is thus disposed of. Release from detention automatically leads to the supervision of conduct.
(5) The court declares the placement in an addiction treatment facility disposed of where the conditions of section 64 sentence 2 are no longer met. Release from an addiction treatment facility automatically leads to the supervision of conduct.
(6) If, after enforcement of placement in a psychiatric hospital has begun, the court finds that the conditions for the measure no longer exist or that continued enforcement of the measure would be disproportionate, the court declares it disposed of. Once the measure has lasted six years, its continuation is generally no longer proportionate, unless there is a danger that the detainee will, as a result of his or her condition, commit serious unlawful acts causing severe emotional trauma or physical injury to the victims or exposing the victims to the danger of severe physical injury or emotional trauma. After 10 years of detention, subsection (3) sentence 1 applies accordingly. Release from the measure automatically leads to the supervision of conduct. The court waives supervision of conduct if it is to be expected that the person will no longer commit any further offences even without the measure.

Section 67e
Review

(1) The court may at any time review whether further enforcement of the measure involving deprivation of liberty is to be suspended on probation or the measure is to be declared disposed of. It is required to perform the review within specified periods.
(2) The specified periods are
six months in the case of placement in an addiction treatment facility,
one year in the case of placement in a psychiatric hospital,
one year in the case of preventive detention, nine months after 10 years of preventive detention.
(3) The court may reduce these periods. It may also set dates within the statutory limits for review before the expiry of which an application for review is inadmissible.
(4) The periods run from the commencement of the detention. If the court denies suspension or disposal, the period commences anew with that decision.

Section 67f
Multiple orders

If the court orders placement in an addiction treatment facility, any previous such order is deemed to be disposed of.

Section 67g
Revocation of suspended measures

(1) The court revokes the suspension of a measure involving deprivation of liberty if the convicted person

1. commits an unlawful act during the period of supervision of conduct,
2. grossly or persistently breaches directions as referred to in section 68b or
3. persistently evades the supervision and guidance of the probation officer or of the supervisory authority,

and as a result the purpose of the measure requires the convicted person’s detention. Sentence 1 no. 1 applies accordingly if the reason for revocation arose in the period between the decision on suspension and the start of supervision of conduct (section 68c (4)).
(2) The court even revokes the suspension of a measure involving deprivation of liberty in accordance with sections 63 and 64 if evidence arises during the period of the supervision of

conduct that the convicted person is expected to commit unlawful acts as a result of his or her condition and the purpose of the measure therefore requires the convicted person's detention.
(3) The court further revokes the suspension if circumstances which have come to its attention during the period of the supervision of conduct and which would have led to the suspension being denied show that the purpose of the measure requires the convicted person's detention.
(4) The period of placement before and after the revocation may not, in its totality, exceed the maximum statutory period for the measure.
(5) If the court does not revoke suspension of the placement, it is deemed disposed of upon conclusion of the period of supervision of conduct.
(6) Payments which the convicted person has made in the fulfilment of directions are not to be reimbursed.

Section 67h
Limited order for measure to take effect; crisis intervention

(1) During the period of supervision of conduct the court may order that the suspended placement under section 63 or 64 take effect for a duration not exceeding three months if there has been an acute deterioration in the released person's condition or a relapse into addictive behaviour and the measure is necessary in order to avoid a revocation under section 67g. Under the conditions of sentence 1, it may order the renewal of the measure or extend its duration; the maximum duration of the measure may not exceed a total of six months. Section 67g (4) applies accordingly.
(2) The court sets aside the measure before the expiry of the period set under subsection (1) if its purpose has been achieved.

Supervision of conduct

Section 68
Preconditions

(1) If a person has incurred a determinate sentence of imprisonment of at least six months for an offence for which the law specifically provides for the supervision of conduct, the court may order supervision of conduct in addition to the penalty if there is a danger that the person will commit further offences.
(2) The statutory provisions providing for supervision of conduct (section 67b, section 67c, section 67d (2) to (6) and section 68f) remain unaffected.

Section 68a
Supervisory authority, probation service, forensic outpatient service

(1) The convicted person is assigned to a supervisory authority; the court appoints a probation officer to support the convicted person for the period of the supervision of conduct.
(2) The probation officer and the supervisory authority act together to offer the convicted person assistance and support.
(3) The supervisory authority, in consultation with the court and with the support of the probation officer, supervises the convicted person's conduct and compliance with directions issued.
(4) Where there is any disagreement between the supervisory authority and the probation officer as to questions which affect the assistance and support given to the convicted person, it is for the court to resolve the matter.
(5) The court may issue instructions to the supervisory authority and the probation officer in regard to their functions.
(6) Before filing a request to prosecute under section 145a sentence 2, the supervisory authority is to hear the probation officer; subsection (4) does not apply.
(7) Where a direction as referred to in section 68b (2) sentences 2 and 3 has been issued, the forensic outpatient service is to work together with the parties referred to in subsection

(2). In all other cases, subsections (3) and (6) concerning the probation officer's status also apply to the forensic outpatient service.
(8) The parties referred to in subsection (1) and the staff of the forensic outpatient service referred to in section 203 (1) nos. 1, 2 and 6 are to disclose third-party secrets to each other which have come to their attention in the course of their activities within the relationship indicated in section 203 or otherwise to the extent that this is necessary to support the convicted person in avoiding the commission of further offences. Moreover, the staff of the forensic outpatient service referred to in section 203 (1) nos. 1, 2 and 6 are required to disclose such secrets to the supervisory authority and the court if, in their opinion,

1. this is necessary for the purpose of monitoring whether the convicted person is complying with a direction as referred to in section 68b (1) sentence 1 no. 11 to report in person at certain intervals or is participating, within the remit of a direction as referred to in section 68b (2) sentences 2 and 3, in treatment,

2. the convicted person's conduct or condition are deemed to necessitate the measures under section 67g, section 67h or section 68c (2) or (3) or

3. if this is necessary to avert a serious and present danger to the life, physical integrity, personal liberty or sexual self-determination of third parties.

In the cases under sentence 1 and sentence 2 nos. 2 and 3, facts within the meaning of section 203 (1) which were disclosed by staff of the forensic outpatient service may only be used for the purposes mentioned therein.

Section 68b
Directions

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

1. not to leave their domicile or habitual residence or a specified area without the permission of the supervisory authority,

2. not to frequent specific places which may offer them the opportunity or incentive to commit further offences,

3. not to make contact or associate with the injured person or with specific persons or persons from a specific group who may offer them the opportunity or incentive to commit further offences, nor to employ, train or accommodate them,

4. not to engage in specific activities which may in certain circumstances be misused for criminal purposes,

5. not to possess, carry or entrust to another for safekeeping particular objects which may offer them the opportunity or incentive to commit further offences,

6. not to possess or drive motor vehicles or particular types of motor vehicles or other vehicles which may in certain circumstances be misused for criminal purposes,

7. to report at specific times to the supervisory authority, to a specific authority or to the probation officer,

8. to report promptly each change of address or employment to the supervisory authority,

9. to report, in the case of unemployment, to the Federal Employment Agency or to another authorised employment agency,

10. not to consume alcoholic drinks or other intoxicating substances if, based on specific facts, there is reason to believe that their consumption will contribute to the commission of further offences, and to undergo alcohol and drug tests of a non-invasive nature,

11. to present themselves at specific times or at specific intervals to a physician, a psychotherapist or the forensic outpatient service or

12. to carry the technical means for the electronic monitoring of their whereabouts in working order with them at all times and not to tamper with them.

The court is required to precisely specify the prohibited or required conduct in its direction. Notwithstanding sentence 5, a direction under sentence 1 no. 12 is only admissible if

1. the supervision of conduct was triggered by having served in full a sentence of imprisonment or an aggregate sentence of imprisonment of at least three years or on the basis of a measure which was declared disposed of,

2. the sentence or aggregate sentence of imprisonment or the measure involving deprivation of liberty was ordered for one or more offences referred to in section 66 (3) sentence 1,

3. there is a danger that the convicted person may commit further offences under section 66 (3) sentence 1 and

4. the direction appears necessary to prevent the convicted person from committing further offences of the type referred to in section 66 (3) sentence 1 by means of the possibility of using data in accordance with section 463a (4) sentence 2 of the Code of Criminal Procedure, in particular for the purposes of monitoring compliance with directions issued in accordance with sentence 1 no. 1 or 2.

The conditions of sentence 3 no. 1 in conjunction with no. 2 are met irrespective of whether the supervision of conduct under section 68e (1) sentence 1 referred to therein has ended. In derogation from sentence 3 no. 1, a sentence of imprisonment or aggregate sentence of imprisonment of two years suffices if these were imposed for one or more offences falling under Chapter 1 or 7 of the Special Part; the offences referred to in sentence 3 nos. 2 to 4 include the offence under section 129a (5) sentence 2, also in conjunction with section 129b (1).

(2) The court may, for the duration of the supervision of conduct or for a shorter period, issue directions to the convicted person, in particular in relation to education and training, employment, leisure time, getting his or her financial affairs in order or meeting maintenance obligations. The court may, in particular, direct the convicted person to receive psychiatric, psychotherapeutic or socio-therapeutic care and treatment (therapy direction). The care or treatment may be provided by a forensic outpatient service. Section 56c (3) applies accordingly, including to the direction in respect of invasive alcohol or drug tests.

(3) The directions may not make unreasonable demands in respect of the convicted person's lifestyle.

(4) If, upon a period of supervision of conduct beginning, an existing supervision of conduct is deemed ended under the terms of section 68e (1) sentence 1 no. 3, the court order must include the directions issued in the context of the previous supervision of conduct.

(5) To the extent that the support given to a convicted person in the cases under subsection (1) no. 11 or treatment in accordance with subsection (2) is not provided by a forensic outpatient service, section 68a (8) applies accordingly.

Section 68c
Period of supervision of conduct

(1) The period of supervision of conduct is no less than two years and no more than five years. The court may reduce the maximum period.

(2) The court may make an order for the supervision of conduct for an indeterminate period exceeding the maximum period under subsection (1) sentence 1 if the convicted person

1. does not consent to a direction under section 56c (3) no. 1 or

2. does not comply with a direction to undergo medical or addiction treatment or a therapy direction,

and if there is reason to believe that there is a danger to the general public on account of that person committing further serious crimes. If, in the cases under sentence 1 no. 1, the convicted person subsequently consents, the court determines the further period of the supervision of conduct. Otherwise, section 68e (3) applies.
(3) The court may extend the supervision of conduct for an indeterminate period exceeding the maximum in subsection (1) sentence 1 if

1. there is reason to believe, in the case of a suspended order for placement in a psychiatric hospital under section 67d (2), that the convicted person is otherwise about to lapse into a condition as indicated in section 20 or 21 which will result in a danger to the general public on account of that person committing further serious unlawful acts or

2. there is reason to believe, on account of non-compliance with directions under section 68b (1) or (2) or other specific circumstances, that there is a danger to the general public on account of that person committing further serious crimes and

   a) the convicted person has been sentenced to a single or aggregate sentence of imprisonment of at least two years or has been placed in a psychiatric hospital or in an addiction treatment facility for offences under section 181b or

   b) supervision of conduct under the conditions of section 68b (1) sentence 3 no. 1 was triggered and the single or aggregate sentence of imprisonment or the placement was imposed or ordered for one or more serious criminal offences against life, physical integrity, personal liberty or under sections 250 and 251, also in conjunction with section 252 or 255.

Section 68b (1) sentence 4 applies accordingly to the termination of supervision of conduct.
(4) In the cases under section 68b (1), supervision of conduct commences once the order becomes final, in the cases under section 67b (2), section 67c (1) sentence 1 and (2) sentence 4 and under section 67d (2) sentence 3, it commences when the order for suspension becomes final or at a later date to be specified by the court. Any time during which the person was at large, was in hiding or was detained in an institution by official order is not credited against its duration.

Section 68d
Subsequent decisions; review period

(1) The court may subsequently make, modify or set aside decisions pursuant to section 68a (1) and (5), section 68b, section 68c (1) sentence 2 and (2) and (3).
(2) In the case of a direction as defined in section 68b (1) sentence 1 no. 12, the court is required to review, before two years have elapsed, whether it is to be set aside. Section 67e (3) and (4) applies accordingly.

Section 68e
Termination or stay of supervision

(1) Unless the order for supervision of conduct is indeterminate or in the case of a suspension of a measure involving deprivation of liberty (sections 67b (2), section 67c (1) sentence 1 and (2) sentence 4, section 67d (2) sentence 3), the supervision of conduct ends

1. upon commencement of enforcement of a measure involving deprivation of liberty,

2. upon commencement of enforcement of a sentence of imprisonment in addition to which a measure involving deprivation of liberty has been ordered,

3. upon commencement of a new order for supervision of conduct.

In all other cases, the supervision of conduct is stayed for the period in which a person is serving a sentence of imprisonment or a measure involving deprivation of liberty. The court sets aside any supervision of conduct which is triggered by the suspension of a measure involving deprivation of liberty if it is no longer necessary in the light of the existence of one of the circumstances indicated in sentence 1 nos. 1 to 3. If a new order for supervision of conduct is made in addition to an existing indeterminate order for supervision of conduct or in the case of the suspension of a measure involving deprivation of liberty, the court is to order that the new measure be dropped if it is not necessary in view of the existing one.
(2) The court terminates the supervision of conduct if it is to be expected that the convicted person will no longer commit further offences without the measure. The termination may not be ordered before the expiry of the statutory minimum period. The court may set periods not exceeding six months before the expiry of which an application for the termination of supervision of conduct is inadmissible.
(3) In the case of indeterminate supervision of conduct, the court is required,

1. in the cases under section 68c (2) sentence 1, no later than after the expiry of the maximum period under section 68c (1) sentence 1,

2. in the cases under section 68c (3), before the expiry of two years,

to review whether a decision under subsection (2) sentence 1 is necessary. If the court refuses to set aside the supervision of conduct, it is required to once more review the setting aside of the supervision of conduct before the expiry of a further two years.

Section 68f
Supervision of conduct after serving full sentence

(1) If a single or aggregate sentence of imprisonment of at least two years has been imposed for intentional offences or at least one year for one of the offences under section 181b has been fully served, supervision of conduct commences upon the convicted person's release from prison. This does not apply where a measure of reform and prevention involving deprivation of liberty is to be enforced immediately after the sentence has been served.
(2) The court may waive the supervision of conduct if it is to be expected that the convicted person will no longer commit further offences without the measure.

Section 68g
Supervision of conduct and suspension on probation

(1) If an order has been made for the suspension of a sentence or the suspension of the remainder of a sentence, or disqualification from exercising a profession has been suspended on probation and if the convicted person is at the same time under supervision of conduct for the same or another offence, then only sections 68a and 68b apply in relation to the supervision of conduct and the issuing of directions. Supervision of conduct does not end before the expiry of any probation period.
(2) If an order has been made for suspension on probation and for the supervision of conduct on the basis of the same offence, the court may, however, determine that the supervision of conduct be stayed until the end of any probation period. In this case, the probation period is not credited against the period of supervision of conduct.
(3) If, after the end of the probation period, the sentence or the remainder thereof is remitted or the disqualification from exercising a profession is declared disposed of, then the order made for the supervision of conduct on the basis of the same offence also ends. This does not apply if the supervision of conduct is indeterminate (section 68c (2) sentence 1 or (3)).

Disqualification from driving

Section 69
Disqualification from driving

(1) Whoever has been convicted of an unlawful act which they committed in connection with the driving of a motor vehicle or in breach of the duties of the driver of a motor vehicle, or whoever has not been convicted merely because their lack of criminal responsibility has been proved or cannot be ruled out, is disqualified from driving by the court if the act shows that they are unfit to drive a motor vehicle. A further examination pursuant to section 62 is not required.
(2) If, in the cases under subsection (1), the unlawful act is a less serious criminal offence of

1. endangering road traffic (section 315c),

1a. illegal motor racing (section 315d),

2. driving under the influence of drink or drugs (section 316),

3. leaving the scene of an accident without cause (section 142) although the offender knows or culpably does not know that a person was killed, seriously injured or significant damage to the property of another was caused in the accident or

4. intoxication (section 323a) if the offence relates to one of the offences referred to in nos. 1 to 3,

then the offender is typically to be deemed unfit to drive motor vehicles.
(3) The offender's driving licence lapses upon the judgment becoming final. A driving licence issued by a German authority is confiscated in the judgment.

Section 69a
Period of disqualification

(1) If the court disqualifies a driving licence, it simultaneously determines that the driving licence is not to be reinstated for a period of between six months and five years (period of disqualification). The court may order that the period of disqualification be permanent if it is to be expected that the statutory maximum period will not suffice to avert the danger which the offender poses. If the offender has no driving licence, only a period of disqualification is ordered.
(2) The court may exclude particular types of motor vehicles from the period of disqualification if special circumstances justify the assumption that the purpose of the measure will not be jeopardised thereby.
(3) The minimum period of disqualification is one year if a period of disqualification was already ordered against the offender in the three years prior to the offence.
(4) If the offender's driving licence was provisionally disqualified on account of the offence (section 111a of the Code of Criminal Procedure), the length of the provisional disqualification is deducted from the minimum period of the disqualification. In no case, however, may the period of disqualification be less than three months.
(5) The period of disqualification commences upon the judgment becoming final. The time of a provisional disqualification ordered on account of the offence is credited against the period of the disqualification to the extent it has run following the date of pronouncement of the judgment in those proceedings in which the findings of fact on which the measure was based were last examined.
(6) For the purposes of subsections (4) and (5), the confiscation, securing or seizure of a driving licence (section 94 of the Code of Criminal Procedure) is equivalent to provisional disqualification from driving.
(7) If there is reason to believe that the offender is no longer unfit to drive motor vehicles, the court may prematurely terminate the period of disqualification. This termination may not be ordered unless the disqualification has been in effect for three months, or one year in the cases under subsection (3); subsection (5) sentence 2 and subsection (6) apply accordingly.

Section 69b
Effect of disqualification of foreign licence

(1) If the offender is permitted to drive motor vehicles in Germany on the basis of a licence granted abroad without a driving licence having been issued by a German authority, the disqualification order has the effect of a loss of the right to make use of the licence in Germany. The right to drive motor vehicles in Germany lapses upon the decision becoming final. For the duration of the period of disqualification neither a German licence may be issued nor the right to make use of the foreign licence be reinstated.
(2) If the foreign driving licence was issued by an authority of a Member State of the European Union or another Contracting Party to the Agreement on the European Economic Area and the holder is ordinarily resident in Germany, the driving licence is confiscated in the judgment and sent back to the issuing authority. In all other cases, the loss of the right to drive and the period of disqualification is endorsed on the foreign driving licence.

Disqualification from exercising profession

Section 70
Order for disqualification from exercising profession

(1) Persons who have been convicted of an unlawful act which they committed in abuse of their profession or trade or in gross breach of the attendant duties, or who have not been convicted merely because their lack of criminal responsibility was proved or cannot be ruled out, may be issued with an order disqualifying them from exercising that profession, branch of profession, trade or branch of trade for a period of between one year and five years if an overall evaluation of the offender and the offence shows that by further exercising the profession, branch of profession, trade or branch of trade there is a danger that they will commit serious unlawful acts of the type indicated. The disqualification order may be made in perpetuity if there is reason to believe that the statutory maximum period will not suffice to avert the danger posed by the offender.
(2) Where the offender has been provisionally disqualified from exercising a profession, branch of profession, trade or branch of trade (section 132a of the Code of Criminal Procedure), the length of the provisional disqualification is deducted from the minimum period of the disqualification. In no case, however, may the period of disqualification be less than three months.
(3) For the duration of the disqualification, offenders may neither exercise the profession, branch of profession, trade or branch of trade on behalf of another nor have a person who is subject to their instructions engage in it on their behalf.
(4) The disqualification commences upon the judgment becoming final. Any period of disqualification from exercising a profession imposed on account of the act is credited against the disqualification period to the extent it has run following the date of pronouncement of the judgment in those proceedings in which the findings of fact on which the measure was based were last examined. Any period during which the offender was detained in an institution by official order is not taken into account.

Section 70a
Suspension of disqualification from exercising profession

(1) If, after a disqualification order has been made, there is reason to believe that there is no longer a danger that the offender will commit serious unlawful acts of the type indicated in section 70 (1), the court may suspend the order for a probation period.
(2) The order may not be made before the expiry of one year. Any time of a provisional disqualification is credited against the period of disqualification referred to in section 70 (4) sentence 2. Any period during which the offender was detained in an institution by official order is not taken into account.
(3) If the disqualification order is suspended, section 56a and sections 56c to 56e apply accordingly. The probation period is extended by any time during which a sentence of

imprisonment or a measure involving deprivation of liberty imposed on or ordered against the convicted person on account of the offence was served.

Section 70b
Revocation of suspension and disposal of disqualification from exercising profession

(1) The court revokes the suspension of disqualification from exercising a profession in the case of convicted persons who

1. commit an unlawful act in the abuse of their profession or trade or in gross breach of the attendant duties during the probation period,
2. grossly or persistently fail to comply with a direction or
3. persistently evade the supervision and guidance of their probation officer,

and there is reason to believe that the purpose of the disqualification requires its enforcement.
(2) The court also revokes the suspension if evidence which has come to its attention during the probation period and which would have led to the suspension being denied shows that the purpose of the measure requires the continued enforcement of the disqualification.
(3) Any period of suspension of the disqualification from exercising a profession is not credited against the period of disqualification.
(4) Payments which a convicted person has made in the fulfilment of directions or assurances are not to be reimbursed.
(5) After the probation period has expired, the court declares the disqualification disposed of.

Common provisions

Section 71
Independent orders

(1) The court may make an independent order for placement in a psychiatric hospital or in an addiction treatment facility if criminal proceedings are impracticable because the offender lacks criminal responsibility or is unfit to stand trial.
(2) The same applies to disqualification from driving and disqualification from exercising a profession.

Section 72
Joinder of measures

(1) If the conditions for more than one measure are met but the intended purpose can be achieved through individual orders from amongst their number, only the individual measures are to be ordered. Priority amongst a number of suitable measures is to be given to those which impose the least burden on the offender.
(2) In all other cases, measures are to be ordered concurrently, unless otherwise provided by law.
(3) If several measures involving deprivation of liberty are imposed, the court determines the sequence of their enforcement. Before a measure has been fully enforced, the court orders enforcement of the next if its purpose still necessitates the placement. Section 67c (2) sentences 4 and 5 applies.

Title 7
Confiscation

Section 73
Confiscation of proceeds of crime from offenders and participants

(1) If the offender or participant has obtained anything by or for an unlawful act, the court orders the confiscation of that which was obtained.
(2) If the offender or participant has derived any benefits from the proceeds, the court also orders the confiscation of the benefits.

(3) The court may also order confiscation of objects which the offender or participant has obtained

1. by way of sale of the object obtained or as compensation for its destruction, damage or confiscation or

2. on the basis of a right obtained.

Section 73a
Extended confiscation of proceeds of crime from offenders and participants

(1) If an unlawful act has been committed, the court orders the confiscation of objects belonging to the offender or participant even in those cases in which the objects were obtained by other unlawful acts or for such acts.
(2) If the offender or participant participated in some other unlawful act prior to the confiscation having been ordered in accordance with subsection (1) and if a new decision is to be taken regarding the confiscation of objects belonging to the offender or participant, the court takes account of the order which has already been issued.

Section 73b
Confiscation of proceeds of crime from other persons

(1) The order of confiscation referred to in sections 73 and 73a is made against another person who is not the offender or participant if

1. that person has obtained something by committing the offence and the offender or participant acted on said person's behalf,

2. the object so obtained

   a) was transferred to that person free of charge or without legal reason or

   b) was transferred to that person and said person recognised, or ought to have recognised, that the object obtained was derived from an unlawful act or

3. the object so obtained

   a) has devolved to that person in the capacity as heir or

   b) has been transferred to that person in the capacity as a party entitled to the compulsory portion in an estate or as a beneficiary under a will.

Sentence 1 nos. 2 and 3 has no application if the object obtained was previously transferred, for a fee and on the basis of a legal reason, to a third party who did not recognise or did not have reason to recognise that the object obtained was derived from an unlawful act.
(2) If, subject to the conditions of subsection (1) sentence 1 no. 2 or 3, the other party obtains an object which is equivalent in value to the object obtained or benefits which have been derived from such object, the court orders their confiscation as well.
(3) Subject to the conditions of subsection (1) sentence 1 no. 2 or 3, the court may also order the confiscation of whatever was obtained

1. by way of sale of the object obtained or as compensation for its destruction, damage or confiscation or

2. on the basis of a right obtained.

Section 73c
Confiscation of value of proceeds of crime

If the confiscation of a particular object is impossible due to the nature of that which was obtained or for some other reason or because confiscation of a surrogate object has not been ordered as required by section 73 (3) or section 73b (3), the court orders the confiscation of a sum of money equal to the value of that which was obtained. The court also

makes such an order in addition to confiscating an object to the extent that its value falls short of the value of that which was originally obtained.

Section 73d
Calculation of value of obtained object; estimate

(1) When calculating the value of an object obtained, any expenditure on the part of the offender, participant or the other person is to be deducted. An amount spent or used in the commission or preparation of the unlawful act is not deducted, however, unless it was used to comply with an obligation against the injured party.
(2) The scope and value of that which was obtained and the amount which is to be deducted may be estimated.

Section 73e
Preclusion of confiscation of proceeds of crime or of equivalent sum of money

(1) Confiscation under the terms of sections 73 to 73c is precluded inasmuch as the injured party's claim to the return of the object obtained or compensation of the sum of money equal to the value of the object obtained to which the injured party is entitled as a consequence of the offence has expired.
(2) In the cases under section 73b, also in conjunction with section 73c, confiscation is also precluded inasmuch as the value of the object obtained no longer forms part of the assets of the person affected at the time the order is issued, unless the person affected was aware or recklessly unaware at the time at which unjust enrichment ceased to be given of the circumstances which otherwise would have allowed the confiscation to be ordered against the offender or participant.

Section 74
Confiscation of products of crime, means of crime or objects of crime from offenders and participants

(1) Objects arising from the commission of an intentional offence (products of crime) or used in its commission or preparation or designated for such commission or preparation (means of crime) may be confiscated.
(2) Objects relating to an offence (objects of crime) are subject to confiscation pursuant to specific provisions.
(3) The confiscation is admissible only if, at the time of the decision, the offender or participant owns the object or is entitled to it. This also applies to confiscation which is prescribed or available under a specific provision beyond subsection (1).

Section 74a
Confiscation of products of crime, means of crime or objects of crime from other persons

Where a statute refers to this provision, objects may also be confiscated in derogation from section 74 (3) if, at the time of the decision, the person who owns them or has a right to them

1. contributed at least recklessly to the objects being used as the means of crime or if they were the object of crime or

2. acquired the objects in a reprehensible manner in the full knowledge of the circumstances which would have allowed for their confiscation.

Section 74b
Confiscation of dangerous objects

(1) If, due to their nature and the circumstances, objects pose a danger to the general public or there is a danger that they will be used for the commission of unlawful acts, they may be confiscated even if

1. the offender or participant acted without guilt or

2. a person other than the offender or participant owns or is entitled to the object.

(2) In the cases under subsection (1) no. 2, the third party is adequately compensated in money from the Treasury, having regard to the fair market value of the confiscated object. The same applies if the confiscated object was encumbered by another's right which was extinguished or prejudiced by the decision.
(3) Compensation is not granted if

1. the person who has a right to compensation under subsection (2)

   a) contributed at least recklessly to the object being used as a means of crime or it was the object of crime or

   b) acquired the object or the right in the object in a reprehensible manner in the full knowledge of the circumstances which would have allowed for its confiscation, or

2. it would be lawful, under the circumstances which justified the confiscation, to permanently confiscate the object or the right in the object from the person entitled to compensation without granting compensation, on the basis of provisions outside of the criminal law.

Compensation may, however, be granted in derogation from sentence 1 if it would cause undue hardship to deny it.

Section 74c
Confiscation of value of products of crime, means and resources used, and objects of crime from offenders and participants

(1) If it is impossible to confiscate a particular object because the offender or participant has sold or used up the object or frustrated its confiscation in some other way, the court may order the confiscation of an amount of money from the offender or participant which is equivalent to the value of the object.
(2) The court may also issue such an order in addition to or instead of the confiscation of an object if the offender or participant has encumbered said object, prior to the decision as to the confiscation having been handed down, with the right of a third party, the expiry of which cannot be ordered or cannot be ordered without compensation being made (section 74b (2) and (3) and section 75 (2)). If the court issues such an order in addition to the confiscation, the amount of the equivalent sum of money is determined based on the value of the encumbrance on the object.
(3) The value of the object and of the encumbrance may be estimated.

Section 74d
Confiscation of material and rendering unusable

(1) Material (section 11 (3)) the content of which is such that every intentional dissemination in the knowledge of that content would fulfil the elements of a criminal provision is confiscated if at least one copy was disseminated through an unlawful act or was intended for such dissemination. At the same time, the equipment used for or intended for the production of the material which was used as a template for the reproduction or was intended as such is to be rendered unusable.
(2) The confiscation extends only to those copies which are in the possession of the persons involved in their dissemination or preparation or which have been put on display in a public place or, if they were sent for dissemination, have not yet been distributed to the recipient.
(3) Subsection (1) applies accordingly to material (section 11 (3)) the content of which is such that the intentional dissemination in the knowledge of that content would fulfil the elements of a criminal provision only if additional facts and circumstances apply. However, confiscation and rendering unusable is only ordered if

1. the copies and the equipment indicated in subsection (1) sentence 2 are in the possession of the offender, participant or another on whose behalf the offender or participant acted, or they are intended by these persons for dissemination and

2. the measures are necessary to prevent unlawful dissemination by the persons referred to in no. 1.

(4) Dissemination within the meaning of subsections (1) to (3) also means making material (section 11 (3)) or at least one copy of it available to the public by putting it on display, putting it up to serve as an announcement, through presentation or by other means.
(5) If, at the time of the decision on confiscation or rendering unusable becoming final, a third party other than the offender or participant had ownership of the property or the object was encumbered by a third party's right which was extinguished or prejudiced by the decision, the third party is to be adequately compensated in money from the Treasury, having regard to the fair market value. Section 74b (3) applies accordingly.

Section 74e
Special provision applicable to organs and representatives

Whoever commits an act

1. in the capacity as an organ authorised to represent a legal entity or as a member of such an organ,

2. in the capacity as a director of an association lacking independent legal capacity or as a member of the board of directors of such an association,

3. in the capacity as a partner authorised to represent a partnership with independent legal capacity,

4. in the capacity as a general agent (*Generalbevollmächtigter*) or, in a management position, with general power of representation (*Prokurist*) or with commercial power of attorney (*Handlungsbevollmächtigter*) of a legal entity or of one of the associations referred to in nos. 2 or 3 or

5. as another person acting in a responsible capacity for the management of the business or enterprise of a legal entity or association referred to in no. 2 or 3, including oversight of the management of the business or other exercise of controlling powers in a senior management position,

which in relation to them and under the other conditions of sections 74 to 74c would allow the confiscation of an object or of its equivalent value or justify the denial of compensation, has this act attributed and these provisions applied to the person or entity represented. Section 14 (3) applies accordingly.

Section 74f
Principle of proportionality

(1) If confiscation is not prescribed, it may not be ordered in the cases under sections 74 and 74a if it would be disproportionate to the act committed and the blameworthiness of the person affected by the confiscation. In the cases under sections 74 to 74b and 74d, the court reserves the confiscation if its purpose can also be attained by means of a less incisive measure. Consideration is, in particular, to be given to instructions

1. to render the objects unusable,

2. to remove particular fittings or distinguishing marks from or to modify the objects by other means or

3. to dispose of the objects in a specific manner.

If the instructions are complied with, the reservation of the confiscation is revoked; otherwise, the court subsequently orders the confiscation. If confiscation is not otherwise prescribed, it may be limited to a part of the objects.
(2) In cases of rendering unusable under the terms of section 74d (1) sentence 2 and (3), subsection (1) sentences 2 and 3 applies accordingly.

Section 75
Effects of confiscation

(1) If confiscation of an object is ordered, ownership of the property or the right devolves to the state once the order becomes final if the object

1. belongs to the person affected by the order at that time or if the person affected is entitled to the object at that time or

2. belongs to some other person or if some other person is entitled to it, and that person has granted it for the offence or for other purposes whilst being aware of the circumstances of the offence.

In all other cases, ownership of the property or the right devolves to the state once six months have elapsed after notice has been given of the order of confiscation having become final, unless the person who owns or is entitled to the object has previously filed this right with the enforcing authority.
(2) In all other respects, the rights of third parties in the object remain. In the cases under section 74b, however, the court orders the expiry of these rights. In the cases under sections 74 and 74a, the court may order the expiry of the right of a third party if that third party

1. has contributed at least recklessly to the object being used as a means of crime or to its being the object of crime or

2. has acquired the right in the object in a reprehensible manner whilst being aware of the circumstances giving rise to the confiscation.

(3) Up until such time as ownership of the property or the right is transferred, the order of confiscation or the order to reserve confiscation has the effect of a prohibition of disposal within the meaning of section 136 of the Civil Code (*Bürgerliches Gesetzbuch*).
(4) In the cases under section 111d (1) sentence 2 of the Code of Criminal Procedure, section 91 of the Insolvency Code (*Insolvenzordnung*) does not apply.

Section 76
Subsequent order for confiscation of equivalent sum of money

If an order for the confiscation of an object is inadequate or unenforceable on account of one of the conditions of section 73c or 74c having arisen or becoming known after the order was made, the court may subsequently order confiscation of the equivalent sum of money.

Section 76a
Independent confiscation

(1) If it is impossible to prosecute or convict a specific person for a criminal offence, the court independently orders that the object be confiscated or rendered unusable, provided that, in all other respects, the conditions under which the measure is prescribed by law are met. If confiscation is permissible, the court may independently order it subject to the conditions of sentence 1. Confiscation is not ordered if there is no request to prosecute, authorisation to prosecute or request to prosecute from a foreign state, or if a decision with regard to said confiscation has already been taken and become final.
(2) Under the conditions of sections 73, 73b and 73c, it is even permissible for the court to independently order the confiscation of the proceeds of crime and to independently confiscate the value of the proceeds of crime in those cases in which the prosecution of the offence has become barred by the statute of limitations. Under the conditions of sections 74b

and 74d, the same applies to instances in which the court independently orders confiscation of a dangerous object, confiscation of material or rendering unusable.
(3) Subsection (1) is also to be applied if the court dispenses with imposing a penalty or if the proceedings are terminated based on a legal provision which allows this to be done at the discretion of the public prosecution office or of the court, or as they may decide by mutual consent.
(4) An object derived from an unlawful act which has been seized in proceedings brought on suspicion of one of the offences referred to in sentence 3 having been committed is, as a rule, even to be separately confiscated in those cases in which it is impossible to prosecute or convict the person affected by the confiscation. If the confiscation of an object is ordered, ownership of the property or the right to it devolves to the state once the order becomes final; section 75 (3) applies accordingly. Offences for the purposes of sentence 1 are

1. under this Code:

   a) preparing a serious violent offence endangering the state under section 89a and financing terrorism under section 89c (1) to (4),

   b) forming criminal organisations under section 129 (1) and forming terrorist organisations under section 129a (1), (2), (4) and (5), in each case also in conjunction with section 129b (1),

   c) pimping under section 181a (1), also in conjunction with (3),

   d) dissemination, procurement and possession of child pornography in the cases under section 184b (2),

   e) human trafficking, forced prostitution and forced labour on a commercial basis and by a gang under sections 232 to 232b as well as human trafficking organised by a gang for the purpose of exploitation of labour and exploitation involving deprivation of liberty under sections 233 and 233a,

   f) money laundering and concealing unlawfully acquired assets under section 261 (1), (2) and (4);

2. under the Fiscal Code (*Abgabenordnung*):

   a) tax evasion subject to the conditions of section 370 (3) no. 5,

   b) smuggling on a commercial basis, with the use of violence or as a gang under section 373,

   c) receiving, holding or selling goods obtained by tax evasion in the case under section 374 (2);

3. under the Asylum Act (*Asylgesetz*):

   a) incitement to submit fraudulent applications for asylum under section 84 (3),

   b) incitement, on a commercial basis or by a gang, to submit fraudulent applications for asylum under section 84a;

4. under the Residence Act (*Aufenthaltsgesetz*):

   a) smuggling of foreigners into the federal territory under section 96 (2),

   b) smuggling of foreigners into the federal territory resulting in death as well as smuggling on a commercial basis and by a gang under section 97;

5. under the Foreign Trade and Payments Act (*Außenwirtschaftsgesetz*):

intentional offences under sections 17 and 18;

6. under the Narcotics Act:

a) offences as defined by a provision included by reference in section 29 (3) sentence 2 no. 1, subject to the conditions set out therein,

b) offences under section 29a, section 30 (1) nos. 1, 2 and 4 as well as sections 30a and 30b;

7. under the War Weapons Control Act (*Gesetz über die Kontrolle von Kriegswaffen*):

a) offences under section 19 (1) to (3) and section 20 (1) and (2) as well as section 20a (1) to (3), in each case also in conjunction with section 21,

b) offences under section 22a (1) to (3);

8. under the Weapons Act (*Waffengesetz*):

a) offences under section 51 (1) to (3),

b) offences under section 52 (1) no. 1 and no. 2 (c) and (d) as well as (5) and (6).

Section 76b
Limitation on confiscation of proceeds of crime and value of proceeds of crime

(1) The limitation period for the extended and the independent confiscation of the proceeds of crime or the value of the proceeds of crime in accordance with sections 73a and 76a is 30 years. The limitation period commences upon completion of the unlawful act through which the offender or participant has obtained something within the meaning of section 73b. Sections 78b and 78c apply accordingly.
(2) In the cases under section 78 (2) and section 5 of the Code of Crimes against International Law, the extended and the independent confiscation of the proceeds of crime or the value of the proceeds of crime under sections 73a and 76a are not subject to the statute of limitations.

Chapter 4
Request to prosecute, authorisation to prosecute, request to prosecute by foreign state

Section 77
Persons entitled to file request

(1) If an offence can be prosecuted only upon request, the victim may file the request, unless otherwise provided by law.
(2) If the victim dies, the right to file a request, if so provided by law, passes to the victim's spouse, life partner and children. If the victim leaves neither a spouse, life partner nor children or if the victim died before the expiry of the time limit for filing the request, the right to file the request passes to the victim's parents and, if they have died before the expiry of the time limit for filing the request, to the victim's siblings and grandchildren. If a relative participated in the offence or the relationship has ceased to exist, that relative is excluded from the list of those to whom the right to file the request may pass. The right to file the request does not pass if prosecution contravenes the victim's professed will.
(3) If the person entitled to file a request lacks legal capacity or has only limited legal capacity, the statutory representative in respect of the personal affairs of and the person responsible for the care of that person is entitled to file the request.
(4) If more than one person is entitled to file a request, each may file a request independently.

Section 77a
Request by superior

(1) If the offence has been committed by or against a public official, a person entrusted with special public service functions or a soldier in the Federal Armed Forces and it may be prosecuted upon request by the person concerned's superior in the public service, then the superior under whom the person concerned was serving at the time of the act is entitled to file the request.
(2) In the case of professional judges, the person exercising disciplinary supervision over the judge is entitled to file the request in place of the superior in the public service. In the case of soldiers, the superior in the public service is the disciplinary superior officer.
(3) In the case of a public official or a person entrusted with special public service functions who does not or did not have a superior in the public service, the authority for which the public official or entrusted person acted may file the request. If the public official or the entrusted person is the head of this authority, the state supervisory authority is entitled to file the request.
(4) In the case of members of the Federal Government, the Federal Government is entitled to file the request, in the case of members of a *Land* government, the *Land* government.

Section 77b
Time limit

(1) An offence which may be prosecuted only upon request is not prosecuted if the person entitled to file the request to prosecute fails to do so before the expiry of a three-month period. If the end of the period falls on a Sunday, a general public holiday or a Saturday, then the period ends upon the expiry of the next working day.
(2) The period commences upon the expiry of the day on which the entitled person gains knowledge of the offence and of the identity of the offender. When it comes to a request filed by the statutory representative or the person having the duty of care and custody of the person, that person's own knowledge is decisive.
(3) If more than one person is entitled to file a request or more than one person participated in the offence, the period runs separately for and against each person.
(4) If the right to file a request has passed to relatives as a result of the victim's death, the period ends no sooner than three months and no later than six months after the victim's death.
(5) Where a reconciliation board has received an application to conduct an attempt at reconciliation in accordance with section 380 of the Code of Criminal Procedure, the running of the period is stayed until such time as the certificate referred to in section 380 (1) sentence 3 of the Code of Criminal Procedure has been issued.

Section 77c
Reciprocal offences

If, in the case of offences committed reciprocally which may be prosecuted only upon request, one entitled person has filed a request to prosecute the other, the other person's right to file a request lapses if it is not exercised before the defendant has finished having the last word in the matter before the court of first instance. Such a request may even be filed although the period available for filing has already expired.

Section 77d
Withdrawal of request

(1) The request may be withdrawn. The withdrawal may be declared before the final conclusion of the proceedings. A withdrawn request cannot be filed again.
(2) If the victim or, in the case of the victim's death, the person entitled dies after filing the request, the victim's spouse, life partner, children, parents, siblings or grandchildren may withdraw the request in the order of precedence indicated in section 77 (2). Several relatives of equal precedence may only exercise the right jointly. Whoever participated in the offence may not withdraw the complaint.

Section 77e
Authorisation and request by foreign state

If the offence can be prosecuted only upon authorisation or upon a request to prosecute by a foreign state, sections 77 and 77d apply accordingly.

Chapter 5
Limitation period

Title 1
Limitation on prosecution

Section 78
Limitation period

(1) The imposition of a penalty and the ordering of measures (section 11 (1) no. 8) are ruled out following expiry of the limitation period. Section 76a (2) remains unaffected.
(2) Serious criminal offences under section 211 (murder under specific aggravating circumstances) are not subject to the statute of limitations.
(3) Where prosecution is subject to the statute of limitations, the limitation period is

1. 30 years in the case of offences which are punishable by imprisonment for life,

2. 20 years in the case of offences which are punishable by a maximum sentence of imprisonment of more than 10 years,

3. 10 years in the case of offences which are punishable by a maximum sentence of imprisonment of more than five years but no more than 10 years,

4. five years in the case of offences which are punishable by a maximum sentence of imprisonment of more than one year but no more than five years,

5. three years in the case of other offences.

(4) The period is determined in accordance with the penalty threatened under the law which defines the elements of the offence realised, irrespective of aggravating or mitigating circumstances provided for in the provisions of the General Part or of aggravated or less serious cases under the Special Part.

Section 78a
Commencement

The limitation period begins to run as soon as the offence is completed. If a result constituting an element of the offence occurs later, the limitation period begins to run as of that time.

Section 78b
Stay of limitation

(1) The limitation period is stayed

1. until the victim of an offence under sections 174 to 174c, 176 to 178, section 180 (3), sections 182, 225, 226a and 237 has reached the age of 30,

2. as long as the prosecution may, by law, not be commenced or continued; this does not apply if the only reason why the offence cannot be prosecuted is due to the absence of a request or authorisation to prosecute or a request to prosecute by a foreign state.

(2) If prosecution is not feasible because the offender is a Member of the Bundestag or of a legislative body of one of the *Länder*, the stay of the limitation period only commences upon expiry of the day on which

1. the public prosecution office or a police authority or police officer gains knowledge of the offence and of the offender's identity or

2. an offence is reported or a request to prosecute is filed against the offender (section 158 of the Code of Criminal Procedure).

(3) If a judgment has been delivered in the proceedings at first instance before the expiry of the limitation period, the limitation period does not expire before the time when the proceedings have been finally concluded.
(4) Where provision is made for an aggregate sentence of imprisonment of more than five years in especially serious cases and if the main proceedings have been opened before the regional court, the statute of limitations is stayed in the cases under section 78 (3) no. 4 from the time of the opening of the main proceedings, but no longer than for a period of five years; subsection (3) remains unaffected.
(5) If the offender is staying abroad and if the competent authority makes a formal request for extradition to that state, the limitation period is stayed as of the time the request is served on the foreign state

1. until the offender is surrendered to the German authorities,

2. until the offender leaves the territory of the requested foreign state by other means,

3. until the foreign state's denial of the request is served on the German authorities or

4. until the request is withdrawn.

If the date of service of the request on the foreign state cannot be ascertained, the request is deemed to have been served one month after having been sent or handed over to the foreign state, unless the requesting authority gains knowledge of the fact that the foreign state did not in fact receive the request or only at a later point in time. Sentence 1 does not apply to requests for extradition for which, in the requested state, a limitation period similar to section 83c of the Act on International Mutual Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen*) exists, either based on the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1) or based on an international agreement.
(6) In the cases under section 78 (3) nos. 1 to 3, the limitation period is stayed from the time of the handing over of a person to the International Criminal Court or the executing state until that person's return to the German authorities or release from the International Criminal Court or the executing state.

Section 78c
Interruption

(1) The limitation period is interrupted by

1. the first examination of the accused, notice that a preliminary investigation has been initiated against the accused, or the order for such examination or notice of such examination,

2. any judicial examination of the accused or the order for a judicial examination of the accused,

3. any commissioning of an expert by the judge or public prosecutor if the accused has previously been examined or has been given notice of the launch of a preliminary investigation,

4. any judicial seizure or search warrant and judicial decisions upholding them,

5. a warrant of arrest, a provisional order for placement, an order to be brought before a judge for examination and judicial decisions upholding them,

6. the preferment of public charges,

7. the opening of the main proceedings,

8. the setting of each date for the main hearing,

9. a summary penalty order or another decision equivalent to a judgment,

10. the provisional judicial termination of the proceedings due to the indicted accused's absence, as well as any order of the judge or public prosecutor issued after such termination of the proceedings or in proceedings in absentia to ascertain the indicted accused's whereabouts or to secure evidence,

11. the provisional judicial termination of the proceedings due to the indicted accused being unfit to stand trial and any order of the judge or public prosecutor issued after such termination of the proceedings for the purposes of reviewing the indicted accused's fitness to stand trial or

12. any judicial request to undertake an investigative act abroad.

In preventive detention proceedings and independent proceedings, the limitation period is interrupted on account of those acts done to conduct the preventive detention proceedings and independent proceedings which correspond to those in sentence 1.
(2) In the case of a written order or decision being made, the limitation period is interrupted at the time at which the order or decision is signed. If the document is not immediately processed after signing, the time at which it is actually submitted for processing is decisive.
(3) After each interruption, the limitation period begins to run anew. However, the prosecution is barred by limitation once double the statutory limitation period has elapsed since the time indicated in section 78a and at least three years if the limitation period is shorter than three years under special laws. Section 78b remains unaffected.
(4) The interruption has effect only for the person in relation to whom the interrupting act is done.
(5) If a law which applies at the time the offence is completed is amended before a decision is given and the limitation period is thereby shortened, then acts leading to an interruption which were undertaken before the entry into force of the new law retain their effect, notwithstanding that at the time of the interruption the prosecution would have been barred by the statute of limitations under the amended law.

Title 2
Limitation on enforcement

Section 79
Limitation period

(1) A penalty or measure (section 11 (1) no. 8) imposed by final decision may no longer be enforced after the expiry of the limitation period.
(2) Enforcement of imprisonment for life is not subject to the statute of limitations.
(3) The limitation period is

1. 25 years in the case of imprisonment for a term of more than 10 years,

2. 20 years in the case of imprisonment for a term of more than five years but no more than 10 years,

3. 10 years in the case of imprisonment for a term of more than one year but no more than five years,

4. five years in the case of imprisonment for a term not exceeding one year and fines of more than 30 daily rates,

5. three years for fines not exceeding 30 daily rates.

(4) Enforcement of preventive detention and of indeterminate supervision of conduct (section 68c (2) sentence 1 or (3)) is not subject to the statute of limitations. The limitation period is

1. five years in all other cases of supervision of conduct and in the case of the first order for placement in an addiction treatment facility,

2. 10 years for all other measures.

(5) If a sentence of imprisonment and a fine are imposed simultaneously or if a measure involving deprivation of liberty, confiscation or rendering unusable is ordered in addition to a penalty, then the enforcement of the penalty or the measure is not barred by the statute of limitations before the enforcement of the others. However, a simultaneously imposed preventive detention order does not prevent the running of the limitation period for the enforcement of penalties or other measures.
(6) The limitation period begins to run when the decision becomes final.

Section 79a
Stay of limitation

The limitation period is stayed

1. as long as the enforcement may not, by law, commence or continue,

2. as long as the convicted person is granted

   a) deferment or interruption of the enforcement,

   b) suspension of the sentence by judicial decision or by act of clemency or

   c) relaxation of payment conditions in the case of a fine or confiscation,

3. as long as the convicted person is detained in an institution by official order in Germany or abroad.

Section 79b
Extension

The court may, upon application by the enforcing authority, extend the period of limitation once before its expiry by one half of the statutory limitation period if the convicted person is staying in a territory from which extradition or transfer cannot be achieved.

Special Part

Chapter 1
Offences against peace, high treason and endangering democratic state under rule of law

Title 1
Offences against peace

Section 80
(repealed)

Section 80a
Incitement to crime of aggression

Whoever, within the territorial scope of this statute, incites to a crime of aggression (section 13 of the Code of Crimes against International Law) in public, in a meeting or by

disseminating material (section 11 (3)) incurs a penalty of imprisonment for a term of between three months and five years.

Title 2
High treason

Section 81
High treason against Federation

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

1. to undermine the continued existence of the Federal Republic of Germany or

2. to change the constitutional order based on the Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*)

incurs a penalty of imprisonment for life or imprisonment for a term of at least 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between one year and 10 years.

Section 82
High treason against *Land*

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

1. to incorporate the territory of one of the *Länder* in whole or in part into another *Land* or to separate a part of one of the *Länder* from it or

2. to change the constitutional order based on the constitution of a *Land*

incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 83
Preparation of high treasonous undertaking

(1) Whoever prepares a specific high treasonous undertaking against the Federation incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between one and five years.
(2) Whoever prepares a specific high treasonous undertaking against a *Land* incurs a penalty of imprisonment for a term of between three months and five years.

Section 83a
Active remorse (*tätige Reue*)

(1) In the cases under sections 81 and 82, the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to these provisions if the offender voluntarily abandons the further commission of the offence and averts or substantially reduces a danger which he or she has recognised that others will continue carrying out the undertaking, or if the offender voluntarily prevents the completion of the offence.
(2) In the cases under section 83, the court may proceed in accordance with subsection (1) if the offender voluntarily abandons any plans made and averts or substantially reduces a danger which he or she has caused and recognised that others will continue to prepare or carry out the undertaking, or if the offender voluntarily prevents the completion of the offence.
(3) If the designated danger is averted or substantially reduced or the completion of the offence is prevented without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffices.

Title 3
Endangering democratic state under rule of law

Section 84
Continuation of political party declared unconstitutional

(1) Whoever, in the capacity as a ringleader or person operating behind the scenes, maintains, within the territorial scope of this statute, the organisational structures of

1. a political party which has been declared unconstitutional by the Federal Constitutional Court or

2. a political party which the Federal Constitutional Court has determined to be a surrogate organisation of a banned political party

incurs a penalty of imprisonment for a term of between three months and five years. The attempt is punishable.
(2) Whoever is an active member of a political party as designated in subsection (1), or whoever supports its organisational structures or its further activity incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) Whoever contravenes a decision on the merits issued by the Federal Constitutional Court in proceedings pursuant to Article 21 (2) of the Basic Law or in proceedings pursuant to section 33 (2) of the Political Parties Act (*Parteiengesetz*) or an enforceable measure imposed in the enforcement of a decision on the merits which was issued in such proceedings incurs a penalty of imprisonment for a term not exceeding five years or a fine. Proceedings pursuant to Article 18 of the Basic Law are equivalent to the proceedings referred to in sentence 1.
(4) In the cases under subsection (1) sentence 2, subsection (2) and subsection (3) sentence 1, the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty in the case of parties to an offence whose guilt is minor and whose participation is of subordinate importance.
(5) In the cases under subsections (1) and (3) sentence 1, the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty if the offender makes voluntary and earnest efforts to prevent the party's continued existence; if the offender achieves this objective or if it is achieved regardless of the offender's efforts, no penalty is incurred.

Section 85
Violation of ban on forming organisation

(1) Whoever, in the capacity as a ringleader or person operating behind the scenes, maintains, within the territorial scope of this statute, the organisational structures of

1. a political party or organisation which has been finally determined in proceedings pursuant to section 33 (3) of the Political Parties Act to be a surrogate organisation of a banned party or

2. an organisation which has been banned by final decision because it is directed against the constitutional order or against the concept of international understanding or which has been held by final decision to be a surrogate organisation of such a banned organisation

incurs a penalty of imprisonment for a term not exceeding five years or a fine. The attempt is punishable.
(2) Whoever is an active member in a party or organisation indicated in subsection (1), or whoever supports its organisational structures or its further activity incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(3) Section 84 (4) and (5) applies accordingly.

Section 86
Dissemination of propaganda material of unconstitutional organisations

(1) Whoever disseminates in Germany or produces, stocks, imports or exports or makes publicly available through data storage media for dissemination in Germany or abroad the propaganda material

1. of a political party which has been declared unconstitutional by the Federal Constitutional Court or a political party or organisation which has been held by final decision to be a surrogate organisation of such a party,

2. of an organisation which has been banned by final decision because it is directed against the constitutional order or against the concept of international understanding or which has been held by final decision to be a surrogate organisation of such a banned organisation,

3. of a government, organisation or institution outside the territorial scope of this statute which is actively pursuing the objectives of one of the political parties or organisations referred to in nos. 1 and 2 or

4. propaganda material the content of which is intended to further the activities of a former National Socialist organisation

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Propaganda material within the meaning of subsection (1) is only material (section 11 (3)) whose content is directed against the free democratic basic order or the concept of international understanding.
(3) Subsection (1) does not apply if the propaganda material or the act serves civic information, to prevent unconstitutional activities, to promote the arts or science, research or teaching, reporting about current or historical events, or similar purposes.
(4) If the degree of guilt is minor, the court may dispense with imposing a penalty under this provision.

Section 86a
Use of symbols of unconstitutional organisations

(1) Whoever

1. disseminates the symbols of one of the political parties or organisations designated in section 86 (1) nos. 1, 2 and 4 in Germany or uses them publicly, in a meeting or in material (section 11 (3)) disseminated by themselves or

2. produces, stocks, imports or exports objects which depict or contain such symbols for dissemination or use in Germany or abroad in a manner referred to in no. 1

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Symbols within the meaning of subsection (1) are, in particular, flags, insignia, uniforms and their parts, slogans and forms of greeting. Symbols which are so similar as to be mistaken for those referred to in sentence 1 are deemed to be equivalent to them.
(3) Section 86 (3) and (4) applies accordingly.

Section 87
Acting as secret agent for purposes of sabotage

(1) Whoever carries out the instructions of a government, organisation or institution outside the territorial scope of this statute in preparation for acts of sabotage which are to be committed within its territorial scope by

1. maintaining readiness to commit such acts upon the instructions of one of the designated bodies,

2. gathering information about objects of sabotage,

3. producing, procuring for oneself or another, storing, handing over to another or importing means of sabotage into Germany,

4. establishing, maintaining or inspecting depots for the storage of means of sabotage or bases for sabotage activity,

5. accepting or giving training to others in how to commit acts of sabotage or

6. establishing or maintaining the link between one of the agents of sabotage (nos. 1 to 5) and one of the designated bodies,

and thereby intentionally or knowingly supports activities directed against the continued existence or security of the Federal Republic of Germany or its constitutional principles, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Acts of sabotage within the meaning of subsection (1) are

1. acts which fulfil the elements of offences under sections 109e, 305, 306 to 306c, 307 to 309, 313, 315, 315b, 316b, section 316c (1) no. 2, section 317 or 318 and

2. other acts which obstruct or disturb the operation of an enterprise which is vital to national defence, the protection of the civilian population from the threat of war or the national economy by destroying, damaging, removing, altering or rendering unusable anything of use to the operation or by depriving the operation of its energy supply.

(3) The court may dispense with imposing a penalty pursuant to these provisions if the offender voluntarily abandons the activity and discloses what he or she knows to an agency in time for the acts of sabotage, the planning of which the offender is aware of, to be prevented.

Section 88
Anti-constitutional sabotage

(1) Whoever, in the capacity as a ringleader or person operating behind the scenes of a group or individually, without acting with or for such a group, intentionally causes, by acts of interference within the territorial scope of this statute,

1. enterprises or facilities which provide public postal services or public transportation services,

2. telecommunications facilities which serve public functions,

3. enterprises or facilities which provide the public with water, light, heat or power or are in another way vital for the supply of the population or

4. government agencies, facilities, installations or objects which entirely or predominantly serve public safety or order

to cease to function, in whole or in part, or to be deprived of their assigned functions, and thereby intentionally supports activities directed against the continued existence or security of the Federal Republic of Germany or against its constitutional principles, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 89
Anti-constitutional influence on Federal Armed Forces and public security forces

(1) Whoever systematically exerts an influence on members of the Federal Armed Forces or of a public security force in order to undermine their duty-bound readiness to protect the security of the Federal Republic of Germany or the constitutional order, and thereby intentionally supports activities directed against the continued existence or security of the Federal Republic of Germany or against its constitutional principles, incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) The attempt is punishable.
(3) Section 86 (4) applies accordingly.

Section 89a
Preparation of serious violent offence endangering state

(1) Whoever prepares a serious violent offence endangering the state incurs a penalty of imprisonment for a term of between six months and 10 years. A 'serious violent offence endangering the state' means an offence against life in the cases under section 211 or 212 or against personal liberty in the cases under section 239a or 239b which, under the circumstances, is intended and suited to undermine the continued existence or security of a state or of an international organisation, or to abolish, rob of legal effect or subvert the constitutional principles of the Federal Republic of Germany.
(2) Subsection (1) only applies to offenders who prepare a serious violent offence endangering the state by

1. instructing another person or receiving instruction in the production or the use of firearms, explosives, explosive or incendiary devices, nuclear fission material or other radioactive substances, substances which contain or can produce poison, other substances which are detrimental to health, special devices which are necessary in the commission of the offence or other skills which may be of use in the commission of an offence under subsection (1),

2. producing, obtaining for themselves or another, storing or supplying to another weapons, substances or devices referred to in no. 1 or

3. obtaining or storing objects or substances which are essential for the production of weapons, substances or devices referred to in no. 1.

(2a) Subsection (1) also applies to offenders who prepare a serious offence endangering the state by undertaking to leave Germany for the purpose of committing a serious offence endangering the state or the acts referred to in subsection (2) no. 1 in order to enter a state where people are given training and instructions within the meaning of subsection (2) no. 1.
(3) Subsection (1) also applies if the preparations are made abroad. If the preparations are made outside the territory of the Member States of the European Union, the aforesaid only applies if the preparations are made by a German national or a foreign national whose livelihood is based in Germany, or the serious violent offence endangering the state so prepared is to be committed in Germany or against a German national.
(4) In the cases under subsection (3) sentence 2, prosecution requires authorisation by the Federal Ministry of Justice and Consumer Protection. If the preparations were made within the territory of another Member State of the European Union, prosecution requires authorisation by the Federal Ministry of Justice and Consumer Protection if the preparations were neither made by a German national nor the serious violent offence endangering the state so prepared was to be committed in Germany nor by or against a German national.
(5) In less serious cases, the penalty is imprisonment for a term of between three months and five years.
(6) The court may make an order for the supervision of conduct (section 68 (1)).
(7) The court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to this provision if the offender voluntarily abandons the further preparation of the serious violent offence endangering the state and averts or substantially reduces a danger which they have caused and recognised that others will continue to prepare or commit the offence, or if they voluntarily prevent the completion of the offence. If the designated danger is averted or substantially reduced or the completion of the serious violent offence endangering the state is prevented without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 89b
Establishment of relations for purpose of committing serious violent offence endangering state

(1) Whoever, with the intention of receiving instruction for the purpose of committing a serious violent offence endangering the state under section 89a (2) no. 1, establishes or maintains relations with an organisation within the meaning of section 129a, also in conjunction with section 129b, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Subsection (1) does not apply if the act exclusively serves the performance of lawful professional or official duties.
(3) Subsection (1) also applies if the act of establishing or maintaining relations occurs abroad. Outside the Member States of the European Union this only applies if the act of establishing or maintaining relations is committed by a German national or a foreign national whose livelihood is based in Germany.
(4) Prosecution requires authorisation by the Federal Ministry of Justice and Consumer Protection

1. in the cases under subsection (3) sentence 2 or
2. if the act of establishing or maintaining relations in another Member State of the European Union was not committed by a German national.

(5) If the degree of guilt is minor, the court may dispense with imposing a penalty pursuant to this provision.

Section 89c
Financing of terrorism

(1) Whoever collects, accepts or provides assets in the knowledge or with the intention that these are to be used by another person for the purpose of committing

1. murder under specific aggravating circumstances (section 211), murder (section 212), genocide (section 6 of the Code of Crimes against International Law), a crime against humanity (section 7 of the Code of Crimes against International Law), a war crime (section 8, 9, 10, 11 or 12 of the Code of Crimes against International Law), bodily harm under section 224 or bodily harm which causes severe physical or emotional trauma to another person, in particular of the type referred to in section 226,
2. abduction for the purpose of extortion (section 239a) or hostage-taking (section 239b),
3. offences under sections 303b, 305 and 305a or serious criminal offences constituting a public danger under sections 306 to 306c or section 307 (1) to (3), section 308 (1) to (4), section 309 (1) to (5), section 313, 314 or section 315 (1), (3) or (4), section 316b (1) or (3) or section 316c (1) to (3) or section 317 (1),
4. offences against the environment under section 330a (1) to (3),
5. offences under section 19 (1) to (3), section 20 (1) or (2), section 20a (1) to (3), section 19 (2) no. 2 or (3) no. 2, section 20 (1) or (2) or section 20a (1) to (3), in each case also in conjunction with section 21, or under section 22a (1) to (3) of the War Weapons Control Act,
6. offences under section 51 (1) to (3) of the Weapons Act,
7. an offence under section 328 (1) or (2) or section 310 (1) or (2),
8. an offence under section 89a (2a)

incurs a penalty of imprisonment for a term of between six months and 10 years. Sentence 1 only applies to cases under nos. 1 to 7 if one of the offences stipulated in those provisions is

intended to seriously intimidate the population, to unlawfully coerce an authority or an international organisation by force or threat of force or to destroy or significantly impair the fundamental political, constitutional, economic or social structures of a state or of an international organisation and which, given the nature or consequences of such offences, can seriously damage a state or an international organisation.
(2) Whoever, under the conditions of subsection (1) sentence 2, collects, accepts or provides assets for the purpose of themselves committing one of the offences referred to in subsection (1) sentence 1 incurs the same penalty.
(3) Subsections (1) and (2) also apply if the offence is committed abroad. If the offence is committed outside the Member States of the European Union, this only applies if the offender is a German national or a foreign national whose livelihood is based in Germany, or the financed offence is to be committed in Germany or against a German national.
(4) In the cases under subsection (3) sentence 2, prosecution requires authorisation by the Federal Ministry of Justice and Consumer Protection. If the offence is committed on the territory of another Member State of the European Union, prosecution requires authorisation by the Federal Ministry of Justice and Consumer Protection if the offence is neither committed by a German national nor the financed offence is to be committed in Germany nor by or against a German national.
(5) If the assets of the offence under subsection (1) or (2) are of minor value, the penalty is imprisonment for a term of between three months and five years.
(6) The court mitigates the penalty (section 49 (1)) or may dispense with imposing a penalty if the offender's guilt is minor.
(7) The court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to this provision if the offender voluntarily abandons the further preparation of the offence and averts or substantially reduces a danger which the offender has caused and recognised that others will further prepare or commit the offence, or if he or she voluntarily prevents the completion of the offence. If the danger is averted or substantially reduced or the completion of the offence is prevented without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 90
Disparagement of Federal President

(1) Whoever disparages the Federal President in public, in a meeting or by disseminating material (section 11 (3)) incurs a penalty of imprisonment for a term of between three months and five years.
(2) In less serious cases, the court may, at its discretion, mitigate the penalty (section 49 (2)), unless the conditions of section 188 are met.
(3) The penalty is imprisonment for a term of between six months and five years if the act constitutes defamation (section 187) or if the offender, by committing the act, intentionally supports activities directed against the continued existence of the Federal Republic of Germany or against its constitutional principles.
(4) The offence may be prosecuted only upon authorisation by the Federal President.

Section 90a
Disparagement of state and denigration of symbols

(1) Whoever publicly, in a meeting or by disseminating material (section 11 (3))

1. uses abusive language against or maliciously disparages the Federal Republic of Germany or one of its *Länder* or its constitutional order or

2. denigrates the colours, flag, coat of arms or the anthem of the Federal Republic of Germany or one of its *Länder*

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever removes, destroys, damages, renders unusable or defaces, or commits defamatory mischief on a flag of the Federal Republic of Germany or of one of its *Länder*

which is on public display or a national emblem which has been mounted in a public place by an authority of the Federal Republic of Germany or one of its *Länder* incurs the same penalty. The attempt is punishable.
(3) The penalty is imprisonment for a term not exceeding five years or a fine if the offender, by committing the act, intentionally supports activities directed against the continued existence of the Federal Republic of Germany or against its constitutional principles.

Section 90b
Anti-constitutional disparagement of constitutional organs

(1) Whoever publicly, in a meeting or by disseminating material (section 11 (3)) disparages a constitutional organ, the Federal Government or the Federal Constitutional Court, the government or constitutional court of one of the *Länder* or one of its members in this capacity and in a manner which tarnishes the reputation of the state, and thereby intentionally supports activities directed against the continued existence of the Federal Republic of Germany or against its constitutional principles, incurs a penalty of imprisonment for a term of between three months and five years.
(2) The offence may be prosecuted only upon authorisation by the constitutional organ or member affected.

Section 91
Instructions for committing serious violent offence endangering state

(1) Whoever

1. extols or gives another person access to material (section 11 (3)) whose content is of such a nature as to serve as instructions for committing a serious violent offence endangering the state (section 89a (1)) if the circumstances of its dissemination are conducive to promoting or encouraging others' preparedness to commit a serious violent offence endangering the state,

2. obtains material of the kind designated in no. 1 for the purpose of committing a serious violent offence endangering the state

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Subsection (1) no. 1 does not apply if

1. the act serves the purpose of civic information, protection against anti-constitutional activities, the arts and science, research or teaching, reporting about current or historical events, or similar purposes or

2. the act solely serves the performance of lawful professional or official duties.

(3) If the degree of guilt is minor, the court may dispense with imposing a penalty under this provision.

Section 91a
Area of application

Sections 84, 85 and 87 only apply to offences which are based on activities done within the territorial scope of this statute.

Title 4
Common provisions

Section 92
Definitions

(1) Within the meaning of this statute, the continued existence of the Federal Republic of Germany is deemed to be undermined by whoever ends its freedom from foreign domination, abolishes its national unity or secedes one of its constituent territories.
(2) Within the meaning of this statute, 'constitutional principles' means

1. the right of the people to exercise state authority in elections and ballots and through particular organs of legislative, executive and judicial power and to elect parliament in general, direct, free, equal and secret elections,

2. the subjection of legislation to the constitutional order and the subjection of the executive and judicial power to law and justice,

3. the right to form and exercise a parliamentary opposition,

4. the possibility of dissolving the government and its responsibility to parliament,

5. the independence of the courts and

6. the exclusion of all forms of tyranny and arbitrary rule.

(3) Within the meaning of this statute,

1. ‘activities directed against the continued existence of the Federal Republic of Germany’ means activities by supporters who work towards undermining the continued existence of the Federal Republic of Germany (subsection (1)),

2. ‘activities directed against the security of the Federal Republic of Germany’ means activities by supporters who work towards undermining the external or internal security of the Federal Republic of Germany,

3. ‘activities directed against constitutional principles’ means activities by supporters who work towards abolishing, suspending the application of or subverting a constitutional principle (subsection (2)).

Section 92a
Incidental legal consequences

In addition to imprisonment for a term of at least six months for an offence under this chapter, the court may order that the offender lose the ability to hold public office and be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 92b
Confiscation

If an offence under this chapter has been committed,

1. objects arising from the offence or used or intended for use in its commission or preparation and

2. objects relating to one of the offences under sections 80a, 86, 86a and 89a to 91

may be confiscated. Section 74a applies.

Chapter 2
Treason and endangering external security

Section 93
Definition of ‘state secret’

(1) State secrets are facts, objects or knowledge which are only accessible to a limited number of people and which must be kept secret from a foreign power in order to prevent the risk of serious detriment to the external security of the Federal Republic of Germany.
(2) Facts which violate the free democratic basic order or which violate international arms control agreements when kept secret from the treaty partners of the Federal Republic of Germany are not state secrets.

Section 94
Treason

(1) Whoever

1. communicates a state secret to a foreign power or one of its intermediaries or

2. allows a state secret to come to the attention of an unauthorised person or to become known to the public in other way in order to prejudice the Federal Republic of Germany or benefit a foreign power,

and thereby creates the risk of serious detriment to the external security of the Federal Republic of Germany, incurs a penalty of imprisonment for a term of at least one year.
(2) In especially serious cases, the penalty is imprisonment for life or imprisonment for a term of at least five years. An especially serious case typically occurs where the offender

1. abuses a position of responsibility which places the offender under a particular obligation to safeguard state secrets or

2. by committing the offence creates the risk of especially serious detriment to the external security of the Federal Republic of Germany.

Section 95
Revealing state secrets

(1) Whoever allows a state secret which has been kept secret by an official agency or at its behest to come to the attention of an unauthorised person or to become known to the public, and thereby creates the risk of serious detriment to the external security of the Federal Republic of Germany, incurs a penalty of imprisonment for a term of between six months and five years, unless the offence is subject to a penalty under section 94.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between one year and 10 years. Section 94 (2) sentence 2 applies.

Section 96
Treasonous espionage; spying out state secrets

(1) Whoever obtains a state secret in order to betray it (section 94) incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) Whoever obtains a state secret which has been kept secret by an official agency or at its behest in order to reveal it (section 95) incurs a penalty of imprisonment for a term of between six months and five years. The attempt is punishable.

Section 97
Divulging state secrets

(1) Whoever allows a state secret which has been kept secret by an official agency or at its behest to come to the attention of an unauthorised person or to become known to the public, and thereby causes the risk of serious detriment to the external security of the Federal Republic of Germany by negligence, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever recklessly allows a state secret which has been kept secret by an official agency or at its behest and which was accessible to them by virtue of their office, official position or assignment given by an official agency to come to the attention of an unauthorised person, and thereby causes the risk of serious detriment to the external security of the Federal Republic of Germany by negligence, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(3) The offence is prosecuted only upon authorisation by the Federal Government.

Section 97a
Betrayal of illegal secrets

Whoever communicates a secret which is not a state secret on account of one of the violations indicated in section 93 (2) to a foreign power or one of its intermediaries, and thereby creates the risk of serious detriment to the external security of the Federal Republic

of Germany, incurs the same penalty as if they had committed treason (section 94). Section 96 (1), in conjunction with section 94 (1) no. 1, applies accordingly to secrets of the kind indicated in sentence 1.

Section 97b
Betrayal based on mistaken assumption that secret is illegal

(1) If, in the cases under sections 94 to 97, the offender mistakenly assumes that a state secret is a secret of the kind referred to in section 97a, a penalty is incurred as required by those provisions if

1. the offender can be blamed for the mistake,
2. the offender did not act with the intention of preventing the supposed violation or
3. the act is, under the circumstances, not an appropriate means to accomplish that purpose.

The act is typically not an appropriate means if the offender did not previously seek a remedy from a Member of the Bundestag.
(2) If the state secret was confided or made accessible to the offender acting in the capacity as a public official or soldier in the Federal Armed Forces, criminal liability is also incurred if the offender did not previously seek a remedy from a supervisor or, in the case of a soldier, from a superior disciplinary officer. This applies analogously to persons entrusted with special public service functions and to persons under a duty within the meaning of section 353b (2).

Section 98
Treasonous activity as agent

(1) Whoever

1. engages in activities for a foreign power which are directed towards the acquisition or communication of state secrets or
2. declares to a foreign power or one of its intermediaries their willingness to engage in such activities

incurs a penalty of imprisonment for a term not exceeding five years or a fine, unless the offence is subject to a penalty under section 94 or section 96 (1). In especially serious cases, the penalty is imprisonment for a term of between one year and 10 years; section 94 (2) sentence 2 no. 1 applies accordingly.
(2) The court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to these provisions if the offender voluntarily abandons the activity and discloses what he or she knows to an agency. If, in the cases under subsection (1) sentence 1, the offender has been forced into the activity by the foreign power or one of its intermediaries, no penalty is incurred under this provision if the offender voluntarily abandons the activity and immediately discloses what he or she knows to an authority.

Section 99
Working as agent for intelligence service

(1) Whoever

1. engages in intelligence activities for the intelligence service of a foreign power against the Federal Republic of Germany which are directed towards communicating or supplying facts, objects or knowledge or
2. declares to the intelligence service of a foreign power or one of its intermediaries their willingness to engage in such activities

incurs a penalty of imprisonment for a term not exceeding five years or a fine, unless the offence is subject to a penalty under section 94 or section 96 (1), under section 97a or section 97b in conjunction with section 94 or section 96 (1).
(2) In especially serious cases, the penalty is imprisonment for a term of between one year and 10 years. An especially serious case typically occurs where the offender communicates or supplies facts, objects or knowledge which have been kept secret by an official agency or at its behest and

1. abuses a position of responsibility which places him or her under a particular obligation to safeguard such secrets or

2. by committing the offence creates the risk of serious detriment to the Federal Republic of Germany.

(3) Section 98 (2) applies accordingly.

Section 100
Engaging in relations which endanger peace

(1) Whoever is a German national whose livelihood is based within the territorial scope of this statute and, with the intention of starting a war or armed attack against the Federal Republic of Germany, establishes or maintains relations with a government, organisation or institution outside the territorial scope of this statute or with one of its intermediaries incurs a penalty of imprisonment for a term of at least one year.
(2) In especially serious cases, the penalty is imprisonment for life or imprisonment for a term of at least five years. An especially serious case typically occurs where, by committing the act, the offender creates a serious danger to the continued existence of the Federal Republic of Germany.
(3) In less serious cases, the penalty is imprisonment for a term of between one and five years.

Section 100a
Treasonous forgery

(1) Whoever, despite knowing better, allows forged or falsified objects, reports concerning them or untrue assertions of a factual nature to come to the attention of another or to become known to the public, which, if they were genuine or true, would be of significance for the external security of the Federal Republic of Germany or its relations with a foreign power in order to deceive a foreign power into believing them to be genuine objects or facts, and thereby creates the risk of serious detriment to the external security of the Federal Republic of Germany or its relations with a foreign power, incurs a penalty of imprisonment for a term of between six months and five years.
(2) Whoever produces such objects through forgery or falsification or procures them in order to allow them to come to the attention of another or to become known to the public in the manner indicated in subsection (1) in order to deceive a foreign power, and thereby creates the risk of serious detriment to the external security of the Federal Republic of Germany or its relations with a foreign power, incurs the same penalty.
(3) The attempt is punishable.
(4) In especially serious cases, the penalty is imprisonment for a term of at least one year. An especially serious case typically occurs where, by committing the act, the offender creates the risk of especially serious detriment to the external security of the Federal Republic of Germany or to its relations with a foreign power.

Section 101
Incidental legal consequences

In addition to a sentence of imprisonment of at least six months for an intentional offence under this chapter, the court may order the loss of the ability to hold public office and be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 101a
Confiscation

If an offence under this chapter has been committed,

1. objects arising from the offence or used or intended for use in its commission or preparation and

2. objects which are state secrets and objects of the kind referred to in section 100a relating to the offence

may be confiscated. Section 74a applies. Objects of the kind indicated in sentence 1 no. 2 are confiscated even if the conditions of section 74 (3) sentence 1 and section 74b are not met if this is necessary to avert the risk of serious detriment to the external security of the Federal Republic of Germany; this also applies if the offender acted without guilt.

Chapter 3
Offences against foreign states

Section 102
Attacks against organs and representatives of foreign states

(1) Whoever commits an attack against the life or limb of a foreign head of state, of a member of a foreign government or of the head of a foreign diplomatic mission who is certified in the federal territory whilst the person attacked is in Germany in an official capacity incurs a penalty of imprisonment for a term not exceeding five years or a fine, in especially serious cases imprisonment for a term of at least one year.
(2) In addition to a sentence of imprisonment of at least six months, the court may order the loss of the ability to hold public office and be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 103
(repealed)

Section 104
Desecration of flags and state symbols of foreign states

(1) Whoever removes, destroys, damages or defaces, or commits defamatory mischief on a flag of a foreign state which has been put on public display as required by legal provisions or a recognised custom or a national symbol of such a state which has been mounted in a public place by a recognised mission of such a state incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The attempt is punishable.

Section 104a
Requirements for prosecution

Offences under this chapter are only prosecuted if the Federal Republic of Germany maintains diplomatic relations with the other state, reciprocity is guaranteed and was also guaranteed at the time of the offence, a request to prosecute has been made by the foreign government and the Federal Government authorises the prosecution.

Chapter 4
Offences against constitutional organs and in context of elections and ballots

Section 105
Coercion of constitutional organs

(1) Whoever unlawfully uses force or threats of force to compel

1. a legislative body of the Federation or one of the *Länder* or one of its committees,

2. the Federal Convention or one of its committees or

3. the Federal Government, the Federal Constitutional Court, or the government or constitutional court of one of the *Länder*

not to exercise its functions or to exercise them in a particular manner incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 106
Coercion of Federal President and members of constitutional organ

(1) Whoever unlawfully uses force or a threat of serious harm to compel

1. the Federal President or

2. a member of

   a) a legislative body of the Federation or of one of the *Länder*,

   b) the Federal Convention or

   c) the Federal Government or Federal Constitutional Court, or the government or constitutional court of one of the *Länder*

not to exercise their functions or to exercise them in a particular manner incurs a penalty of imprisonment for a term of between three months and five years.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between one year and 10 years.

Section 106a
(repealed)

Section 106b
Disruption of work of legislative body

(1) Whoever violates directives which are issued either generally or in a particular case by a legislative body of the Federation or of one of its *Länder* or its president in relation to safety and order in the legislative body's building or its surrounding grounds, and thereby hinders or disrupts the activities of the legislative body, incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) In the case of directives issued by a legislative body of the Federation or its president, subsection (1) does not apply to the Members of the Bundestag, the Members of the Bundesrat and the Federal Government and their agents nor, in the case of regulations issued by a legislative body of one of the *Länder* or its president, to the members of the legislative bodies of that *Land*, the members of the *Land* government and its agents.

Section 107
Disruption of electoral process

(1) Whoever, by force or threat of force, prevents or disrupts an election or the determination of its result incurs a penalty of imprisonment for a term not exceeding five years or a fine, in especially serious cases imprisonment for a term of at least one year.
(2) The attempt is punishable.

Section 107a
Fraud in connection with elections

(1) Whoever votes without being entitled to do so or brings about an incorrect election result or falsifies the result in another way incurs a penalty of imprisonment for a term not exceeding five years or a fine. Whoever, in the capacity as a permissible assistant, casts a vote which is contrary to the choice of the person entitled to vote or without the person entitled to vote having expressed their choice also votes without being entitled to do so.

(2) Whoever incorrectly announces an election result or causes it to be incorrectly announced incurs the same penalty.
(3) The attempt is punishable.

Section 107b
Forgery of election documents

(1) Whoever

1. secures their entry in the electoral roll (electoral register) by making false statements,

2. registers another person as a voter whom they know to have no right to be registered,

3. prevents the registration of an eligible voter although they know of that voter's eligibility to vote,

4. permits themselves to be nominated as a candidate in an election although they are ineligible

incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates, unless the offence is subject to a more severe penalty under other provisions.
(2) The issuance of election documents for direct elections in the social security system is equivalent to an entry in the electoral roll.

Section 107c
Violation of secrecy of ballot

Whoever contravenes a provision which serves to protect the secrecy of elections with the intention of obtaining for themselves or another knowledge as to how a person voted incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 108
Coercion of voters

(1) Whoever unlawfully uses force, threatens serious harm, abuses a professional or economic relationship of dependence or other economic pressure to compel another, or whoever prevents another person from voting or exercising their right to vote in a particular manner incurs a penalty of imprisonment for a term not exceeding five years or a fine, in especially serious cases imprisonment for a term of between one year and 10 years.
(2) The attempt is punishable.

Section 108a
Deceiving voters

(1) Whoever, by means of deception, causes another to be mistaken as to the content of their declaration upon casting their vote or, against their will, not to vote or to cast an invalid vote incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The attempt is punishable.

Section 108b
Bribing voters

(1) Whoever offers, promises or grants another gifts or other benefits in exchange for not voting or for voting in a particular manner incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever demands, allows themselves to be promised or accepts gifts or other benefits in exchange for not voting or voting in a particular manner incurs the same penalty.

Section 108c
Incidental legal consequences

In addition to a sentence of imprisonment of at least six months for an offence under sections 107, 107a, 108 and 108b, the court may order the loss of the right to be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 108d
Scope

Sections 107 to 108c apply to parliamentary elections, to the election of members of the European Parliament, other popular elections and ballots at the federal, federal state and local government level, to elections and ballots in subareas at federal state or local government level, as well as to direct elections in the social security system. The signing of nomination papers or the signing of a petition for a referendum is equivalent to an election or ballot.

Section 108e
Taking of bribes by and giving of bribes to elected officials

(1) Whoever, in the capacity as a Member of the Bundestag or as a member of one of the *Länder* parliaments, demands, allows themselves to be promised or accepts an undue advantage for themselves or a third party in return for performing or refraining from performing an act, upon request or instruction, in the exercise of their mandate incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever offers, promises or grants to a Member of the Bundestag or a member of one of the *Länder* parliaments an undue advantage for the member themselves or a third party in return for that member performing or refraining from performing an act, upon request or instruction in the exercise of their mandate, incurs the same penalty.
(3) Members of

1. a local administrative body,
2. a body of an administrative unit established for a subarea of a *Land* or a local authority and elected in direct and general elections,
3. the Federal Convention,
4. the European Parliament,
5. a parliamentary assembly of an international organisation and
6. a legislative body of a foreign state

are considered equal to the members referred to in subsections (1) and (2).
(4) An undue advantage is in particular not deemed to exist if the acceptance of the advantage is in accordance with the relevant provisions relating to the member's legal status. The following is not considered an undue advantage:

1. a political mandate or a political function or
2. a donation which is permissible under the Political Parties Act or other relevant legislation.

(5) In addition to a sentence of imprisonment of at least six months, the court may order the loss of the ability to be elected in public elections and to vote on public matters.

Chapter 5
Offences against national defence

Section 109
Avoiding draft by mutilation

(1) Whoever, by mutilation or other means, renders themselves or another person, with that person's consent, or causes themselves or another person to be rendered unfit for military service incurs a penalty of imprisonment for a term of between three months and five years.

(2) If the offender causes such unfitness only for a certain period of time or for a certain type of duty, the penalty is imprisonment for a term not exceeding five years or a fine.
(3) The attempt is punishable.

Section 109a
Avoiding draft by deception

(1) Whoever engages in fraudulent practices with intent to deceive in order to evade or cause another to evade military service either permanently or for a certain period of time, in its entirety or for a certain type of duty, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Sections 109b and 109c
(repealed)

Section 109d
Disruptive propaganda against Federal Armed Forces

(1) Whoever, despite knowing better and for the purpose of dissemination, makes false or grossly distorted assertions of fact the dissemination of which is suitable for causing a disruption to the functioning of the Federal Armed Forces, or whoever disseminates such assertions in the knowledge of their falseness in order to obstruct the Federal Armed Forces in the discharge of their duty of national defence incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 109e
Sabotage against means of defence

(1) Whoever, without being authorised to do so, destroys, damages, alters, renders unusable or removes military resources or an installation or facility used entirely or predominantly for the national defence or the protection of the civilian population from the dangers of war, and thereby endangers the security of the Federal Republic of Germany, the fighting strength of its troops or human life, incurs a penalty of imprisonment for a term of between three months and five years.
(2) Whoever knowingly and defectively produces or supplies such an object or material required for its production, and thereby knowingly causes the danger referred to in subsection (1), incurs the same penalty.
(3) The attempt is punishable.
(4) In especially serious cases, the penalty is imprisonment for a term of between one year and 10 years.
(5) Whoever causes the danger in the cases under subsection (1) by negligence, or in the cases under subsection (2) not knowingly but intentionally or negligently, incurs a penalty of imprisonment for a term not exceeding five years or a fine, unless the offence is subject to a more severe penalty under other provisions.

Section 109f
Intelligence activity endangering national security

(1) Whoever, on behalf of a government agency, a political party or another organisation outside the territorial scope of this statute or for a banned organisation or one of its intermediaries

1. gathers information about national defence matters,
2. operates an intelligence service dedicated to national defence matters or
3. recruits for or supports one of these activities,

and thereby supports activities directed against the security of the Federal Republic of Germany or the fighting strength of its troops, incurs a penalty of imprisonment for a term not

exceeding five years or a fine, unless the offence is subject to a more severe penalty under other provisions. Activities intended to inform the public within the context of normal press or radio reporting remain unaffected.
(2) The attempt is punishable.

Section 109g
Images endangering national security

(1) Whoever makes an image or description of military resources, a military installation or facility or a military operation, or allows another to obtain such an image or description, and thereby knowingly endangers the security of the Federal Republic of Germany or the fighting strength of its troops, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever takes an aerial photograph of an area or object within the territorial scope of this statute or allows another to obtain such a photograph or an image produced therefrom, and thereby knowingly endangers the security of the Federal Republic of Germany or the fighting strength of its troops, incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the offence is subject to a penalty under subsection (1).
(3) The attempt is punishable.
(4) Whoever, in the cases under subsection (1), allows another to obtain the image or description, and thereby not knowingly, but intentionally or recklessly, causes the danger, incurs a penalty of imprisonment for a term not exceeding two years or a fine. However, no liability is incurred if the offender acted with the permission of a competent government agency.

Section 109h
Recruiting for foreign armed forces

(1) Whoever, on behalf of a foreign power, recruits a German national for military service in a military or paramilitary organisation or introduces that person to their recruiters or to the military service of such an organisation incurs a penalty of imprisonment for a term of between three months and five years.
(2) The attempt is punishable.

Section 109i
Incidental consequences

In addition to a sentence of imprisonment for a term of at least one year for an offence under sections 109e and 109f, the court may order the loss of the ability to hold public office and be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 109k
Confiscation

If an offence under sections 109d to 109g has been committed,

1. objects arising from the offence or used or intended for use in its commission or preparation and

2. images, descriptions and photographs relating to an offence under section 109g

may be confiscated. Section 74a applies. Objects of the type indicated in sentence 1 no. 2 are confiscated even if the conditions of section 74 (3) sentence 1 and section 74b are not met if national defence interests so require; this also applies if the offender acted without guilt.

Chapter 6
Resistance to state authority

Section 110
(repealed)

Section 111
Public incitement to commit offences

(1) Whoever publicly, in a meeting or by disseminating material (section 11 (3)) incites the commission of an unlawful act incurs the same penalty as an abettor (section 26).
(2) If the incitement is unsuccessful, the penalty is imprisonment for a term not exceeding five years or a fine. The penalty may not be more severe than if the incitement had been successful (subsection (1)); section 49 (1) no. 2 applies.

Section 112
(repealed)

Section 113
Resistance to enforcement officers

(1) Whoever, by force or threat of force, resists a public official or a soldier in the Federal Armed Forces charged with enforcing laws, statutory instruments, judgments, judicial decisions or directions in the performance of such an official act incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) In especially serious cases, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where

1. the offender or another party to the offence carries a weapon or another dangerous implement,

2. the offender, by committing an act of violence, places the assaulted person in danger of death or at risk of serious damage to health or

3. the act is committed jointly with another party to the offence.

(3) The offence is not punishable under this provision if the official act is not lawful. This also applies if the offender mistakenly assumes that the official act is lawful.
(4) If, when committing the act, the offender mistakenly assumes that the official act is not lawful and if the offender could have avoided the mistake, the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to this provision if the offender's guilt is minor. If the offender was unable to avoid the mistake and, under the circumstances known to him or her, could not reasonably be expected to use legal remedies to defend himself or herself against the presumed unlawful official act, then the act is not punishable under this provision; if the offender could reasonably be expected to do so, the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to this provision.

Section 114
Assault of enforcement officers

(1) Whoever assaults a public official or a soldier in the Federal Armed Forces charged with enforcing laws, statutory instruments, judgments, judicial decisions or directions in the performance of an official act incurs a penalty of imprisonment for a term of between three months and five years.
(2) Section 113 (2) applies accordingly.
(3) Section 113 (3) and (4) applies accordingly if the official act is an enforcement measure within the meaning of section 113 (1).

Section 115
Resistance to or assault of persons equal to enforcement officers

(1) Sections 113 and 114 apply accordingly to protect persons who are vested with the powers and duties of police officers or who are investigators of the public prosecution service without being public officials.
(2) Sections 113 and 114 apply accordingly to protect persons who are called upon to assist in the performance of the official act.

(3) Section 113 also applies to persons who, in the case of accidents, a common danger or an emergency, use force or the threat of force to hinder the members of the fire brigade, the civil protection service or one of the rescue services who are rendering assistance. Persons who assault those who are rendering assistance in such situations incur a penalty pursuant to section 114.

Sections 116 to 119
(repealed)

Section 120
Facilitating escape of prisoners

(1) Whoever frees a prisoner or encourages or supports a prisoner in the escape incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) If the offender is under a duty as a public official or a person entrusted with special public service functions to prevent the prisoner's escape, the penalty is imprisonment for a term not exceeding five years or a fine.
(3) The attempt is punishable.
(4) A person otherwise detained in an institution by official order is equal to a prisoner within the meaning of subsections (1) and (2).

Section 121
Mutiny by prisoners

(1) Prisoners who gang up and join forces to

1. coerce (section 240) or assault a prison officer, another officer or a person charged with their supervision, support or examination,

2. escape by use of force or

3. aid one of their number or another prisoner to escape by use of force

incur a penalty of imprisonment for a term of between three months and five years.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty for mutiny is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender or another party to the offence

1. carries a firearm,

2. carries another weapon or another dangerous implement for the purpose of using it to commit the offence or

3. by committing an act of violence places another in danger of death or at risk of serious damage to health.

(4) A person in preventive detention is equal to a prisoner within the meaning of subsections (1) to (3).

Section 122
(repealed)

Chapter 7
Offences against public order

Section 123
Trespass

(1) Whoever unlawfully enters the private premises, business premises or other enclosed property of another, or closed premises designated for public service or transportation, or whoever stays there without being authorised to do so and does not leave when requested

to do so by the authorised person incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) The offence is prosecuted only upon request.

Section 124
Aggravated trespass

If a crowd of people publicly gangs together and, with the intention of joining forces to commit acts of violence against persons or property, unlawfully enters the private premises, business premises or other enclosed property of another, or closed premises designated for public service, then each person taking part in these acts incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 125
Breach of peace

(1) Whoever participates as an offender or a participant in

1. acts of violence against persons or property or
2. threatening acts of violence against persons

which are committed by a crowd of people who have joined forces in a manner which endangers public safety, or whoever encourages a crowd of people to commit such acts, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) To the extent that the offences referred to in subsection (1) nos. 1 and 2 carry a penalty pursuant to section 113, section 113 (3) and (4) applies analogously. This also applies in the cases under section 114 if the official act is an enforcement measure within the meaning of section 113 (1).

Section 125a
Especially serious breach of peace

In especially serious cases under section 125 (1), the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. carries a firearm,
2. carries another weapon or another dangerous implement,
3. by committing an act of violence places another in danger of death or at risk of serious damage to health or
4. loots or causes significant damage to another's property.

Section 126
Disturbing public peace by threatening to commit offences

(1) Whoever, in a manner which is suitable for causing a disturbance of the public peace, threatens to commit

1. breach of the peace as designated in section 125a sentence 2 nos. 1 to 4,
2. murder under specific aggravating circumstances (section 211), murder (section 212) or genocide (section 6 of the Code of Crimes against International Law) or a crime against humanity (section 7 of the Code of Crimes against International Law) or a war crime (section 8, 9, 10, 11 or 12 of the Code of Crimes against International Law),
3. grievous bodily harm (section 226),
4. an offence against personal liberty under section 232 (3) sentence 2, section 232a (3), (4) or (5), section 232b (3) or (4), section 233a (3) or (4), each to the extent that it represents a serious criminal offence, section 234, 234a, 239a or 239b,

5. robbery or extortion with use of force or threat of force (sections 249 to 251 or section 255),

6. a serious criminal offence constituting a public danger under sections 306 to 306c or section 307 (1) to (3), section 308 (1) to (3), section 309 (1) to (4), section 313, section 314 or section 315 (3), section 315b (3), section 316a (1) or (3), section 316c (1) or (3) or section 318 (3) or (4) or

7. a less serious criminal offence constituting a public danger under section 309 (6), section 311 (1), section 316b (1), section 317 (1) or section 318 (1)

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, despite knowing better and in a manner which is suitable for causing a disturbance of the public peace, pretends that the commission of one of the unlawful acts referred to in subsection (1) is imminent incurs the same penalty.

Section 127
Forming armed groups

Whoever unlawfully forms or commands a group which is in possession of weapons or other dangerous implements, or whoever joins such a group, provides it with weapons or money or supports it by other means incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 128
(repealed)

Section 129
Forming criminal organisations

(1) Whoever forms an organisation or participates as a member in an organisation the objectives or activities of which are directed at the commission of offences which incur a penalty of a maximum term of imprisonment of at least two years incurs a penalty of imprisonment for a term not exceeding five years or a fine. Whoever supports such an organisation or recruits members or supporters for such an organisation incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) An organisation is a structured association of more than two persons, established to exist for a longer period of time, regardless of whether it has formally defined roles for its members, continuous membership or a developed structure and whose purpose is the pursuit of an overriding common interest.
(3) Subsection (1) does not apply

1. if the organisation is a political party which the Federal Constitutional Court has not declared to be unconstitutional,

2. if the commission of offences is only one objective or an activity merely of subordinate importance or

3. to the extent that the objectives or activities of the organisation relate to criminal offences under sections 84 to 87.

(4) The attempt to form an organisation referred to in subsection (1) sentence 1 and subsection (2) is punishable.
(5) In especially serious cases under subsection (1) sentence 1, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where the offender is one of the ringleaders or persons operating behind the scenes of the organisation. In the cases under subsection (1) sentence 1, the penalty is imprisonment for a term of between six months and 10 years if the objective or activity of the organisation is directed at the commission of offences of the type referred to in section 100b (2) no. 1 (a), (c), (d), (e) and (g) to (m), and nos. 2 to 5 and 7 of the Code of Criminal Procedure, with the

exception of offences under section 100b (2) no. 1 (g) of the Code of Criminal Procedure, in accordance with sections 239a and 239b of this statute.
(6) In the case of parties to an offence whose guilt is minor or whose contribution is of subordinate importance, the court may, in the cases under subsections (1) and (4), dispense with imposing a penalty.
(7) The court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to these provisions if the offender

1. makes voluntary and earnest efforts to prevent the continued existence of the organisation or the commission of an offence consistent with its objectives or

2. voluntarily discloses what he or she knows to an authority in time to prevent acts the planning of which he or she is aware of;

if the offender succeeds in preventing the continued existence of the organisation or this is achieved without any effort on the offender's part, no criminal liability is incurred.

Section 129a
Forming terrorist organisations

(1) Whoever forms an organisation (section 129 (2)) whose objectives or activities are directed at the commission of

1. murder under specific aggravating circumstances (section 211) or murder (section 212) or genocide (section 6 of the Code of Crimes against International Law) or a crime against humanity (section 7 of the Code of Crimes against International Law) or a war crime (section 8, 9, 10, 11 or 12 of the Code of Crimes against International Law) or

2. offences against personal liberty under section 239a or section 239b,

3. (repealed)

or whoever participates as a member of such an organisation incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) Whoever forms an organisation whose objectives or activities are directed at

1. causing serious physical or mental harm to another person, especially of the kind designated in section 226,

2. committing offences under section 303b, section 305, section 305a or offences constituting a public danger under sections 306 to 306c or section 307 (1) to (3), section 308 (1) to (4), section 309 (1) to (5), section 313, 314 or section 315 (1), (3) or (4), section 316b (1) or (3) or section 316c (1) to (3) or section 317 (1),

3. committing offences against the environment under section 330a (1) to (3),

4. committing offences under section 19 (1) to (3), section 20 (1) or (2), section 20a (1) to (3), section 19 (2) no. 2 or (3) no. 2, section 20 (1) or (2), or section 20a (1) to (3), in each case also in conjunction with section 21, or under section 22a (1) to (3) of the War Weapons Control Act or

5. committing offences under section 51 (1) to (3) of the Weapons Act,

or whoever participates as a member of such an organisation if one of the offences referred to in nos. 1 to 5 is intended to seriously intimidate the population, to unlawfully coerce an authority or an international organisation by force or threat of force, or to destroy or significantly impair the fundamental political, constitutional, economic or social structures of a state or of an international organisation and which, given the nature or consequences of such offences, may seriously damage a state or an international organisation incurs the same penalty.

(3) If the objectives or activities of the organisation are directed at threatening the commission of one of the offences indicated in subsection (1) or (2), the penalty is imprisonment for a term of between six months and five years.
(4) If the offender is one of the ringleaders or persons operating behind the scenes, the penalty is imprisonment for a term of at least three years in the cases under subsections (1) and (2) and imprisonment for a term of between one year and 10 years in the cases under subsection (3).
(5) Whoever supports an organisation as described in subsection (1), (2) or (3) incurs a penalty of imprisonment for a term of between six months and 10 years in the cases under subsections (1) and (2) and a penalty of imprisonment for a term not exceeding five years or a fine in the cases under subsection (3). Whoever recruits members or supporters for an organisation as described in subsection (1) or (2) incurs a penalty of imprisonment for a term of between six months and five years.
(6) In the case of parties to an offence whose guilt is minor and whose contribution is of subordinate importance, the court may, in the cases of subsections (1), (2), (3) and (5), mitigate the penalty at its discretion (section 49 (2)).
(7) Section 129 (7) applies accordingly.
(8) In addition to a sentence of imprisonment of at least six months, the court may order the loss of the ability to hold public office and be elected in public elections (section 45 (2)).
(9) In the cases under subsections (1), (2), (4) and (5), the court may make an order for the supervision of conduct (section 68 (1)).

Section 129b
Foreign criminal and terrorist organisations; confiscation

(1) Sections 129 and 129a apply to foreign organisations. If the offence relates to an organisation outside the Member States of the European Union, this only applies if the offence was committed by way of an activity carried out within the territorial scope of this statute or if the offender or the victim is a German national or is in Germany. In cases which fall under sentence 2, the offence is prosecuted only upon authorisation by the Federal Ministry of Justice and Consumer Protection. Authorisation may also be granted for an individual case or in general for the prosecution of future offences relating to a specific organisation. When deciding whether to give authorisation, the Federal Ministry is to take into account whether the organisation's activities are directed against the fundamental values of a state order which respects human dignity or against the peaceful coexistence of nations and which appear reprehensible when weighing all the circumstances of the case.
(2) Section 74a applies to cases under section 129 and section 129a, in each case also in conjunction with subsection (1).

Section 130
Incitement of masses

(1) Whoever, in a manner which is suitable for causing a disturbance of the public peace,

1. incites hatred against a national, racial, religious group or a group defined by their ethnic origin, against sections of the population or individuals on account of their belonging to one of the aforementioned groups or sections of the population, or calls for violent or arbitrary measures against them or

2. violates the human dignity of others by insulting, maliciously maligning or defaming one of the aforementioned groups, sections of the population or individuals on account of their belonging to one of the aforementioned groups or sections of the population

incurs a penalty of imprisonment for a term of between three months and five years.
(2) Whoever

1. disseminates material (section 11 (3)) or makes it available to the public, or offers, supplies or makes available to a person under 18 years of age material (section 11 (3)) which

   a) incites hatred against one of the groups referred to in subsection (1) no. 1, sections of the population or individuals on account of their belonging to one of the groups referred to in subsection (1) no. 1, or sections of the population,

   b) calls for violent or arbitrary measures against one of the persons or bodies of persons referred to in letter (a) or

   c) attacks the human dignity of one of the persons or bodies of persons referred to in letter (a) by insulting, maliciously maligning or defaming them,

2. makes content referred to in no. 1 (a) to (c) available to a person under 18 years of age or to the public through broadcasting or telemedia services or

3. produces, purchases, supplies, stocks, offers, advertises or undertakes to import or export material (section 11 (3)) of such content referred to in no. 1 (a) to (c) in order to use it or parts obtained from it within the meaning of no. 1 or 2 or to facilitate such use by another

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(3) Whoever publicly or in a meeting approves of, denies or downplays an act committed under the rule of National Socialism of the kind indicated in section 6 (1) of the Code of Crimes against International Law in a manner which is suitable for causing a disturbance of the public peace incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(4) Whoever publicly or in a meeting disturbs the public peace in a manner which violates the dignity of the victims by approving of, glorifying or justifying National Socialist tyranny and arbitrary rule incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(5) Subsection (2) no. 1 and no. 3 also applies to material (section 11 (3)) of such content referred to in subsections (3) and (4). Whoever makes content referred to in subsections (3) and (4) available to a person under 18 years of age or available to the public through broadcasting or telemedia services incurs the same penalty specified in subsection (2) no. 2.
(6) In the cases under subsection (2) nos. 1 and 2, also in conjunction with subsection (5), the attempt is punishable.
(7) In the cases under subsection (2), also in conjunction with subsection (5), and in the cases under subsections (3) and (4), section 86 (3) applies accordingly.

Section 130a
Instructions for committing criminal offences

(1) Whoever disseminates or makes available to the public material (section 11 (3)) which is of such a nature as to serve as instructions for committing one of the unlawful acts referred to in section 126 (1) and whose content is intended to encourage or cause others to commit such an act incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever

1. disseminates or makes available to the public material (section 11 (3)) which is of such a nature as to serve as instructions for one of the unlawful acts referred to in section 126 (1) or

2. gives instructions for one of the unlawful acts referred to in section 126 (1) either publicly or in a meeting

in order to encourage or cause others to commit such an act incurs the same penalty.

(3) Whoever makes content specified in subsection (1) or subsection (2) no. 1 available to the public through broadcasting or telemedia services incurs the penalty under subsection (1).
(4) Section 86 (3) applies accordingly.

Section 131
Depictions of violence

(1) Whoever

1. takes material (section 11 (3)) which describes cruel or otherwise inhuman acts of violence against humans or humanoid beings in a manner which glorifies or downplays such acts of violence or which represents the cruel or inhuman aspects of the event in a manner which violates human dignity and

   a) disseminates or makes it available to the public,

   b) offers, supplies or makes it available to a person under 18 years of age or

2. makes content referred to in no. 1 available through broadcasting or telemedia services to

   a) a person under 18 years of age,

   b) the public or

3. produces, obtains, supplies, stocks, offers, advertises or undertakes to import or export material (section 11 (3)) of such content referred to in no. 1 in order to use it or parts obtained from it within the meaning of no. 1 (a) or (b), or no. 2, or to facilitate such use by another

incurs a penalty of imprisonment for a term not exceeding one year or a fine. In the cases under sentence 1 no. 1 and no. 2, the attempt is punishable.
(2) Subsection (1) does not apply if the act serves the reporting about current or historical events.
(3) Subsection (1) sentence 1 no. 1 (b) and no. 2 (a) does not apply if it is the person having the duty of care and custody of another person who acts; this does not apply if the person having the duty of care and custody grossly breaches the duty of care and upbringing by offering, supplying or making available such material.

Section 132
Fraudulent exercise of public office

Whoever, without being authorised to do so, engages in exercising a public office or undertakes an act which may only be undertaken with the authority of public office incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 132a
Abuse of titles, professional designations and symbols

(1) Whoever, without being authorised to do so,

1. uses domestic or foreign titles of office, academic degrees, honorific titles or public honours,

2. uses the professional designation of ‘physician’, ‘dentist’, ‘psychological psychotherapist’, ‘child or youth psychotherapist’, ‘psychotherapist’, ‘veterinarian’, ‘pharmacist’, ‘lawyer’ (*Rechtsanwalt*), ‘patent attorney’, ‘certified accountant’, ‘sworn auditor’, ‘tax consultant’ (*Steuerberater*) or ‘tax representative’ (*Steuerbevollmächtigter*),

3. uses the title of ‘publicly appointed expert’ or

4. wears domestic or foreign uniforms, official dress or official insignia

incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Designations, academic degrees, titles, honours, uniforms, official dress or official insignia which are easy to confuse with those referred to in subsection (1) are equivalent to those referred to in subsection (1).
(3) Subsections (1) and (2) also apply to official titles, titles, honours, official dress and official insignia of the churches and other religious communities under public law.
(4) Objects to which an offence under subsection (1) no. 4, either alone or in conjunction with subsections (2) or (3), relates may be confiscated.

Section 133
Destruction of material in official custody

(1) Whoever destroys, damages, renders unusable or removes from official access any papers or other movable items which have been put in official custody or which have been officially placed in their or another's custody incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The same applies to papers or other movable items in the official custody of a church or another religious community under public law or which have been placed in official custody with the offender or another.
(3) Whoever commits the act in relation to an object which has been entrusted to or made available to them in their capacity as a public official or a person entrusted with special public service functions incurs a penalty of imprisonment for a term not exceeding five years or a fine.

Section 134
Defacing official notices

Whoever knowingly destroys, removes, disfigures, defaces or distorts the meaning of official papers which have been put up or put on display in a public place to serve as an announcement incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 135
(repealed)

Section 136
Destruction of objects under seizure; breach of seal

(1) Whoever destroys, damages, renders unusable, or entirely or partially removes an object which is under lien or has been officially seized in another manner incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Whoever damages, removes or defaces an official seal applied in order to seize, officially seal or mark objects, or whoever entirely or partially renders the attachment produced by the seal ineffective incurs the same penalty.
(3) The offence does not carry a penalty pursuant to subsections (1) and (2) if the lien, the seizure or the application of the seal was not executed by lawful official act. This also applies if the offender mistakenly assumes that the official act was lawful.
(4) Section 113 (4) applies analogously.

Section 137
(repealed)

Section 138
Failure to report planned offences

(1) Whoever has credible information about the planning or the commission of

1. (repealed)
2. high treason in the cases under sections 81 to 83 (1),

3. treason or endangering external security in the cases under sections 94 to 96, section 97a or 100,

4. counterfeiting money or securities in the cases under sections 146, 151 and 152, or counterfeiting guaranteed payment cards and blank Eurocheques in the cases under section 152b (1) to (3),

5. murder under specific aggravating circumstances (section 211) or murder (section 212) or genocide (section 6 of the Code of Crimes against International Law) or a crime against humanity (section 7 of the Code of Crimes against International Law) or a war crime (section 8, 9, 10, 11 or 12 of the Code of Crimes against International Law) or a crime of aggression (section 13 of the Code of Crimes against International Law),

6. an offence against personal liberty in the cases under section 232 (3) sentence 2, section 232a (3), (4) and (5), section 232b (3) or (4), section 233a (3) or (4), in each case to the extent that it constitutes a serious criminal offence, under section 234, 234a, 239a or 239b,

7. robbery or extortion with use of force or threat of force (sections 249 to 251 or section 255) or

8. offences constituting a public danger in the cases under sections 306 to 306c or section 307 (1) to (3), section 308 (1) to (4), section 309 (1) to (5), section 310, 313, 314, section 315 (3), section 315b (3) or section 316a or 316c

at a time when the commission or result can still be prevented and fails to report it in time to the public authorities or to the person threatened incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever credibly learns

1. of the commission of an offence under section 89a or

2. of the planning or commission of an offence under section 129a, also in conjunction with section 129b (1) sentences 1 and 2,

at a time when the commission can still be prevented and fails to report it without delay to the public authorities incurs the same penalty. Section 129b (1) sentences 3 to 5 applies accordingly in the case under no. 2.
(3) Whoever recklessly fails to make a report although they have credible information about the planning or the commission of an unlawful act incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 139
Exemption from punishment for failure to report planned crimes

(1) If, in the cases under section 138, the offence was not attempted, the court may dispense with imposing a penalty.
(2) Clergy are not obliged to report what has been confided to them in their capacity as spiritual advisers.
(3) Whoever fails to report an offence which they would be required to make against a relative is exempt from punishment if they made earnest efforts to dissuade the relative from committing the offence or to prevent the result, except in the case of

1. murder under specific aggravating circumstances or murder (section 211 or 212),

2. genocide in the cases under section 6 (1) no. 1 of the Code of Crimes against International Law, a crime against humanity under section 7 (1) no. 1 of the Code of Crimes against International Law or a war crime under section 8 (1) no. 1 of the Code of Crimes against International Law or

3. abduction for the purpose of extortion (section 239a (1)), hostage-taking (section 239b (1)), or an attack on air or maritime traffic (section 316c (1)) by a terrorist organisation (section 129a, also in conjunction with section 129b (1)).

Under the same conditions, a lawyer, defence counsel, physician, psychotherapist, or child or youth psychotherapist is not obliged to report what was confided to them in their professional capacity. The professional assistants of those persons referred to in sentence 2 and those persons who work for them as part of their professional training are not obliged to report what they learn in their professional capacity.
(4) Whoever prevents the commission or the result of the offence other than by reporting is exempt from punishment. If the commission or result of the offence does not take place without any action on the part of the person obliged to report, then that person's earnest efforts to prevent the result suffice for exemption from punishment.

Section 140
Rewarding and approval of offences

Whoever

1. rewards or

2. approves of publicly, in a meeting or by disseminating material (section 11 (3)) in a manner which is suitable for causing a disturbance of the public peace

one of the unlawful acts referred to in section 138 (1) nos. 2 to 4 and no. 5 last alternative and in section 126 (1) or an unlawful act under section 176 (3), sections 176a and 176b, under section 177 (4) to (8) or section 178 after it has been committed or culpably attempted incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 141
(repealed)

Section 142
Leaving scene of accident

(1) Parties to a road traffic accident who leave the scene of the accident before

1. having facilitated, on behalf of the other parties to the accident and any persons suffering injury or harm, the determination of their identity, of their vehicle and the nature of their involvement through their presence and by stating that they were involved in the accident or

2. having waited for an appropriate period of time under the circumstances during which no one was willing to make such determinations

incur a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Parties to an accident who leave the scene of the accident

1. after the end of the waiting period (subsection (1) no. 2) or

2. justifiably or excusably

but subsequently do not promptly make such determinations possible also incur the penalty under subsection (1).
(3) Parties to an accident satisfy the obligation to subsequently make the determinations possible if they inform the persons entitled to receive such information (subsection (1) no. 1) or a nearby police station that they were involved in the accident and if they state their address and whereabouts as well as the licence plate number and location of their vehicle and make it available for prompt examination for a reasonable period. This does not apply if they intentionally obstruct these determinations by their conduct.
(4) The court mitigates the penalty (section 49 (1)) in the cases under subsections (1) and (2) or may dispense with imposing a penalty pursuant to these provisions if the parties to the

accident voluntarily make the determinations possible (subsection (3)) within 24 hours after an accident which did not take place in flowing traffic and which resulted in merely minor property damage.
(5) A party to an accident is deemed to be anyone whose conduct, under the circumstances, may have contributed to causing the accident.

Section 143
(repealed)

Section 144
(repealed)

Section 145
Misuse of emergency numbers and tampering with means of accident prevention and first aid

(1) Whoever intentionally or knowingly

1. improperly uses emergency numbers or distress signals or

2. pretends that the assistance of other persons is required due to an accident or a common danger or emergency

incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Whoever intentionally or knowingly

1. removes, defaces or distorts the meaning of warning or prohibition signs which serve to prevent accidents or a common danger or

2. removes, alters or renders unusable protective equipment which serves to prevent accidents or a common danger or rescue equipment designed for rendering assistance following accidents or in the case of a common danger

incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the act is subject to a penalty under section 303 or 304.

Section 145a
Non-compliance with directions during supervision of conduct

Whoever fails to comply with a specific direction as referred to in section 68b (1) during a period of supervision of conduct, and thereby endangers the objective of the measure, incurs a penalty of imprisonment for a term not exceeding one year or a fine. The offence may be prosecuted only upon the request of the supervisory authority (section 68a).

Section 145b
(repealed)

Section 145c
Violation of disqualification from exercising profession

Whoever exercises a profession, branch of profession, trade or branch of trade on their own behalf or for another or allows another to exercise it for them although they or the other person have been disqualified from exercising a profession incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 145d
Misleading authorities about commission of offence

(1) Whoever, despite knowing better, misleads an authority or an agency competent to receive criminal complaints about the fact

1. that an unlawful act has been committed or

2. that the commission of one of the unlawful acts referred to in section 126 (1) is imminent

incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the offence is subject to a penalty under section 164, 258 or 258a.
(2) Whoever, despite knowing better, attempts to mislead one of the authorities referred to in subsection (1) about the parties to

1. an unlawful act or

2. an imminent unlawful act referred to in section 126 (1)

incurs the same penalty.
(3) Whoever

1. commits an offence under subsection (1) no. 1 or subsection (2) no. 1 or

2. despite knowing better misleads one of the authorities referred to in subsection (1) about the fact that the commission of an unlawful act referred to in section 46b (1) sentence 1 no. 2 of this statute or section 31 sentence 1 no. 2 of the Narcotics Act is imminent or

3. despite knowing better misleads one of these authorities about one of the parties to an imminent offence under no. 2

in order to benefit from the mitigation of penalty or imposition of a penalty being dispensed with under section 46b of this statute or section 31 of the Narcotics Act incurs a penalty of imprisonment for a term of between three months and five years.
(4) In less serious cases under subsection (3), the penalty is imprisonment for a term not exceeding three years or a fine.

Chapter 8
Counterfeiting of money and official stamps

Section 146
Counterfeiting of money

(1) Whoever

1. counterfeits money with the intention that it be put into circulation as genuine or that such putting into circulation be facilitated, or alters money with such intention so that it appears to be of a higher value,

2. procures or offers for sale counterfeit money with such intention or

3. puts into circulation as genuine counterfeit money which they have counterfeited or falsified or procured under the provisions of no. 1 or 2

incurs a penalty of imprisonment for a term of at least one year.
(2) If the offender acts on a commercial basis or as a member of a gang whose purpose is the continued counterfeiting of money, the penalty is imprisonment for a term of at least two years.
(3) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.

Section 147
Putting counterfeit money into circulation

(1) Whoever puts counterfeit money into circulation other than in the cases under section 146 incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 148
Counterfeiting of official stamps

(1) Whoever

1. counterfeits official stamps with the intention that they be used or put into circulation as genuine or that such use or putting into circulation be facilitated, or alters official stamps with such intention that they appear to be of a higher value,

2. procures counterfeit official stamps with such intention or

3. uses, offers for sale or puts into circulation as genuine counterfeit official stamps

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever uses or puts into circulation as valid used official stamps from which the cancellation mark has been removed incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(3) The attempt is punishable.

Section 149
Preparing counterfeiting of money or official stamps

(1) Whoever prepares to counterfeit money or stamps by producing, procuring for themselves or another, offering for sale, keeping safe or entrusting to another

1. plates, moulds, type, blocks, negatives, stencils, computer programs or similar equipment which by its nature is suitable for the commission of the offence,

2. paper which is identical or easy to confuse with the type of paper which is designated for the production of money or official stamps and is specially protected against imitation or

3. holograms or other elements affording protection against counterfeiting

incurs a penalty of imprisonment for a term not exceeding five years or a fine if they prepared to counterfeit money, otherwise with imprisonment for a term not exceeding two years or a fine.
(2) Whoever voluntarily

1. abandons the commission of the prepared offence and averts a danger they caused that others will continue to prepare the offence or commit it, or prevents the completion of the offence and

2. destroys or renders unusable the means for counterfeiting, to the extent that they still exist and are useful for counterfeiting, or reports their existence to an authority or surrenders them there

does not incur the penalty under subsection (1).
(3) If the danger that others will continue to prepare or commit the offence is averted or the completion of the act is prevented without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice in lieu of subsection (2) no. 1.

Section 150
Confiscation

Where an offence under this chapter has been committed, the counterfeit money, the counterfeit or cancelled stamps, and the means of counterfeiting referred to in section 149 are confiscated.

Section 151
Securities

The following securities are equivalent to money within the meaning of sections 146, 147, 149 and 150 if they are specially protected against imitation by dint of their print and type of paper:

1. bearer and order bonds which are part of a total issue if the payment of a specified sum of money is promised in the bonds,

2. shares,

3. share certificates issued by capital management companies,

4. interest, dividend and renewal coupons of the types of securities referred to in nos. 1 to 3 as well as certificates of delivery of such securities,

5. traveller's cheques.

Section 152
Foreign money, stamps and securities

Sections 146 to 151 apply to money, stamps and securities of a foreign currency area.

Section 152a
Counterfeiting of payment cards, cheques and promissory notes

(1) Whoever, for the purpose of deception in legal commerce or to facilitate such deception,

1. fakes or falsifies domestic or foreign payment cards, cheques or promissory notes or

2. procures for themselves or another, offers for sale, supplies to another or uses such counterfeit cards, cheques or promissory notes

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) If the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of offences under subsection (1), then the penalty is imprisonment for a term of between six months and 10 years.
(4) 'Payment cards' within the meaning of subsection (1) are cards

1. which are issued by a financial or financial services institution and

2. which are specially protected against imitation by dint of their design or coding.

(5) Section 149, to the extent that it refers to the counterfeiting of stamps, and section 150 apply accordingly.

Section 152b
Counterfeiting of guaranteed payment cards and blank Eurocheques

(1) Whoever commits one of the acts referred to in section 152a (1) in relation to guaranteed payment cards or blank Eurocheques incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) If the offender acts on a commercial basis or as the member of a gang whose purpose is the continued commission of offences under subsection (1), then the penalty is imprisonment for a term of at least two years.
(3) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.
(4) 'Guaranteed payment cards' within the meaning of subsection (1) are credit cards, Eurocheque cards and other cards

1. which oblige the issuer to make a guaranteed payment by money transfer and

2. which are specially protected against imitation by dint of their design or coding.

(5) Section 149, to the extent that it refers to the counterfeiting of money, and section 150 apply accordingly.

Chapter 9
False unsworn testimony and perjury

Section 153
False unsworn testimony

Whoever, as a witness or expert, gives false unsworn testimony before a court or another authority which is competent to examine witnesses and experts under oath incurs a penalty of imprisonment for a term of between three months and five years.

Section 154
Perjury

(1) Whoever falsely swears an oath before a court or another authority which is competent to administer oaths incurs a penalty of imprisonment for a term of at least one year.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 155
Affirmations equivalent to oath

The following are equivalent to an oath:

1. an affirmation in lieu of an oath,
2. any invocation of a previous oath or previous affirmation .

Section 156
False declaration in lieu of oath

Whoever falsely makes a declaration in lieu of an oath before an authority which is competent to administer such declarations or falsely testifies whilst referring to such a declaration incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 157
Testimony under duress

(1) If a witness or an expert has committed perjury or given false unsworn testimony, the court may, at its discretion, mitigate the penalty (section 49 (2)) or, in the case of unsworn testimony, dispense with imposing a penalty if the offender told a lie in order to avert the danger of a relative or the offender incurring a penalty or being subjected to a measure of reform and prevention involving deprivation of liberty.
(2) The court may, at its discretion, also mitigate the penalty (section 49 (2)) or dispense with imposing a penalty if a person who has not yet reached the minimum age for swearing an oath has given false unsworn testimony.

Section 158
Correction of false testimony

(1) The court may, at its discretion, mitigate the penalty (section 49 (2)) for perjury, a false declaration in lieu of an oath or false unsworn testimony, or may dispense with imposing a penalty if the offender corrects the false testimony in time.
(2) The correction is no longer in time if it can no longer be used in reaching the decision, if the offence has caused detriment to another or if a report has already been made against the offender or an investigation has been launched.
(3) The correction may be made to the authority before which the false testimony was given or by which it is to be evaluated in the proceedings, to a court, a public prosecutor or a police authority.

Section 159
Attempt to abet false testimony

Section 30 (1) and section 31 (1) no. 1 and (2) apply accordingly to an attempt to abet false unsworn testimony (section 153) and a false declaration in lieu of an oath (section 156).

Section 160
Subornation of false testimony

(1) Whoever suborns another to swear a false oath incurs a penalty of imprisonment for a term not exceeding two years or a fine; whoever suborns another to make a false declaration in lieu of an oath or to give false unsworn testimony incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates.
(2) The attempt is punishable.

Section 161
Negligent false oath; negligent false declaration in lieu of oath

(1) Whoever commits one of the offences referred to in sections 154 to 156 by negligence incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) No penalty is incurred if the offender corrects the false statement in time. The provisions of section 158 (2) and (3) apply accordingly.

Section 162
International courts; national committees of inquiry

(1) Sections 153 to 161 apply to false statements made in proceedings before an international court established under a legal instrument which is binding on the Federal Republic of Germany.
(2) Sections 153 and 157 to 160, insofar as they relate to false unsworn statements, also apply to false statements made before a committee of inquiry of one of the legislative bodies of the Federation or of one of the *Länder*.

Section 163
(repealed)

Chapter 10
Casting false suspicion

Section 164
Casting false suspicion

(1) Whoever, despite knowing better and with the intention that official proceedings or other official measures be brought or be continued against another before an authority, falsely accuses another before an authority or a public official competent to receive criminal reports or a military superior, or publicly, of having committed an unlawful act or a breach of an official duty incurs a penalty of imprisonment not exceeding five years or a fine.
(2) Whoever, despite knowing better and with the same intention, falsely makes any other assertion of fact about another before one of the authorities referred to in subsection (1) or publicly which is suitable for causing official proceedings or other official measures to be brought or continued against that person incurs the same penalty.
(3) Whoever casts false suspicion in order to benefit from the mitigation of penalty or the dispensing with imposition of a penalty under section 46b of this statute or section 31 of the Narcotics Act incurs a penalty of imprisonment for a term of between six months and 10 years. In less serious cases, the penalty is imprisonment for a term of between three months and five years.

Section 165
Publication of conviction

(1) If the offence under section 164 was committed publicly or by disseminating material (section 11 (3)) and if a penalty was imposed on that basis, then the court, upon application by the victim, orders that the conviction for casting false suspicion be publicly announced upon request. If the victim dies, the right to file the application passes to the relatives referred to in section 77 (2). Section 77 (2) to (4) applies accordingly.

(2) Section 200 (2) applies accordingly with regard to the manner of publication.

Chapter 11
Offences relating to religion and ideology

Section 166
Revilement of religious faiths and religious and ideological communities

(1) Whoever publicly or by disseminating material (section 11 (3)) reviles the religion or ideology of others in a manner which is suitable for causing a disturbance of the public peace incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever publicly or by disseminating material (section 11 (3)) reviles a church or other religious or ideological community in Germany or its institutions or customs in a manner which is suitable for causing a disturbance of the public peace incurs the same penalty.

Section 167
Disturbance of exercise of religion

(1) Whoever

1. intentionally and seriously disturbs a religious service or an act of religious worship of a church or other religious community in Germany or

2. commits defamatory mischief in a place which is dedicated to the religious worship of such a religious community

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The ceremonies of an ideological community in Germany are equivalent to a religious service.

Section 167a
Disturbance of funeral

Whoever intentionally or knowingly disturbs a funeral incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 168
Disturbance of peace of dead

(1) Whoever, without being authorised to do so, takes the body or parts of the body of a deceased person, of a dead foetus or parts thereof, or the ashes of a deceased person from the custody of the person entitled thereto, or whoever commits defamatory mischief on them incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever destroys or damages the place where a body is laid out, a burial site or a public memorial for the dead, or whoever commits defamatory mischief on them incurs the same penalty.
(3) The attempt is punishable.

Chapter 12
Offences relating to civil status, marriage and family

Section 169
Falsification of civil status

(1) Whoever declares a child to be somebody else’s or falsely gives or suppresses the civil status of another to an authority which is responsible for maintaining civil status registers or for the determination of civil status incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The attempt is punishable.

Section 170
Breach of maintenance obligation

(1) Whoever evades a statutory maintenance obligation so that the necessities of life of the person entitled to maintenance are endangered or would be endangered without the assistance of others incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever is obliged to pay maintenance to a pregnant woman and reprehensibly withholds this maintenance, thereby causing a termination of the pregnancy, incurs a penalty of imprisonment for a term not exceeding five years or a fine.

Section 171
Breach of duty of care or upbringing

Whoever grossly neglects their duty of care or upbringing towards a person under 16 years of age, thereby creating a danger that the physical or mental development of the person placed in their charge could be seriously damaged or that they will engage in crime or prostitution, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 172
Bigamous marriage; bigamous life partnership

Whoever is married or has entered into a life partnership and

1. marries a third person or

2. declares to the agency responsible for registering life partnerships under the terms of section 1 (1) of the Act on Registered Life Partnerships (*Lebenspartnerschaftsgesetz*) that they wish to enter into a life partnership with a third person

incurs a penalty of imprisonment for a term not exceeding three years or a fine. Whoever contracts a marriage with a third person who is married or who has entered into a life partnership or declares to the agency responsible for registering life partnerships under the terms of section 1 (1) of the Act on Registered Life Partnerships that they wish to enter into a life partnership with this third person incurs the same penalty.

Section 173
Sexual intercourse between relatives

(1) Whoever has sexual intercourse with a descendant by blood incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever has sexual intercourse with a blood relative in the ascending line incurs a penalty of imprisonment for a term not exceeding two years or a fine; this also applies if the familial relationship has ceased to exist. Natural siblings who have sexual intercourse with each other incur the same penalty.
(3) Descendants and siblings do not incur a penalty under this provision if they were under 18 years of age at the time of the act.

Chapter 13
Offences against sexual self-determination

Section 174
Sexual abuse of persons in one’s charge

(1) Whoever performs sexual acts

1. on a person under 16 years of age who is entrusted to them for upbringing, education or care,

2. on a person under 18 years of age who is entrusted to them for upbringing, education or care, or who is their subordinate within a service or employment relationship, by abusing the dependence associated with the educational, care, service or employment relationship or

3. on a person under 18 years of age who is their biological or adopted descendant or the biological or adopted descendant of their spouse, life partner or a person with whom they live in a quasi-marital relationship or quasi-life partnership

or has the person in their charge perform sexual acts on them incurs a penalty of imprisonment for a term of between three months and five years.
(2) Whoever is entrusted with the upbringing, education or care of persons under 18 years of age in an institution specified for this purpose and who

1. performs sexual acts on a person under 16 years of age who has a legal relationship with the institution which serves this person's upbringing, education or care, or who has that person perform sexual acts on them or

2. exploits their position in order to perform sexual acts on a person under 18 years of age who has a legal relationship with the institution which serves this person's upbringing, education or care, or who has that person perform sexual acts on them

incurs a penalty of imprisonment for a term of between three months and five years.
(3) Whoever, under the conditions of subsection (1) or (2),

1. performs sexual acts in the presence of the person in their charge or

2. causes the person in their charge to perform sexual acts in their presence

for the purpose of their own sexual arousal or that of the person in their charge incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) The attempt is punishable.
(5) In the cases under subsection (1) no. 1, subsection (2) no. 1 or subsection (3) in conjunction with subsection (1) no. 1 or with subsection (2) no. 1, the court may dispense with imposing a penalty pursuant to this provision if the wrongfulness of the act is minor.

Section 174a
Sexual abuse of prisoners, persons detained by official order, or sick or vulnerable institutionalised persons

(1) Whoever abuses their position to perform sexual acts on a prisoner or a person detained by official order, a person who is entrusted to them for upbringing, education, supervision or care, or has the prisoner or person detained perform sexual acts on them incurs a penalty of imprisonment for a term of between three months and five years.
(2) Whoever abuses a person who has been admitted to an institution for sick or vulnerable persons and is entrusted to them for supervision or care and performs sexual acts on that person, thereby exploiting said person's illness or vulnerability, or whoever has that person perform sexual acts on them incurs the same penalty.
(3) The attempt is punishable.

Section 174b
Sexual abuse exploiting official position

(1) Whoever, in the capacity as a public official charged with participating in criminal proceedings or proceedings whose aim is to impose a measure of reform and prevention involving deprivation of liberty or detention imposed by official order, exploits the dependency caused by the proceedings to perform sexual acts on the person against whom the proceedings have been instituted or has said person perform sexual acts on them incurs a penalty of imprisonment for a term of between three months and five years.
(2) The attempt is punishable.

Section 174c
Sexual abuse exploiting counselling, treatment or support relationship

(1) Whoever performs sexual acts on a person entrusted to them for counselling, treatment or support due to a mental illness or disability, including an addiction, or due to a physical illness or disability, and exploits the counselling, treatment or support relationship or has said

person perform sexual acts on them incurs a penalty of imprisonment for a term of between three months and five years.
(2) Whoever performs sexual acts on a person entrusted to them for psychotherapeutic treatment, thereby exploiting the treatment relationship, or has said person perform sexual acts on them incurs the same penalty.
(3) The attempt is punishable.

Section 175
(repealed)

Section 176
Sexual abuse of children

(1) Whoever performs sexual acts on a person under 14 years of age (child) or has the child perform sexual acts on them incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) Whoever causes a child to perform sexual acts on a third person or has a third person perform sexual acts on the child incurs the same penalty.
(3) In especially serious cases, the penalty is imprisonment for a term of at least one year.
(4) Whoever

1. performs sexual acts in the presence of a child,

2. causes the child to perform sexual acts, unless the act is subject to a penalty under subsection (1) or subsection (2),

3. influences a child by way of material (section 11 (3)) or information and communication technologies

   a) in order to cause the child to perform sexual acts on or in the presence of the offender or a third person or to have the offender or a third person perform sexual acts on the child or

   b) in order to commit an offence under section 184b (1) no. 3 or under section 184b (3) or

4. influences a child by showing pornographic images or depictions, by playing pornographic audio recordings, making pornographic content available by way of information and communication technologies or pornographic speech

incurs a penalty of imprisonment for a term of between three months and five years.
(5) Whoever offers or promises to supply a child for an offence under subsections (1) to (4) or who arranges with another to commit such an offence incurs a penalty of imprisonment for a term of between three months and five years.
(6) The attempt is punishable; this does not apply to offences under subsection (4) nos. 3 and 4 and subsection (5).

Section 176a
Aggravated sexual abuse of children

(1) The sexual abuse of children in the cases under section 176 (1) and (2) incurs a penalty of imprisonment for a term of at least one year if the offender has been convicted of such an offence by final judgment within the previous five years.
(2) The sexual abuse of children in the cases under section 176 (1) and (2) incurs a penalty of imprisonment for a term of at least two years if

1. a person over 18 years of age has sexual intercourse with the child, or performs similar sexual acts on the child or has similar sexual acts performed on them by the child which involve penetration of the body,

2. the offence is committed jointly by more than one person or

3. the offender, by committing the offence, places the child at risk of serious damage to health or substantial impairment of his or her physical or emotional development.

(3) Whoever, in the cases under section 176 (1) to (3), (4) no. 1 or 2 or section 176 (6), acts as an offender or another party to an offence with the intention of making the act the subject of pornographic material (section 11 (3)) which is to be disseminated as per section 184b (1) or (2) incurs a penalty of imprisonment for a term of at least two years.
(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.
(5) Whoever, in the cases under section 176 (1) to (3), seriously physically abuses the child or places the child in danger of death incurs a penalty of imprisonment for a term of at least five years.
(6) Any period during which the offender was detained in an institution by official order is not taken into account when calculating the time indicated in subsection (1). An offence resulting in a conviction abroad is equivalent, in the cases under subsection (1), to an offence resulting in a domestic conviction if under German criminal law it would have been an offence under section 176 (1) or (2).

Section 176b
Sexual abuse of children resulting in death

If, by committing sexual abuse (sections 176 and 176a), the offender causes the child's death at least recklessly, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.

Section 177
Sexual assault; sexual coercion; rape

(1) Whoever, against a person's discernible will, performs sexual acts on that person or has that person perform sexual acts on them, or causes that person to perform or acquiesce to sexual acts being performed on or by a third person incurs a penalty of imprisonment for a term of between six months and five years.
(2) Whoever performs sexual acts on another person or has that person perform sexual acts, or causes that person to perform or acquiesce to sexual acts being performed on or by a third person incurs the same penalty if

1. the offender exploits the fact that the person is not able to form or express a contrary will,

2. the offender exploits the fact that the person is significantly impaired in respect of the ability to form or express a will due to said person's physical or mental condition, unless the offender has obtained the consent of that person,

3. the offender exploits an element of surprise,

4. the offender exploits a situation in which the victim is threatened with serious harm in case of offering resistance or

5. the offender has coerced the person to perform or acquiesce to the sexual acts by threatening serious harm.

(3) The attempt is punishable.
(4) The penalty is imprisonment for a term of at least one year if the inability to form or express a will is due to the victim's illness or disability.
(5) The penalty is imprisonment for a term of at least one year if the offender

1. uses force against the victim,

2. threatens the victim with a present danger to life or limb or

3. exploits a situation in which the victim is unprotected and at the mercy of the offender's influence.

(6) In especially serious cases, the penalty is imprisonment for a term of at least two years. An especially serious case typically occurs where

1. the offender has sexual intercourse with the victim or has the victim have sexual intercourse or commits such similar sexual acts on the victim or has the victim commit them on them which are particularly degrading for the victim, especially if they involve penetration of the body (rape), or

2. the offence is committed jointly by more than one person.

(7) The penalty is imprisonment for a term of at least three years if the offender

1. carries a weapon or other dangerous implement,

2. otherwise carries an instrument or other means for the purpose of preventing or overcoming the resistance of another person by force or threat of force or

3. places the victim at risk of serious damage to health.

(8) The penalty is imprisonment for a term of at least five years if

1. the offender uses a weapon or other dangerous implement during the commission of the offence or

2. the offender

a) seriously physically abuses the victim during the offence or

b) by committing the offence places the victim in danger of death.

(9) In less serious cases under subsections (1) and (2), the penalty is imprisonment for a term of between three months and three years, in less serious cases under subsections (4) and (5) imprisonment for a term of between six months and 10 years, and in less serious cases under subsections (7) and (8) imprisonment for a term of between one year and 10 years.

Section 178
Sexual assault, sexual coercion and rape resulting in death

If, by committing sexual assault, sexual coercion or rape (section 177), the offender causes the victim's death at least recklessly, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.

Section 179
(repealed)

Section 180
Promotion of sexual acts by minors

(1) Whoever aids and abets the performance of sexual acts by a person under 16 years of age on or in the presence of a third person or aids and abets the performance of sexual acts by a third person on a person under 16 years of age

1. by acting as an intermediary or

2. by affording or providing the opportunity

incurs a penalty of imprisonment for a term not exceeding three years or a fine. Sentence 1 no. 2 does not apply if the offender is the person having the duty of care and custody of the person under 16 years of age; this does not apply if the person having the duty of care and custody thereby grossly violates his or her duty of care and upbringing.

(2) Whoever causes a person under 18 years of age to perform sexual acts on or in the presence of a third person or to acquiesce to sexual acts being performed by a third person for a consideration, or whoever aids and abets such acts by acting as an intermediary incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) Whoever causes a person under 18 years of age who is entrusted to them for upbringing, education or care, or who is their subordinate within a service or employment relationship by abusing the dependence associated with the educational, care, service or employment relationship to perform sexual acts on or in the presence of a third person or to acquiesce to sexual acts being performed by a third person incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(4) In the cases under subsections (2) and (3), the attempt is punishable.

Section 180a
Exploitation of prostitutes

(1) Whoever maintains or manages a business on a commercial basis in which persons engage in prostitution and in which they are held in personal or financial dependency incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever

1. furnishes a person under 18 years of age with accommodation, or premises or a particular place on a commercial basis for the exercise of prostitution or

2. urges another person whom they have furnished with accommodation for the exercise of prostitution to engage in prostitution or exploits said person in that respect

incurs the same penalty.

Sections 180b and 181
(repealed)

Section 181a
Pimping

(1) Whoever

1. exploits another person engaging in prostitution or

2. for their own pecuniary benefit controls another person's exercise of prostitution, determines the place, time, extent or other circumstances of the exercise of prostitution, or takes measures to prevent the person from giving up prostitution,

and to that end maintains a general relationship with the person beyond a particular occasion, incurs a penalty of imprisonment for a term of between six months and five years.
(2) Whoever undermines another person's personal or financial independence by promoting, on a commercial basis, that person's exercise of prostitution by procuring sexual relations, and to that end maintains a general relationship with the person beyond a particular occasion, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(3) Whoever commits the offences referred to in subsection (1) nos. 1 and 2 or promotes the activities referred to in subsection (2) in relation to their spouse or life partner incurs the penalty indicated in subsections (1) and (2).

Section 181b
Supervision of conduct

In the cases under sections 174 to 174c, 176 to 180, sections 181a and 182, the court may make an order for the supervision of conduct (section 68 (1)).

Section 181c
(repealed)

Section 182
Sexual abuse of juveniles

(1) Whoever abuses a person under 18 years of age by taking advantage of a predicament by

1. performing sexual acts on that person or having said person perform sexual acts on them or

2. causing the person to perform sexual acts on a third person or to have sexual acts performed on them by a third person

incurs a penalty of imprisonment for a term not exceeding five years or 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 that person perform sexual acts on them for a consideration incurs the same penalty.
(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 having that person perform sexual acts on them or

2. causing that person to perform sexual acts on a third person or to have a third person perform sexual acts on that person,

and thereby exploits the victim's lack of capacity for sexual self-determination, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) The attempt is punishable.
(5) In the cases under subsection (3), the offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.
(6) In the cases under subsections (1) to (3), the court may dispense with imposing a penalty pursuant to these provisions if, having regard to the conduct of the person against whom the offence was committed, the wrongfulness of the act is minor.

Section 183
Acts of exhibitionism

(1) A man who vexes another person by committing an act of exhibitionism incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) The offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.
(3) The court may even suspend a sentence of imprisonment on probation if there is reason to believe that the offender will only cease to commit acts of exhibitionism after lengthy medical treatment.
(4) Subsection (3) also applies if a man or a woman is convicted of an act of exhibitionism

1. under another provision which imposes a maximum sentence of imprisonment not exceeding one year or a fine or

2. under section 174 (3) no. 1 or section 176 (4) no. 1.

Section 183a
Causing public nuisance

Whoever performs sexual acts in public and thereby intentionally or knowingly offends common decency incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act is liable to a penalty under section 183.

Section 184
Dissemination of pornography

(1) Whoever, in respect of pornographic material (section 11 (3)),

1. offers, supplies or makes it available to a person under 18 years of age,

2. makes it available at a place which is accessible to persons under 18 years of age or which can be seen by them,

3. offers or supplies it to another in retail trade outside of business premises, in kiosks or other points of sale which customers do not customarily enter, through a mail-order business or in commercial lending libraries or reading circles,

3a. offers or supplies it to another by means of commercial rental or comparable commercial supply for use, except in shops which are not accessible to persons under 18 years of age and which cannot be seen by them,

4. undertakes to import it by means of a mail-order business,

5. publicly offers or advertises it at a place which is accessible to persons under 18 years of age or which can be seen by them, or by disseminating material outside business transactions through the relevant trade outlets,

6. allows another to obtain it without having been requested by them to do so,

7. shows it at a public film showing for a fee which is demanded entirely or predominantly for this showing,

8. produces, obtains, supplies, stocks or undertakes to import it or parts thereof in order to use it within the meaning of nos. 1 to 7 or to facilitate such use by another or

9. undertakes to export it in order to disseminate it or parts thereof abroad in violation of the criminal provisions applicable there or to make it available to the public or to facilitate such use

incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Subsection (1) no. 1 does not apply if the offender has the duty of care and custody of the person; this does not apply if the person having the duty of care and custody violates his or her duty of care and upbringing by offering, supplying or making available the material. Subsection (1) no. 3a does not apply if the act takes place in business transactions with commercial borrowers.
(3) to (7) (repealed)

Section 184a
Dissemination of pornography depicting violent acts or sexual acts with animals

Whoever, in respect of pornographic material (section 11 (3)) depicting violent acts or sexual acts being committed by people with animals,

1. disseminates such pornographic material or makes it available to the public or

2. produces, obtains, supplies, stocks, offers, advertises or undertakes to import or export such pornographic material in order to use it or parts thereof within the meaning of no. 1 or section 184d (1) sentence 1, or in order to facilitate such use by another person

incurs a penalty of imprisonment for a term not exceeding three years or a fine. In the cases under sentence 1 no. 1, the attempt is punishable.

Section 184b
Dissemination, procurement and possession of child pornography

(1) Whoever

1. disseminates child pornographic material or makes it available to the general public, whereby pornographic material (section 11 (3)) is deemed to be child pornography if it relates to

a) sexual acts performed by, on or in the presence of a person under 14 years of age (child),

b) the reproduction of a child in a state of full or partial undress in an unnaturally sexual pose or

c) the sexually provocative reproduction of a child's bare genitalia or bare buttocks,

2. undertakes to procure, for another, child pornographic material which reproduces actual or realistic acts,

3. produces child pornographic material which reproduces actual acts or

4. produces, obtains, supplies, stocks, offers, advertises or undertakes to import or export such child pornographic material in order to use it or parts thereof within the meaning of no. 1 or 2 or of section 184d (1) sentence 1, or to facilitate such use by another, unless the offence is subject to a penalty under no. 3,

incurs a penalty of imprisonment for a term of between three months and five years.
(2) In the cases under subsection (1), the penalty is imprisonment for a term of between six months and 10 years if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences and if, in the cases under subsection (1) nos. 1, 2 and 4, the material reproduces actual or realistic acts.
(3) Whoever undertakes to procure child pornographic material which reproduces actual or realistic acts, or whoever possesses such material incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) The attempt is punishable; this does not apply to offences under subsection (1) nos. 2 and 4 and subsection (3).
(5) Subsection (1) no. 2 and subsection (3) do apply to acts which exclusively serve the performance of

1. state functions,

2. tasks resulting from agreements with a competent government agency or

3. official or professional duties.

(6) Objects to which an offence under subsection (1) no. 2 or 3 or subsection (3) relates are to be confiscated. Section 74a applies.

Section 184c
Dissemination, procurement and possession of youth pornography

(1) Whoever

1. disseminates youth pornography or makes it available to the general public, whereby pornographic material (section 11 (3)) is deemed to be youth pornography if it relates to

a) sexual acts performed by, on or in the presence of a person over 14 years of age but under 18 years of age or

b) the reproduction of a person over 14 years of age but under 18 years of age in a state of full or partial undress in an unnaturally sexual pose,

2. undertakes to procure, for another, youth pornography which reproduces actual or realistic acts,

3. produces youth pornography which reproduces actual acts or

4. produces, obtains, supplies, stocks, offers, advertises or undertakes to import or export youth pornography in order to use it or parts thereof within the meaning of no. 1 or 2 or of section 184d (1) sentence 1, or to facilitate such use by another, unless the offence is subject to a penalty under no. 3,

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) In the cases under subsection (1), the penalty is imprisonment for a term of between three months and five years if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences and if, in the cases under subsection (1) nos. 1, 2 and 4, the material reproduces actual or realistic acts.
(3) Whoever undertakes to obtain possession of youth pornography which reproduces actual acts or whoever possesses such material incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(4) Subsection (1) no. 3, also in conjunction with subsection (5), and subsection (3) do not apply to acts by persons relating to such youth pornography which they have produced exclusively for their personal use with the consent of the persons depicted.
(5) The attempt is punishable; this does not apply to offences under subsection (1) nos. 2 and 4 and subsection (3).
(6) Section 184b (5) and (6) applies accordingly.

Section 184d
Making pornographic content available through broadcasting or telemedia services; accessing child or youth pornographic content via telemedia

(1) Whoever makes pornographic content available to another person or to the public through broadcasting or telemedia services incurs a penalty under sections 184 to 184c. In the cases under section 184 (1), sentence 1 does not apply to dissemination via telemedia if technical or other measures are in place to ensure that the pornographic content is not accessible to persons under 18 years of age. Section 184b (5) and (6) applies accordingly.
(2) Whoever undertakes to access child pornography via telemedia also incurs a penalty under section 184b (3). Whoever undertakes to access youth pornography via telemedia also incurs a penalty under section 184c (3); section 184c (4) applies accordingly. Section 184b (5) and (6) sentence 1 applies accordingly.

Section 184e
Organisation and attendance of presentations of child and youth pornography

(1) Whoever organises a presentation of child pornography incurs a penalty under section 184b (1). Whoever organises a presentation of youth pornography also incurs a penalty under section 184c (1).
(2) Whoever attends a presentation of child pornography also incurs a penalty under section 184b (3). Whoever attends a presentation of youth pornography also incurs a penalty under section 184c (3). Section 184b (5) no. 1 and no. 3 applies accordingly.

Section 184f
Unlawful prostitution

Whoever persistently contravenes a prohibition, enacted by statutory instrument, against engaging in prostitution in specific places in general or at specific times of the day incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates.

Section 184g
Prostitution likely to corrupt juveniles

Whoever engages in prostitution

1. in the vicinity of a school or other place which is intended to be visited by persons under 18 years of age or

2. in a house in which persons under 18 years of age are living

in a manner which is likely to morally corrupt those persons incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 184h
Definitions

Within the meaning of this statute,

1. ‘sexual acts’ are only those which are of some relevance to the protected legal interest in question,

2. ‘sexual acts in the presence of a third person’ are only those which are performed by a person other than the person observing them.

Section 184i
Sexual harassment

(1) Whoever touches another person in a sexual manner, and thereby harasses that person, incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the offence is subject to a more severe penalty under other provisions.
(2) In especially serious cases, the penalty is imprisonment for a term of between three months and five years. An especially serious case typically occurs where the offence is committed jointly by more than one person.
(3) The offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

Section 184j
Offences committed out of groups

Whoever promotes an offence by participating in a group of persons who exert pressure on another person to commit an offence against that person incurs a penalty of imprisonment for a term not exceeding two years or a fine where an offence under section 177 or 184i is committed by one of the participants of the group and the offence is not subject to a more severe penalty under other provisions.

Chapter 14
Insult

Section 185
Insult

The penalty for insult is imprisonment for a term not exceeding one year or a fine and, if the insult is committed by means of an assault, imprisonment for a term not exceeding two years or a fine.

Section 186
Malicious gossip (*üble Nachrede*)

Whoever asserts or disseminates a fact about another person which is suitable for degrading that person or negatively affecting public opinion about that person, unless this fact can be proved to be true, incurs a penalty of imprisonment for a term not exceeding one year or a fine and, if the offence was committed publicly or by disseminating material (section 11 (3)), a penalty of imprisonment for a term not exceeding two years or a fine.

Section 187
Defamation

Whoever, despite knowing better, asserts or disseminates an untrue fact about another person which is suitable for degrading that person or negatively affecting public opinion about that person or endangering said person’s creditworthiness incurs a penalty of imprisonment for a term not exceeding two years or a fine, and, if the act was committed publicly, in a meeting or by disseminating material (section 11 (3)), a penalty of imprisonment for a term not exceeding five years or a fine.

Section 188
Malicious gossip and defamation in relation to persons in political life

(1) If an offence of malicious gossip (section 186) is committed publicly, in a meeting or by disseminating material (section 11 (3)) against a person involved in the political life of the nation due to the position that person holds in public life and if the offence is suitable for making that person's public activities substantially more difficult, the penalty is imprisonment for a term of between three months and five years.
(2) Defamation (section 187) under the same conditions incurs a penalty of imprisonment for a term of between six months and five years.

Section 189
Defiling memory of dead

Whoever defiles the memory of a deceased person incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 190
Proof of truth by criminal judgment

If the asserted or disseminated fact is an offence, proof of the truth thereof is deemed to have been provided if the person insulted has been convicted by final judgment for the act. Proof of truth is, by contrast, ruled out if the insulted person was acquitted by final judgment before the assertion or dissemination of the fact.

Section 191
(repealed)

Section 192
Insult despite proof of truth

Proof of the truth of the asserted or disseminated fact does not preclude punishment in accordance with section 185 if the insult results from the form of the assertion or dissemination or the circumstances under which it was made.

Section 193
Safeguarding legitimate interests

Critical opinions about scientific, artistic or commercial achievements, similar statements which are made to exercise or protect rights, or to safeguard legitimate interests, as well as remonstrations and reprimands by superiors against their subordinates, official reports or judgments by a civil servant and similar cases only entail criminal liability to the extent that the existence of an insult results from the form of the statement or the circumstances under which it was made.

Section 194
Request to prosecute

(1) An insult is prosecuted only upon request. If the act was committed by disseminating material (section 11 (3)), or in a public meeting or by making the insulting content publicly available through broadcasting or telemedia services, no request is required if the victim was persecuted as a member of a group under the tyranny and arbitrary rule of the National Socialist or another regime if this group is part of the population and the insult is connected with this persecution. The offence can, however, not be prosecuted ex officio if the victim objects. The objection cannot be withdrawn. If the victim dies, the right to file a request and the right to object passes to the victim's relatives as per section 77 (2).
(2) If the memory of a deceased person has been reviled, the relatives referred to in section 77 (2) are entitled to file a request. If the act was committed by disseminating material (section 11 (3)) or by making it available to the public, in a meeting or by means of a broadcast, then no request is required if the deceased person's life was lost under the tyranny and arbitrary rule of the National Socialist or another regime and the insult is linked

to this persecution. The offence can, however, not be prosecuted ex officio if the person entitled to file the request objects. The objection cannot be withdrawn.
(3) Insults committed against public officials, persons entrusted with special public service functions or soldiers in the Federal Armed Forces in the discharge of their duties or in connection with their duties may also be prosecuted upon the request of their superior. Offences directed against an authority or other agency which performs duties of public administration are prosecuted upon the request of the head of the authority or the head of the supervisory authority. The same applies accordingly to office holders and offices of the churches and other religious communities under public law.
(4) If the offence is directed against a legislative body of the Federation or of one of the *Länder* or another political body within the territorial scope of this statute, it is prosecuted only upon authorisation by that body.

Sections 195 to 198
(repealed)

Section 199
Mutual exchange of insults

If an insult is immediately reciprocated, the court may declare one or both of the persons involved in the exchange of insults not to be liable to punishment.

Section 200
Publication of conviction

(1) If the insult was committed publicly or by disseminating material (section 11 (3)) and if a penalty is imposed on account thereof, then, upon application by the victim or a person otherwise entitled to file a request to prosecute, the court is to order that the conviction be publicly announced upon request.
(2) The manner of publication is to be indicated in the judgment. If the insult was committed through publication in a newspaper or magazine, the publication is also to be included in a newspaper or magazine, if possible in the same one which contained the insult; this applies accordingly if the insult was committed through publication by broadcast.

Chapter 15
Violation of privacy of personal and private sphere

Section 201
Violation of privacy of spoken word

(1) Whoever, without being authorised to do so,

1. makes an audio recording of the privately spoken words of another or
2. uses or makes a recording thus produced available to a third party

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, without being authorised to do so,

1. uses a listening device to intercept the privately spoken words of another which they are not intended to hear or
2. publicly communicates, verbatim or the essential content of, the privately spoken words of another which were recorded as per subsection (1) no. 1 or intercepted as per subsection (2) no. 1

incurs the same penalty. The act referred to in sentence 1 no. 2 only entails criminal liability if the public communication is suitable for interfering with the legitimate interests of another. It is not unlawful if the public communication was made for the purpose of safeguarding overriding public interests.

(3) Whoever, in the capacity as a public official or a person entrusted with special public service functions, violates the privacy of the spoken word (subsections (1) and (2)) incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(4) The attempt is punishable.
(5) The audio recording and listening devices which the offender or participant used may be confiscated. Section 74a applies.

Section 201a
Violation of intimate privacy by taking photographs or other images

(1) Whoever

1. without being authorised to do so creates or transmits photographs or other images of another person in private premises or in a room which is specially protected from view, and thereby violates the intimate privacy of the person depicted,

2. without being authorised to do so produces a photograph or other image exhibiting the helplessness of another person or transmits such image, and thereby violates the intimate privacy of the person depicted,

3. uses a photograph or other image produced by an offence under no. 1 or no. 2 or makes it available to a third party or

4. makes available to a third party, in the awareness of that third party lacking authorisation to do so, a photograph or other image of the type set out in no. 1 or no. 2 which has been produced with authorisation, and thereby violates the intimate privacy of the person depicted,

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Whoever, without being authorised to do so, makes available to a third party a photograph or other image of another person which is of such a nature as to significantly damage the reputation of the person depicted incurs the same penalty.
(3) Whoever

1. produces or offers to procure for a third party for a consideration or

2. procures for themselves or for a third party for a consideration

an image showing the nakedness of another person under 18 years of age incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(4) Subsection (1) no. 2, also in conjunction with subsection (1) no. 3 or no. 4, and subsections (2) and (3) do not apply to activities done by way of exercising overriding legitimate interests, namely those serving the arts or science, research or teaching, to report about current or historical events, or for similar purposes.
(5) The image media and image recording devices or other technical means used by the offender or participant may be confiscated. Section 74a applies.

Section 202
Violation of privacy of correspondence

(1) Whoever, without being authorised to do so,

1. opens a sealed letter or other sealed papers which are not intended for them or

2. obtains knowledge of the content of such papers using technical means and without opening the seal

incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act carries a penalty under section 206.
(2) Whoever, without being authorised to do so, obtains knowledge of the content of papers which are not intended for them and which were specially protected by means of a sealed container, after having opened the container to that end, incurs the same penalty.

(3) For the purposes of subsections (1) and (2), images are equivalent to papers.

Section 202a
Data espionage

(1) Whoever, without being authorised to do so, obtains access, by circumventing the access protection, for themselves or another, to data which were not intended for them and were specially protected against unauthorised access incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) For the purposes of subsection (1), data are only those which are stored or transmitted electronically, magnetically or otherwise in a manner which is not immediately perceptible.

Section 202b
Phishing

Whoever, without being authorised to do so, intercepts data (section 202a (2)) which are not intended for them, either for themselves or another, by technical means from non-public data transmission or from an electromagnetic broadcast from a data processing facility incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the offence is subject to a more severe penalty under other provisions.

Section 202c
Acts preparatory to data espionage and phishing

(1) Whoever prepares the commission of an offence under section 202a or 202b by producing, acquiring for themselves or another, selling, supplying to another, disseminating or making available in another way

1. passwords or other security codes which provide access to data (section 202a (2)) or

2. computer programs for the purpose of the commission of such an offence

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Section 149 (2) and (3) applies accordingly.

Section 202d
Handling stolen data

(1) Whoever procures, for themselves or another person, supplies to another person, disseminates or otherwise provides access to data (section 202a (2)) which are not generally accessible and which another person has obtained by an unlawful act for the purpose of personal enrichment or the enrichment of a third party or to harm another person incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The penalty may not be more severe than the penalty threatened for the prior offence.
(3) Subsection (1) does not apply to activities which exclusively serve the purpose of performing lawful official or professional duties. These, in particular, include

1. those activities by officials or their agents which are aimed at supplying data for the sole purpose of use in taxation proceedings, criminal proceedings or regulatory offence proceedings as well as

2. those professional activities of the persons referred to in section 53 (1) sentence 1 no. 5 of the Code of Criminal Procedure which involve the receipt, analysis or publication of data.

Section 203
Violation of private secrets

(1) Whoever unlawfully discloses another's secret, in particular a secret relating to that person's personal sphere of life or to a business or trade secret which was revealed or otherwise made known to them in their capacity as

1. a physician, dentist, veterinarian, pharmacist or member of another healthcare profession which requires state-regulated training to engage in the profession or to use the professional title,

2. a professional psychologist with a state-recognised final academic examination,

3. a lawyer, non-lawyer provider of legal services who has been admitted to a bar association, patent attorney, notary, defence counsel in statutorily regulated proceedings, certified public accountant, sworn auditor, tax consultant, tax representative, or organ or member of an organ of a law, patent law, accounting, auditing or tax consulting firm,

4. a marriage, family, education or youth counsellor or addiction counsellor working in a counselling agency which is recognised by an authority or body, institution or foundation under public law,

5. a member or agent of a counselling agency recognised under sections 3 and 8 of the Act on Pregnancies in Conflict Situations (*Schwangerschaftskonfliktgesetz*),

6. a state-recognised social worker or state-recognised social education worker or

7. a member of a private health, accident or life insurance company or a private medical, tax consultant or lawyer invoicing service

incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Whoever, without being authorised to do so, discloses another's secret, in particular a secret relating to that person's personal sphere of life or to a business or trade secret which was revealed or otherwise made known to them in their capacity as

1. a public official,

2. a person entrusted with special public service functions,

3. a person who discharges duties or exercises powers under the law on staff employment representation,

4. a member of a committee of inquiry working for a legislative body of the Federation or of one of the *Länder*, another committee or council which is not itself part of the legislative body, or as an assistant to such a committee or council,

5. a publicly appointed expert who has been formally obliged by law to conscientiously perform his or her duties or

6. a person who has been formally obliged by law to conscientiously meet his or her duty of confidentiality in the course of scientific or academic research projects

incurs the same penalty. Particulars about another person's personal or material circumstances which have been collected for public administration purposes are deemed to be equivalent to a secret within the meaning of sentence 1; sentence 1 does not apply to the extent that such particulars are made known to other public authorities or other agencies for public administration purposes and that is not prohibited by law.
(2a) (repealed)
(3) A secret has not been revealed within the meaning of this provision if the persons referred to in subsections (1) and (2) give their professional assistants and those persons who work with them for the purposes of their professional training access to these secrets. The persons referred to in subsections (1) and (2) may reveal another's secrets to other persons who are involved in their work or official duties to the extent that this is necessary in order to be able to use the service rendered by this other involved person; the same applies to other involved persons if they use additional people who are involved in the work or official duties of the persons referred to in subsections (1) and (2).

(4) Whoever, without being authorised to do so, reveals another's secret which has become known to them in the exercise or on the occasion of their work as an involved person or in the performance of their duties as data protection officer for the persons referred to in subsections (1) and (2) incurs a penalty of imprisonment for a term not exceeding one year or a fine. The same penalty is incurred by whoever,

1. as the person referred to in subsections (1) and (2), has not taken the necessary precautions to ensure that another involved person who has, without being authorised to do so, revealed another's secret in the exercise or on the occasion of their work and has been formally put under an obligation to maintain secrecy; this does not apply to other involved persons who are themselves one of the persons referred to in subsection (1) or (2),

2. as an involved person referred to in subsection (3), who uses another involved person who has, without being authorised to do so, revealed another's secret in the exercise or on the occasion of their work and has not taken the necessary precautions to ensure that this person has been formally put under an obligation to maintain secrecy; this does not apply to other involved persons who are themselves one of the persons referred to in subsection (1) or (2) or

3. as a person who, following the death of the person obliged to keep the secret as required by sentence 1 or subsection (1) or (2), reveals another's secret which they had learned from the deceased or from their estate.

(5) Subsections (1) to (4) also apply if the offender, without being authorised to do so, discloses another person's secret following the person concerned's death.
(6) If the offender acts for a consideration or with the intention of personal enrichment or the enrichment of another or the intention of harming another, the penalty is imprisonment for a term not exceeding two years or a fine.

Section 204
Exploitation of another's secrets

(1) Whoever, without being authorised to do so, exploits another's secret, in particular a business or trade secret which they are obliged to keep secret as required by section 203 incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Section 203 (5) applies accordingly.

Section 205
Request to prosecute

(1) In the cases under section 201 (1) and (2) and sections 202, 203 and 204, the offence is prosecuted only upon request. The same also applies in the cases under sections 201a, 202a, 202b and 202d, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.
(2) If the victim dies, the right to file a request passes to the relatives referred to in section 77 (2); this does not apply in the cases under sections 202a, 202b and 202d. If the secret does not relate to the victim's personal sphere of life, the right to file a request in the cases under sections 203 and 204 passes to the heirs. If, in the cases under sections 203 and 204, the offender reveals or exploits the secret following the person's death, sentences 1 and 2 apply analogously.

Section 206
Violation of secrecy of post or telecommunications

(1) Whoever, without being authorised to do so, communicates to another person facts which are subject to the secrecy of post or telecommunications and which have become known to them as the owner or employee of an enterprise which is in the business of providing postal or telecommunications services incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) Whoever, in the capacity as owner or employee of an enterprise indicated in subsection (1), without being authorised to do so,

1. opens an item of sealed mail which has been entrusted to such an enterprise for delivery or gains knowledge of its content using technical means and without breaking the seal,

2. suppresses an item of mail entrusted to such an enterprise for delivery or

3. permits or encourages one of the activities described in subsection (1) or in no. 1 or 2

incurs the same penalty.
(3) Subsections (1) and (2) also apply to persons who

1. perform supervisory tasks over one of the enterprises designated in subsection (1),

2. are entrusted by such an enterprise or with its authorisation to provide postal or telecommunications services or

3. are entrusted with the production of facilities serving the operation of such an enterprise or with performing work thereon.

(4) Whoever, without being authorised to do so, communicates to another person facts which have become known to them in their capacity as a public official working outside the postal or telecommunications service on the basis of an authorised or unauthorised violation of the secrecy of post or telecommunications incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(5) The further particulars relating to post received by specific persons as well as the content of items of mail are subject to the secrecy of post. The content of telecommunications and details thereof, in particular the fact whether someone participated in or is participating in a telecommunications process, are subject to the secrecy of telecommunications. The secrecy of telecommunications also extends to details concerning unsuccessful attempts to establish a connection.

Sections 207 to 210
(repealed)

Chapter 16
Offences against life

Section 211
Murder under specific aggravating circumstances (*Mord*)

(1) Whoever commits murder under the conditions of this provision incurs a penalty of imprisonment for life.
(2) A murderer under this provision is someone who kills a person
out of a lust to kill, to obtain sexual gratification, out of greed or otherwise base motives, perfidiously or cruelly or by means constituting a public danger or
to facilitate or cover up another offence.

Section 212
Murder (*Totschlag*)

(1) Whoever kills a person without being a murderer under the conditions of section 211 incurs a penalty of imprisonment for a term of at least five years.
(2) In especially serious cases, the penalty is imprisonment for life.

Section 213
Less serious case of murder

Whoever kills a person under the conditions of section 212 without any fault on their own part on account of being provoked to rage by ill-treatment of or serious insult to themselves or a relative by the person killed and being immediately carried away by that rage to commit the offence, or in the event of an otherwise less serious case, the penalty is imprisonment for a term of between one year and 10 years.

Sections 214 and 215
(repealed)

Section 216
Killing upon request

(1) Whoever is induced to kill at the express and earnest request of the person killed incurs a penalty of imprisonment for a term of between six months and five years.
(2) The attempt is punishable.

Section 217
Facilitating suicide as recurring pursuit

(1) Whoever, with the intention of assisting another person to commit suicide, provides, procures or arranges the opportunity for that person to do so and whose actions are intended as a recurring pursuit incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) A participant whose actions are not intended as a recurring pursuit and who is either a relative of or is close to the person referred to in subsection (1) is exempt from punishment.

Section 218
Abortion

(1) Whoever terminates a pregnancy incurs a penalty of imprisonment for a term not exceeding three years or a fine. Acts whose effects occur before nidation is completed are not deemed to be a termination of pregnancy within the meaning of this statute.
(2) In especially serious cases, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where the offender

1. acts against the will of the pregnant woman or
2. recklessly places the pregnant woman in danger of death or at risk of serious damage to health.

(3) If the act is committed by the pregnant woman, the penalty is imprisonment for a term not exceeding one year or a fine.
(4) The attempt is punishable. The pregnant woman is not liable for attempt.

Section 218a
Exemption from punishment for abortion

(1) The elements of the offence under section 218 are not deemed fulfilled if

1. the pregnant woman requests the termination of pregnancy and demonstrates to the physician by producing the certificate referred to in section 219 (2) sentence 2 that she obtained counselling at least three days prior to the procedure,
2. the termination is performed by a physician and
3. no more than 12 weeks have elapsed since conception.

(2) A termination which is performed by a physician with the consent of the pregnant woman is not unlawful if, considering the pregnant woman’s present and future circumstances, the termination is medically necessary to avert a danger to the life of or the danger of grave impairment to the pregnant woman’s physical or mental health and if the danger cannot be averted in another manner which is reasonable for her to accept.

(3) The conditions of subsection (2) are also deemed fulfilled with regard to a termination performed by a physician with the consent of the pregnant woman if, according to medical opinion, an unlawful act under sections 176 to 178 has been committed against the pregnant woman, there are cogent reasons to 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 does not incur the penalty specified in section 218 if the termination was performed by a physician after counselling (section 219) and no more than 22 weeks have elapsed since conception. The court may dispense with imposing a penalty pursuant to section 218 if the pregnant woman was in exceptional distress at the time of the procedure.

Section 218b
Abortion without medical certification; incorrect medical certification

(1) Whoever terminates a pregnancy in the cases under section 218a (2) or (3) without having received the written determination of a physician who is not performing the termination as to whether the conditions of section 218a (2) or (3) were met incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act is subject to a penalty under section 218. Whoever, in the capacity as a physician, despite knowing better, makes an incorrect determination as to the conditions of section 218a (2) or (3) for presentation in accordance with sentence 1 incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the act is subject to a penalty under section 218. The pregnant woman does not incur the penalty specified in sentence 1 or 2.
(2) Physicians may not make determinations as referred to in section 218a (2) or (3) if the competent agency has prohibited them from doing so because they have been convicted by final judgment for an unlawful act under subsection (1) or under section 218, 219a or 219b or for another unlawful act which they committed in connection with the termination of a pregnancy. The competent agency may provisionally prohibit a physician from making the determinations referred to in section 218a (2) and (3) if main proceedings have been opened on the basis of the suspicion that the physician has committed one of the unlawful acts referred to in sentence 1.

Section 218c
Breach of medical duties in connection with abortion

(1) Whoever terminates a pregnancy

1. without having given the woman the opportunity to explain the reasons for requesting that the pregnancy be terminated,

2. without having given the pregnant woman medical advice about the significance of the procedure, in particular about the steps in the procedure, its after-effects, risks and possible physical or psychological consequences,

3. in the cases under section 218a (1) and (3) without having previously determined, on the basis of a medical examination, the length of the pregnancy or

4. despite having counselled the woman in accordance with section 219 in a case under section 218a (1)

incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act is subject to a penalty under section 218.
(2) The pregnant woman does not incur the penalty specified in subsection (1).

Section 219
Counselling of pregnant woman in emergency or conflict situation

(1) Counselling serves to protect the unborn life. It must be guided by efforts to encourage the woman to carry the child to term and to open her up to the prospects of a life with the child; it is intended to help her to make a responsible and conscientious decision. The woman must thereby be aware that at every stage of the pregnancy the unborn child has its

own right to life in relation to her as well and that therefore, according to the law, the termination of the pregnancy can only be considered in exceptional situations if carrying the child to term would impose a burden on the woman which is so serious and exceptional that it exceeds the reasonable limits of sacrifice. By providing advice and assistance, the counselling is intended to contribute to overcoming the conflict situation which exists in connection with the pregnancy and to remedying an emergency situation. Further details are regulated by the Act on Pregnancies in Conflict Situations.
(2) In accordance with the Act on Pregnancies in Conflict Situations, the counselling must be provided by a recognised counselling agency for women in conflict situations. After the counselling, the counselling agency is required to issue the pregnant woman with a certificate in accordance with the Act on Pregnancies in Conflict Situations bearing the date of the last counselling session and the name of the pregnant woman. The physician who terminates pregnancy may not provide the counselling.

Section 219a
Advertising abortion

(1) Whoever publicly, in a meeting or by disseminating material (section 11 (3)), for a pecuniary benefit or in a grossly offensive manner, offers, announces or extols

1. their own or others' services for terminating pregnancies or supporting such terminations or

2. the means, objects or procedures which are suitable for terminating pregnancies, making reference to this suitability

or publishes statements of such a nature incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Subsection (1) no. 1 does not apply where physicians or statutorily recognised counselling agencies provide information about which physicians, hospitals or facilities are prepared to terminate a pregnancy under the conditions of section 218a (1) to (3).
(3) Subsection (1) no. 2 does not apply if the act was committed with respect to physicians or persons who are authorised to trade in the means or objects referred to in subsection (1) no. 2 or by means of publication in professional medical or pharmaceutical journals.
(4) Subsection (1) does not apply where doctors, hospitals or facilities

1. make reference to the fact that they terminate pregnancies under the conditions of section 218a (1) to (3) or

2. make reference to information about terminating a pregnancy provided by the competent federal or *Land* authority, a counselling agency in accordance with the Act on Pregnancies in Conflict Situations or a medical council.

Section 219b
Putting on market of substances used in abortion

(1) Whoever, with the intention of encouraging unlawful acts under section 218, puts the means or objects which are suitable for terminating a pregnancy on the market incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Participation by a woman preparing the termination of her own pregnancy is not punishable under subsection (1).
(3) Means or objects relating to the offence may be confiscated.

Section 219c
(repealed)

Section 219d
(repealed)

Section 220
(repealed)

Section 220a
(repealed)

Section 221
Abandonment

(1) Whoever

1. places a person in a helpless situation or

2. abandons a person in a helpless situation although that person is in their care or they are otherwise obliged to support that person,

and thereby exposes a person to the danger of death or the risk of serious damage to health, incurs a penalty of imprisonment for a term of between three months and five years.
(2) The penalty is imprisonment for a term of between one year and 10 years in the case of offenders who

1. commit the offence against their own child or a person entrusted to them for education or care or

2. cause serious damage to the victim's heath by means of the act.

(3) If the offender, by committing the act, causes the victim's death, the penalty is imprisonment for a term of at least three years.
(4) In less serious cases under subsection (2), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (3) imprisonment for a term of between one year and 10 years.

Section 222
Negligent killing

Whoever causes a person's death by negligence incurs a penalty of imprisonment for a term not exceeding five years or a fine.

Chapter 17
Offences against physical integrity

Section 223
Bodily harm

(1) Whoever physically assaults or damages the health of another person incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 224
Dangerous bodily harm

(1) Whoever causes bodily harm

1. by administering poison or other substances which are harmful to health,

2. using a weapon or other dangerous implement,

3. by means of a treacherous assault,

4. acting jointly with another party to the offence or

5. using methods which pose a danger to life

incurs a penalty of imprisonment for a term of between six months and 10 years, in less serious cases imprisonment for a term of between three months and five years.
(2) The attempt is punishable.

Section 225
Ill-treatment of persons in one's charge

(1) Whoever tortures or roughly ill-treats or by maliciously neglecting their duty of care for a person damages the health of a person under 18 years of age or a person who is defenceless due to frailty or illness and who

1. is in their care or custody,
2. belongs to their household,
3. has been left under their control by the person who has the duty of care or
4. is subordinate to them within a service or employment relationship

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) The penalty is imprisonment for a term of at least one year in the case of offenders who put the person placed in their charge in danger of

1. death or serious damage to health or
2. substantial impairment of their physical or mental development.

(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (3) imprisonment for a term of between six months and five years.

Section 226
Grievous bodily harm

(1) If the bodily harm results in

1. the loss of the victim's sight in one eye or both eyes, hearing, ability to speak or ability to procreate,
2. the loss or permanent loss of the victim's ability to use an important body part,
3. the victim being permanently and seriously disfigured or contracting a lingering illness, becoming paralysed, or mentally ill or disabled,

the penalty is imprisonment for a term of between one year and 10 years.
(2) If the offender intentionally or knowingly causes one of the results indicated in subsection (1), the penalty is imprisonment for a term of at least three years.
(3) In less serious cases under subsection (1), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.

Section 226a
Female genital mutilation

(1) Whoever mutilates the external genitalia of a female person incurs a penalty of imprisonment for a term of at least one year.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 227
Bodily harm resulting in death

(1) If the offender, by inflicting bodily harm (sections 223 to 226a), causes the victim's death, the penalty is imprisonment for a term of at least three years.
(2) In less serious cases, the penalty is imprisonment for a term of between one year and 10 years.

Section 228
Consent

Whoever inflicts bodily harm with the victim's consent is only deemed to act unlawfully if, despite that consent, the act offends common decency.

Section 229
Negligent bodily harm

Whoever causes bodily harm to another by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 230
Request to prosecute

(1) Causing intentional bodily harm under section 223 and negligent bodily harm under section 229 are prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention. If the victim dies, the right to file a request in cases of intentional bodily harm under section 77 (2) passes to the victim's relatives.
(2) Acts committed against public officials, persons entrusted with special public service functions or soldiers in the Federal Armed Forces in the discharge of their duties or in connection with their duties are also prosecuted upon the request of their superior. The same applies to office holders in the churches and other religious communities under public law.

Section 231
Taking part in brawl

(1) Whoever takes part in a brawl or an attack committed against one person by several persons incurs a penalty for such participation of imprisonment for a term not exceeding three years or a fine if the brawl or the attack results in a person's death or causes grievous bodily harm (section 226).
(2) Whoever took part in the brawl or the attack but cannot be blamed for doing so does not incur the penalty specified in subsection (1).

Chapter 18
Offences against personal liberty

Section 232
Human trafficking

(1) Whoever recruits, transports, transfers, harbours or receives another person by taking advantage of that person's personal or financial predicament or helplessness on account of being in a foreign country, or that person is under 21 years of age, incurs a penalty of imprisonment for a term of between six months and five years if

1. that person is to be exploited by way of

   a) engaging in prostitution or performing sexual acts on or in the presence of the offender or a third person, or having sexual acts performed on them by the offender or a third person,

   b) employment,

   c) begging or

   d) committing criminal offences,

2. that person is to be held in slavery, bonded labour, debt bondage or under corresponding or similar conditions or

3. an organ is to be illegally removed from that person.

Exploitation through employment within the meaning of sentence 1 no. 1 (b) occurs if the employment, in serving the ruthless pursuit of profit, takes place under working conditions which are strikingly different to those of others performing the same or a similar activity (exploitative employment).
(2) Whoever, with respect to another person who is to be exploited in the manner referred to in subsection (1) sentence 1 nos. 1 to 3,

1. recruits, transports, transfers, harbours or receives that person by force, by threat of serious harm or by deception or

2. abducts that person or gains physical control over him or her or encourages a third person to gain physical control over him or her

incurs a penalty of imprisonment for a term of between six months and 10 years.
(3) In the cases under subsection (1), the penalty is imprisonment for a term of between six months and 10 years if

1. the victim is under 18 years of age at the time of the commission of the offence,

2. the offender seriously physically ill-treats the victim or, by committing the offence or an act committed during the offence, at least recklessly places the victim in danger of death or at risk of serious damage to health or

3. the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

In the cases under subsection (2), the penalty is imprisonment for a term of between one year and 10 years if the offence was committed under one of the circumstances indicated in sentence 1 nos. 1 to 3.
(4) In the cases of subsections (1) and (2) and subsection (3) sentence 1, the attempt is punishable.

Section 232a
Forced prostitution

(1) Whoever, by taking advantage of another person's personal or financial predicament or helplessness on account of being in a foreign country, causes that person or causes another person under 21 years of age

1. to engage in or continue to engage in prostitution or

2. to perform sexual acts, by way of which they are exploited, on or in the presence of the offender or a third person, or to allow sexual acts to be performed on them by the offender or a third person

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) Whoever by force, by threat of serious harm or by deception causes another person to engage or continue to engage in prostitution or to perform the sexual acts indicated in subsection (1) no. 2 incurs a penalty of imprisonment for a term of between one year and 10 years.
(4) In the cases under subsection (1), the penalty is imprisonment for a term of between one year and 10 years, in the cases under subsection (3) imprisonment for a term of at least one year if the offence was committed under one of the circumstances indicated in section 232 (3) sentence 1 nos. 1 to 3.
(5) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsections (3) and (4) imprisonment for a term of between six months and 10 years.
(6) Whoever performs sexual acts on or allows sexual acts to be performed on them for a consideration by a person engaging in prostitution who has been the victim of

1. human trafficking under section 232 (1) sentence 1 no. 1 (a), also in conjunction with section 232 (2), or

2. an offence under subsections (1) to (5),

and in doing so takes advantage of that person's personal or financial predicament or helplessness on account of being in a foreign country, incurs a penalty of imprisonment for a term of between three months and five years. Whoever voluntarily reports an offence under sentence 1 no. 1 or 2 committed against a person engaging in prostitution within the meaning of sentence 1 to the competent authority or voluntarily occasions such a report to be made incurs no penalty under sentence 1, unless the act had already been discovered, in whole or in part, at the time and the offender knew this or, based on a reasonable assessment of the circumstances, should have expected this.

Section 232b
Forced labour

(1) Whoever, by taking advantage of another person's personal or financial predicament or helplessness on account of being in a foreign country, causes that person or causes another person under 21 years of age

1. to engage in or continue to engage in exploitative employment (section 232 (1) sentence 2),

2. to enter into slavery, bonded labour, debt bondage or corresponding or similar conditions or

3. to engage in or continue to engage in begging as a result of which that person is exploited

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) Whoever, by force, by threat of serious harm or by deception, causes another person

1. to engage in or continue to engage in exploitative employment (section 232 (1) sentence 2),

2. to enter into slavery, bonded labour, debt bondage or corresponding or similar conditions or

3. to engage in or continue to engage in begging as a result of which that person is exploited

incurs a penalty of imprisonment for a term of between one year and 10 years.
(4) Section 232a (4) and (5) applies accordingly.

Section 233
Exploitation of labour

(1) Whoever, by taking advantage of another person's personal or financial predicament or helplessness on account of being in a foreign country, exploits that person or exploits a person under 21 years of age, by way of that person

1. engaging in employment within the meaning of section 232 (1) sentence 2,

2. begging or

3. committing criminal offences,

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The penalty is imprisonment for a term of between six months and 10 years if

1. the victim is under 18 years of age at the time of the commission of the offence,

2. the offender seriously physically ill-treats the victim or, by committing the offence or an activity committed during the offence, at least recklessly places the victim in danger of death or at risk of serious damage to health,

3. the offender, by withholding from the victim, in full or in part, the usual consideration paid for the activity he or she is engaged in, places the victim in financial hardship or substantially exacerbates any existing financial hardship or

4. the offender acts as a member of a gang whose purpose is the continued commission of such offences.

(3) The attempt is punishable.
(4) In less serious cases under subsection (1), the penalty is imprisonment for a term not exceeding two years or a fine, in less serious cases under subsection (2) imprisonment for a term of between three months and five years.
(5) Whoever aids and abets an offence under subsection (1) no. 1 by

1. acting as an intermediary to arrange exploitative employment (section 232 (1) sentence 2),

2. renting out business premises or

3. renting out living space to the person to be exploited

incurs a penalty of imprisonment for a term not exceeding two years or a fine. Sentence 1 does not apply if the offence is subject to a more severe penalty under other provisions.

Section 233a
Exploitation involving deprivation of liberty

(1) Whoever imprisons another person or otherwise subjects another person to deprivation of liberty and exploits that person in that situation by having said person

1. engage in prostitution,

2. engage in employment within the meaning of section 232 (1) sentence 2,

3. engage in begging or

4. commit criminal offences

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) In the cases under subsection (1), the penalty is imprisonment for a term of between one year and 10 years if the offence was committed in one of the circumstances indicated in section 233 (2) nos. 1 to 4.
(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (3) imprisonment for a term of between six months and 10 years.

Section 233b
Supervision of conduct

In the cases under section 232, section 232a (1) to (5), section 232b, section 233 (1) to (4) and section 233a, the court may make an order for the supervision of conduct (section 68 (1)).

Section 234
Kidnapping

(1) Whoever gains physical control over another person by force, threat of serious harm or deception in order to abandon that person in a helpless situation or to introduce said person into military or paramilitary service abroad incurs a penalty of imprisonment for a term of between one year and 10 years.

(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 234a
Abduction abroad

(1) Whoever, by deception, threat or force, transports another person into a territory outside the territorial scope of this statute, or causes another person to go abroad or prevents that person from returning from abroad, and thereby exposes said person to the danger of being persecuted for political reasons and, in violation of the principles of the rule of law, of suffering harm to life or limb through violence or arbitrary measures, of being deprived of his or her liberty or of being seriously prejudiced in his or her professional or financial circumstances, incurs a penalty of imprisonment for a term of at least one year.
(2) In less serious cases, the penalty is imprisonment for a term of between three months and five years.
(3) Whoever prepares such an offence incurs a penalty of imprisonment for a term not exceeding five years or a fine.

Section 235
Child theft

(1) Whoever removes from the custody of his or her parents or one parent, of a guardian or curator

1. a person under 18 years of age, by force, threat of serious harm or by deception, or
2. a child, without being his or her relative,

or denies these persons access incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever

1. removes a child from the custody of his or her parents or of one parent or of a guardian in order to take the child abroad or
2. denies one of the child's parents or the child's parents, guardian or curator access to the child abroad after having taking him or her there or after the child having gone there

incurs the same penalty.
(3) In the cases under subsection (1) no. 2 and subsection (2) no. 1, the attempt is punishable.
(4) The penalty is imprisonment for a term of between one year and 10 years if the offender

1. places the victim in danger of death or at risk of serious damage to health or of a substantial impairment of physical or mental development on account of the commission of the act or
2. commits the act for a consideration or with the intention of personal enrichment or the enrichment of a third person.

(5) If, by committing the act, the offender causes the victim's death, the penalty is imprisonment for a term of at least three years.
(6) In less serious cases under subsection (4), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (5) imprisonment for a term of between one year and 10 years.
(7) Child theft is prosecuted only upon request in the cases under subsections (1) to (3), unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

Section 236
Child trafficking

(1) Whoever, in gross neglect of their duties of care and upbringing, leaves their child, ward or foster child who is under 18 years of age with another for an indefinite period for a consideration or with the intention of personal enrichment or the enrichment of a third party incurs a penalty of imprisonment for a term not exceeding five years or a fine. Whoever, in the cases under sentence 1, takes the child, ward or foster child into their home for an indefinite period for a consideration incurs the same penalty.
(2) Whoever, without being authorised to do so,

1. procures the adoption of a person under 18 years of age or
2. engages in procurement activities with the aim of having a third party take a person under 18 years of age into their home for an indefinite period

and acts for a consideration or with the intention of personal enrichment or the enrichment of a third party incurs a penalty of imprisonment for a term not exceeding three years or a fine. Whoever, acting as an agent in regard to the adoption of a person under 18 years of age, grants a consideration to a person in exchange for the required consent to the adoption incurs the same penalty. If, in the cases under sentence 1, the offender causes the procured person to be brought into Germany or taken abroad, the penalty is imprisonment for a term not exceeding five years or a fine.
(3) The attempt is punishable.
(4) The penalty is imprisonment for a term of between six months and 10 years if the offender

1. acts out of avarice or on a commercial basis or as a member of a gang whose purpose is the continued commission of child trafficking or
2. by means of the act places the child or the procured person in danger of a substantial impairment of his or her physical or mental development.

(5) In the cases under subsections (1) and (3), the court may, at its discretion, mitigate the penalty (section 49 (2)) for parties to the offence and, in the cases under subsections (2) and (3), for participants, or it may dispense with imposing a penalty pursuant to subsections (1) to (3) if, having regard to the physical or mental welfare of the child or the procured person, their guilt is minor.

Section 237
Forced marriage

(1) Whoever unlawfully, by force or threat of serious harm causes a person to enter into a marriage incurs a penalty of imprisonment for a term of between six months and five years. The act is unlawful if the use of force or the threat of harm is deemed reprehensible in respect of the desired objective.
(2) Whoever, for the purposes of committing an offence under subsection (1), by force or threat of serious harm or through deception takes that person or causes that person to travel to a territory outside the territorial scope of this statute or prevents that person from returning from there incurs the same penalty.
(3) The attempt is punishable.
(4) In less serious cases, the penalty is imprisonment for a term not exceeding three years or a fine.

Section 238
Stalking

(1) Whoever, without being authorised to do so, stalks another person in a manner which is suitable for seriously restricting that person’s lifestyle by persistently

1. seeking the other person’s physical proximity,

2. trying to establish contact with the other person by means of telecommunications or other means of communication or through third parties,

3. improperly using the other person's personal data for the purpose of

   a) ordering goods or services for that person or

   b) inducing third parties to make contact with that person,

4. threatening the other person, one of his or her relatives, or someone close to him or her with causing injury to life or physical integrity, health or liberty or

5. committing other comparable acts

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The penalty is imprisonment for a term of between three months and five years if the offender places the victim, a relative of or another person close to the victim in danger of death or at risk of serious damage to health on account of the act.
(3) If the offender causes the death of the victim, a relative of or another person close to the victim, the penalty is imprisonment for a term of between one year and 10 years.
(4) In cases under subsection (1), the offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

Section 239
Unlawful imprisonment

(1) Whoever imprisons a person or otherwise subjects a person to deprivation of liberty incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) The penalty is imprisonment for a term of between one year and 10 years if the offender

1. subjects the victim to deprivation of liberty for more than one week or

2. by committing the offence or an act during the commission of the offence causes serious damage to the victim's health.

(4) If, by committing the offence or an act during the commission or an offence, the offender causes the victim's death, the penalty is imprisonment for a term of at least three years.
(5) In less serious cases under subsection (3), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (4) imprisonment for a term of between one year and 10 years.

Section 239a
Abduction for purpose of extortion

(1) Whoever abducts a person or gains physical control over a person in order to exploit, for the purpose of extortion (section 253), the victim's concern for his or her own welfare or a third person's concern for the victim's welfare, or whoever, for the purpose of extortion, exploits a person's situation which has been created by such an act incurs a penalty of imprisonment for a term of at least five years.
(2) In less serious cases, the penalty is imprisonment for a term of at least one year.
(3) If, by committing the offence, the offender at least recklessly causes the victim's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.
(4) The court may mitigate the penalty pursuant to section 49 (1) if the offender allows the victim to return to his or her normal surroundings and forgoes the desired outcome. If this occurs without any action on the offender's part, the offender's earnest efforts to achieve that objective suffice.

Section 239b
Hostage-taking

(1) Whoever abducts a person or gains physical control over another in order to coerce that person or a third party, by threatening death or grievous bodily harm (section 226) to the victim or deprivation of liberty for more than one week, to do, acquiesce to or refrain from an act, or whoever, for the purposes of such coercion, exploits a person's situation caused by them as a result incurs a penalty of imprisonment for a term of at least five years.
(2) Section 239a (2) to (4) applies accordingly.

Section 239c
Supervision of conduct

In the cases under section 239a and section 239b, the court may make an order for the supervision of conduct (section 68 (1)).

Section 240
Coercion (*Nötigung*)

(1) Whoever unlawfully, by force or threat of serious harm, compels a person to do, acquiesce to or refrain from an act incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The act is unlawful if the use of force or the threat of harm is deemed reprehensible in respect of the desired objective.
(3) The attempt is punishable.
(4) In especially serious cases, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where the offender

1. coerces a pregnant woman to terminate the pregnancy or
2. abuses his or her powers or position as a public official.

Section 241
Threatening commission of serious criminal offence

(1) Whoever threatens a person with the commission of a serious criminal offence against that person or a person close to him or her incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Whoever, despite knowing better, pretends to another person that the commission of a serious criminal offence against that person or a person close to him or her is imminent incurs the same penalty.

Section 241a
Casting political suspicion

(1) Whoever, by making a report or casting suspicion on a person, exposes that person to the danger of being persecuted for political reasons and, in violation of the principles of the rule of law, of suffering harm to life or limb through violence or arbitrary measures, of being deprived of liberty or seriously prejudiced in regard to professional or financial circumstances incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever communicates information about another person or transmits such information, and thereby exposes the other person to the danger of political persecution as indicated in subsection (1), incurs the same penalty.
(3) The attempt is punishable.
(4) If an untrue assertion is made against the other person in the report, the suspicion or communication, or if the offence is committed with the intention of procuring the results indicated in subsection (1) or if the case is otherwise especially serious, the penalty is imprisonment for a term of between one year and 10 years.

Chapter 19
Theft and misappropriation

Section 242
Theft

(1) Whoever takes movable property belonging to another away from another with the intention of unlawfully appropriating it for themselves or a third party incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 243
Aggravated theft

(1) In especially serious cases of theft, the penalty is imprisonment for a term of between three months and 10 years. An especially serious case typically occurs where the offender

1. breaks into or enters a building, official or business premises or another enclosed space, or intrudes by using a false key or other tool not typically used for gaining access or hides in the room for the purpose of committing the offence,

2. steals property which is specially protected against theft by means of a sealed container or other protective device,

3. steals on a commercial basis,

4. steals property which is dedicated to the exercise of religion or used for religious worship from a church or other building or space used for religious veneration,

5. steals property of relevance to science, the arts or history, or to technical development which is located in a generally accessible collection or is publicly exhibited,

6. steals by exploiting the helplessness of another person, an accident or a common danger or

7. steals a handgun for the acquisition of which a licence is required under the Weapons Act, a machine gun, a submachine gun, a fully automatic or semi-automatic rifle or a military weapon containing an explosive within the meaning of the Military Weapons Control Act (*Kriegswaffenkontrollgesetz*) or an explosive.

(2) In the cases under subsection (1) sentence 2 nos. 1 to 6, an especially serious case is ruled out if the property is of minor value.

Section 244
Armed theft; gang theft; theft by burglary of dwellings

(1) Whoever

1. commits theft during which they or another party to the offence

   a) carries a weapon or another dangerous implement,

   b) otherwise carries an implement or means by which to prevent or overcome another person's resistance by force or threat of force,

2. steals as a member of a gang whose purpose is the continued commission of robbery or theft with the participation of another member of the gang or

3. commits theft for the commission of which they break into or enter private premises or intrude using a false key or other tool not typically used for gaining access or hide in the private premises

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) In less serious cases under subsection (1) nos. 1 to 3, the penalty is imprisonment for a term of between three months and five years.
(4) If theft by burglary of private premises under subsection (1) no. 3 concerns residential accommodation which is used permanently as private living space, the penalty is imprisonment for a term of between one year and 10 years.

Section 244a
Aggravated gang theft

(1) Whoever commits theft under the conditions of section 243 (1) sentence 2 or, in the cases under section 244 (1) no. 1 or 3, as a member of a gang whose purpose is the continued commission of robbery or theft and does so with the participation of another member of the gang incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.
(3) (repealed)

Section 245
Supervision of conduct

In the cases under sections 242 to 244a, the court may make an order for the supervision of conduct (section 68 (1)).

Section 246
Misappropriation

(1) Whoever unlawfully appropriates movable property belonging to another for themselves or a third party incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the offence is subject to a more severe penalty under other provisions.
(2) If, in the cases under subsection (1), the property was entrusted to the offender, the penalty is imprisonment for a term not exceeding five years or a fine.
(3) The attempt is punishable.

Section 247
Theft from relatives or persons living in same household

If a relative, the guardian or the carer of the offender is the victim of the theft or if the victim lives in the same household as the offender, the offence is prosecuted only upon request.

Section 248
(repealed)

Section 248a
Theft and misappropriation of property of minor value

Theft and misappropriation of property of minor value is prosecuted only upon request in the cases under sections 242 and 246, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

Section 248b
Unauthorised use of vehicle

(1) Whoever uses a motor vehicle or a bicycle against the will of the person authorised to use it incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the act is subject to a more severe penalty under other provisions.
(2) The attempt is punishable.
(3) The offence is prosecuted only upon request.
(4) Motor vehicles within the meaning of this provision are vehicles which are driven by machine power, terrestrial motor vehicles only to the extent that they are not rail-bound vehicles.

Section 248c
Tapping of electrical energy

(1) Whoever taps the electrical energy of another from an electrical facility or installation by means of a conductor which is not intended for the regular withdrawal of energy from the facility or installation, if the act was committed with the intention of appropriating the electrical energy for themselves or a third party, incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) The attempt is punishable.
(3) Sections 247 and 248a apply accordingly.
(4) If the act referred to in subsection (1) is committed with the intention of unlawfully inflicting damage on another, the penalty is imprisonment for a term not exceeding two years or a fine. The offence is prosecuted only upon request.

Chapter 20
Robbery and extortion

Section 249
Robbery

(1) Whoever, by force against a person or threats of present danger to life or limb, takes movable property belonging to another from another with the intention of appropriating the property for themselves or a third party incurs a penalty of imprisonment for a term of at least one year.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 250
Aggravated robbery

(1) The penalty is imprisonment for a term of at least three years if

1. the offender or another party to the robbery

   a) carries a weapon or other dangerous implement,

   b) otherwise carries an implement or means by which to prevent or overcome another person's resistance by force or threat of force,

   c) by committing the act places another person at risk of serious damage to health or

2. the offender commits the robbery as a member of a gang whose purpose is the continued commission of robbery or theft with the participation of another member of the gang.

(2) The penalty is imprisonment for a term of at least five years if the offender or another party to the robbery

1. uses a weapon or other dangerous implement during the commission of the offence,

2. carries a weapon in the cases under subsection (1) no. 2 or

3.

   a) during the commission of the act seriously physically abuses another person or

   b) by committing the act places another person in danger of death.

(3) In less serious cases under subsections (1) and (2), the penalty is imprisonment for a term of between one year and 10 years.

Section 251
Robbery resulting in death

If, by committing robbery (sections 249 and 250), the offender at least recklessly causes another person's death, the penalty is imprisonment for life or for a term of at least 10 years.

Section 252
Theft using force or threats to retain possession of stolen property

Whoever uses force against a person or threats of present danger to life or limb when caught in the act of committing theft in order to retain possession of the stolen property incurs the same penalty as a person who commits robbery.

Section 253
Extortion

(1) Whoever unlawfully, by force or threat of serious harm, coerces a person to do, acquiesce to or refrain from an act, and thereby damages that person's or another's assets for the purpose of wrongful personal enrichment or enrichment of a third party, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The act is unlawful if the use of force or the threat of harm is deemed reprehensible in respect of the desired objective.
(3) The attempt is punishable.
(4) In especially serious cases, the penalty is imprisonment for a term of at least one year. An especially serious case typically occurs where the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of extortion.

Section 254
(repealed)

Section 255
Extortion with use of force or threat of force

Whoever commits extortion by using force against a person or threats of present danger to life or limb incurs the same penalty as a person who commits robbery.

Section 256
Supervision of conduct

In the cases under sections 249 to 255, the court may make an order for the supervision of conduct (section 68 (1)).

Chapter 21
Aiding after the fact and handling stolen goods

Section 257
Aiding after the fact

(1) Whoever renders assistance to another person who has committed an unlawful act with the intention of securing for that person the benefits of that act incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The penalty may not be more severe than the penalty threatened for the prior offence.
(3) Whoever is liable as a party to the prior offence is not liable for aiding after the fact. This does not apply to a person who incites another person who was not party to the prior offence to render assistance after the fact.
(4) The offence of aiding after the fact is prosecuted only upon request, upon authorisation or at the request of a foreign state if the offender could be prosecuted as the offender or participant of the prior offence only upon request, upon authorisation or at the request of a foreign state. Section 248a applies analogously.

Section 258
Obstruction of prosecution or punishment

(1) Whoever intentionally or knowingly obstructs, in whole or in part, another person being punished or subjected to a measure (section 11 (1) no. 8) in accordance with criminal law for an unlawful act incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever intentionally or knowingly obstructs, in whole or in part, the enforcement of a penalty or measure imposed on another incurs the same penalty.
(3) The penalty may not be more severe than the penalty threatened for the prior offence.
(4) The attempt is punishable.

(5) Whoever, by committing the offence, also intends to prevent, in whole or in part, themselves incurring a penalty or being subjected to a measure, or a penalty or measure imposed on them being enforced incurs no penalty under this provision.
(6) Whoever commits the offence for the benefit of a relative is exempt from punishment.

Section 258a
Obstruction of prosecution or punishment in public office

(1) If, in the cases under section 258 (1), the offender is a public official who is called to be involved in criminal proceedings or proceedings to order a measure (section 11 (1) no. 8) or, in the cases under section 258 (2), is a public official who is called to be involved in enforcing a penalty or measure, the penalty is imprisonment for a term of between six months and five years, in less serious cases imprisonment for a term not exceeding three years or a fine.
(2) The attempt is punishable.
(3) Section 258 (3) and (6) does not apply.

Section 259
Handling stolen goods

(1) Whoever, for the purpose of personal enrichment or the enrichment of a third party, buys or procures by other means for themselves or a third party, disposes of or assists in disposing of property which another has stolen or otherwise obtained by an unlawful act directed against the property of another incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Sections 247 and 248a apply analogously.
(3) The attempt is punishable.

Section 260
Commercial handling of stolen goods; handling as member of gang

(1) Whoever handles stolen goods

1. on a commercial basis or
2. as a member of a gang whose purpose is the continued commission of robbery, theft or the handling of stolen goods

incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) (repealed)

Section 260a
Commercial handling as member of gang

(1) Whoever, on a commercial basis, handles stolen goods as a member of a gang whose purpose is the continued commission of robbery, theft or the handling of stolen goods incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.
(3) (repealed)

Section 261
Money laundering; concealing unlawfully acquired assets

(1) Whoever hides an object derived from one of the unlawful acts referred to in sentence 2, conceals its origin, or obstructs or endangers the investigation of its origin, its being found, its confiscation or its being secured incurs a penalty of imprisonment for a term of between three months and five years. Unlawful acts within the meaning of sentence 1 are

1. serious criminal offences,
2. less serious criminal offences under

a) section 108e, section 332 (1) and (3) and section 334, in each case also in conjunction with section 335a,

b) section 29 (1) sentence 1 no. 1 of the Narcotics Act and section 19 (1) no. 1 of the Precursors Control Act (*Grundstoffüberwachungsgesetz*),

3. less serious criminal offences under section 373 and under section 374 (2) of the Fiscal Code, in each case also in conjunction with section 12 (1) of the Common Market Organisations and Direct Payments Implementation Act (*Gesetz zur Durchführung der Gemeinsamen Marktorganisation und der Direktzahlungen*),

4. less serious criminal offences under

a) sections 152a and 181a, section 232 (1) to (3) sentence 1 and (4), section 232a (1) and (2), section 232b (1) and (2), section 233 (1) to (3), section 233a (1) and (2), sections 242, 246, 253, 259, 263 to 264, 265c, 266, 267, 269, 271, 284 and 299, section 326 (1), (2) and (4), section 328 (1), (2) and (4) and section 348,

b) section 96 of the Residence Act, section 84 of the Asylum Act, section 370 of the Fiscal Code, section 119 (1) to (4) of the Securities Trading Act (*Wertpapierhandelsgesetz*), sections 143, 143a and 144 of the Trade Mark Act (*Markengesetz*), section 106 to 108b of the Copyright Act (*Urheberrechtsgesetz*), section 25 of the Utility Models Act (*Gebrauchsmustergesetz*), sections 51 and 65 of the Design Act (*Designgesetz*), section 142 of the Patent Act (*Patentgesetz*), section 10 of the Semiconductor Protection Act (*Halbleiterschutzgesetz*) and section 39 of the Plant Variety Protection Act (*Sortenschutzgesetz*)

which were committed on a commercial basis or by a member of a gang whose purpose is the continued commission of such offences and

5. less serious criminal offences under sections 89a and 89c and under section 129 and section 129a (3) and (5), in each case also in conjunction with section 129b (1), as well as less serious criminal offences committed by a member of a criminal or terrorist organisation (section 129 and section 129a, in each case also in conjunction with section 129b (1)).

Sentence 1 applies, in cases of tax evasion committed on a commercial basis or as a gang as defined in section 370 of the Fiscal Code, to expenditure saved by virtue of the tax evasion and of unlawfully obtained tax refunds and tax rebates, and, in the cases under sentence 2 no. 3, sentence 1 also applies to an object in relation to which fiscal charges have been evaded.

(2) Whoever

1. procures an object indicated in subsection (1) for themselves or a third party or

2. keeps an object indicated in subsection (1) in their custody or uses it for themselves or a third party if they were aware of the origin of the object at the time of obtaining possession of it

incurs the same penalty.

(3) The attempt is punishable.

(4) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of money laundering.

(5) Whoever, in the cases under subsections (1) or (2), is recklessly unaware of the fact that the object is derived from an unlawful act referred to in subsection (1) incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(6) The act incurs no penalty pursuant to subsection (2) if a third party previously obtained the object without having thereby committed an offence.
(7) Objects relating to the offence may be confiscated. Section 74a applies.
(8) Objects derived from an offence committed abroad of the type referred to in subsection (1) are equivalent to the objects indicated in subsections (1), (2) and (5) if the offence is also punishable at the place of its commission.
(9) Whoever

1. voluntarily reports the offence to the competent authority or voluntarily occasions such a report to be made, unless the act had already been discovered, in whole or in part, at the time and the offender knew this or, based on a reasonable assessment, should have expected this or

2. in the cases under subsections (1) or (2), under the conditions of no. 1 causes the object relating to the offence to be officially secured

does not incur a penalty under subsections (1) to (5). Whoever is liable on account of participation in the prior offence also does not incur a penalty under subsections (1) to (5). Exemption from punishment under sentence 2 is ruled out if the offender or participant puts into circulation objects derived from an unlawful act as referred to in subsection (1) sentence 2 and by doing so conceals its unlawful origin.
(10) (repealed)

Section 262
Supervision of conduct

In the cases under sections 259 to 261, the court may make an order for the supervision of conduct (section 68 (1)).

Chapter 22
Fraud and embezzlement

Section 263
Fraud

(1) Whoever, with the intention of obtaining an unlawful pecuniary benefit for themselves or a third party, damages the assets of another by causing or maintaining an error under false pretences or distorting or suppressing true facts incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. acts on a commercial basis or as a member of a gang whose purpose is the continued commission of forgery of documents or fraud,

2. causes a major financial loss to or acts with the intention of placing a large number of persons in danger of financial loss by the continued commission of fraud,

3. places another person in financial hardship,

4. abuses his or her powers or position as a public official or European official or

5. pretends that an insured event has happened after they or another person have set fire to an object of significant value or destroyed it, in whole or in part, by setting fire to it or caused the sinking or grounding of a ship.

(4) Section 243 (2) and sections 247 and 248a apply accordingly.

(5) Whoever commits fraud on a commercial basis as a member of a gang whose purpose is the continued commission of offences under sections 263 to 264 or sections 267 to 269 incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.
(6) The court may make an order for the supervision of conduct (section 68 (1)).
(7) (repealed)

Section 263a
Computer fraud

(1) Whoever, with the intention of obtaining an unlawful pecuniary benefit for themselves or a third party, damages the property of another by influencing the result of a data processing operation by incorrectly configuring the computer program, using incorrect or incomplete data, making unauthorised use of data or taking other unauthorised influence on the processing operation incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Section 263 (2) to (6) applies accordingly.
(3) Whoever prepares an offence under subsection (1) by producing computer programs the purpose of which is to commit such an act or procures such programs for themselves or another, or whoever offers such programs for sale, or holds or supplies them to another incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) In the cases under subsection (3), section 149 (2) and (3) applies accordingly.

Section 264
Subsidy fraud

(1) Whoever

1. furnishes an authority which is competent to approve a subsidy or another agency or person involved in the subsidy procedure (subsidy giver), for themselves or another person, with incorrect or incomplete particulars regarding facts which are advantageous for themselves or the other person, such particulars being relevant for the granting of a subsidy,

2. uses an object or cash benefit the use of which is restricted by legal provisions or by the subsidy giver in relation to a subsidy contrary to that restriction,

3. withholds from the subsidy giver, contrary to the legal provisions relating to grants of subsidies, facts relevant to the subsidy or

4. uses a certificate of entitlement to a subsidy or about facts relevant to a subsidy which was obtained by furnishing incorrect or incomplete particulars in a subsidy procedure

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where offenders

1. acquire, out of gross self-interest or by using forged or falsified documentation, an unjustified, large subsidy for themselves or another,

2. abuse their powers or position as a public official or European official or

3. take advantage of the assistance of a public official or European official who abuses his or her powers or position.

(3) Section 263 (5) applies accordingly.
(4) In the cases under subsection (1) no. 2, the attempt is punishable.
(5) Whoever acts recklessly in the cases under subsection (1) nos. 1 to 3, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(6) Whoever voluntarily prevents the granting of a subsidy on the basis of the offence incurs no penalty under subsections (1) and (5). If the subsidy is not granted without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the subsidy from being granted.
(7) In addition to a sentence of imprisonment of at least one year for an offence under subsections (1) to (3), the court may order the loss of the ability to hold public office and be elected in public elections (section 45 (2)). Objects relating to the offence may be confiscated; section 74a applies.
(8) 'Subsidy' within the meaning of this provision means

1. a benefit from public funds under federal or *Länder* law for businesses or enterprises which, at least in part,

   a) is granted without market-related consideration and

   b) is intended to promote the economy,

2. a benefit from public funds under the law of the European Union which is granted, at least in part, without market-related consideration.

A public enterprise is also deemed to be a business or enterprise within the meaning of sentence 1 no. 1.
(9) Facts are relevant to a subsidy within the meaning of subsection (1)

1. if they are designated as being relevant to a subsidy by law or by the subsidy giver on the basis of a law or

2. if the approval, granting, reclaiming, renewal or continuation of a subsidy or of an advantage of subsidisation is dependent on them for reasons of law or under the subsidy contract.

Section 264a
Capital investment fraud

(1) Whoever, in connection with

1. the sale of securities, subscription rights or shares which are intended to grant the holder a share of the enterprise's profits or

2. an offer to increase the capital investment in such shares,

makes incorrect favourable statements or conceals unfavourable facts in prospectuses or in representations or surveys about the net assets which are given to a considerable number of persons and in relation to circumstances relevant to the decision about acquisition or increase incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Subsection (1) applies accordingly if the act relates to shares in assets which an enterprise manages in its own name but for the account of a third party.
(3) Whoever voluntarily prevents the benefit contingent upon the acquisition or the increase from accruing incurs no penalty pursuant to subsections (1) and (2). If the benefit does not accrue without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the benefit from accruing.

Section 265
Insurance fraud

(1) Whoever damages, destroys, impairs the usefulness of, disposes of or gives to another an object which is insured against destruction, damage, impairment of use, loss or theft in order to obtain for themselves or a third party payment from the insurance incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the offence is subject to a penalty under section 263.
(2) The attempt is punishable.

Section 265a
Obtaining benefits by deception

(1) Whoever obtains the output of a machine or the services of a telecommunications network which serves public purposes or uses a means of transportation or obtains entrance to an event or facility by deception with the intention of not paying the fee therefor incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the offence is subject to a more severe penalty under other provisions.
(2) The attempt is punishable.
(3) Sections 247 and 248a apply accordingly.

Section 265b
Credit fraud

(1) Whoever, in connection with an application for or for a continuance of credit or modification of the terms of credit for a business or enterprise or for a fictitious business or enterprise,

1.

a) submits incorrect or incomplete documentation, in particular balance sheets, profit and loss accounts, summaries of assets and liabilities, or appraisal reports or

b) furnishes incorrect or incomplete particulars in writing

about financial circumstances which are favourable to the borrower and relevant to the decision on such an application, to a business or enterprise or

2. does not provide a business or enterprise with information in the submission about any deterioration in the financial circumstances represented in the documentation or statements which are relevant to the decision on such an application

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever voluntarily prevents the lender from providing the credit applied for on account of the act incurs no penalty pursuant to subsection (1). If the credit is not provided without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the credit from being provided.
(3) Within the meaning of subsection (1),

1. businesses and enterprises are, regardless of their purpose, those which by their nature and size require a properly organised operation applying the appropriate commercial customs, rules and standards;

2. credits are cash loans of all kinds, acceptance credits, the acquisition for payment or the deferment of monetary claims, the discounting of promissory notes and cheques, and the assumption of sureties, guarantees and other warranties.

Section 265c
Sports betting fraud

(1) Whoever, in the capacity as an athlete or coach, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or the result of an organised sports competition for the benefit of the opponent in the competition, as a result of which an unlawful pecuniary benefit is to be obtained for a public sports bet placed on that competition, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever offers, promises or grants an athlete or coach a benefit for themselves or a third party in return for influencing the course or the result of an organised sports competition for the benefit of the opponent in the competition, as a result of which an unlawful pecuniary

benefit is obtained for a public sports bet placed on that competition, incurs the same penalty.
(3) Whoever, in the capacity as a judge, referee or arbiter, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or result of an organised sports competition in a manner which is contrary to the rules, as a result of which an unlawful pecuniary benefit is obtained for a public sports bet placed on that competition, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) Whoever offers, promises or grants a judge, referee or arbiter a benefit for themselves or a third party in return for influencing the course or result of an organised sports competition in a manner which is contrary to the rules, as a result of which an unlawful pecuniary benefit is obtained for a public sports bet placed on that competition, incurs the same penalty.
(5) An organised sports competition within the meaning of this provision is any sports event in Germany or abroad

1. which is organised by a national or international sports organisation or on its instructions or with its recognition and

2. during which rules are to be followed which were adopted by a national or international sports organisation with binding effect for its member organisations.

(6) A coach within the meaning of this provision is an individual who makes decisions during the sports competition regarding the use and instruction of athletes. Individuals who, due to their professional or financial position, are able to considerably influence the use or instruction of athletes are equal to a coach.

Section 265d
Manipulation of professional sports competitions

(1) Whoever, in the capacity as an athlete or coach, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or result of a professional sports competition in an anticompetitive manner for the benefit of the opponent incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever offers, promises or grants an athlete or coach a benefit for themselves or a third party in return for influencing the course or result of a professional sports competition in an anticompetitive manner for the benefit of the opponent incurs the same penalty.
(3) Whoever, in the capacity as a judge, referee or arbiter, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or the result of a professional sports competition in a manner which is contrary to the rules incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) Whoever offers, promises or grants a judge, referee or arbiter a benefit for themselves or a third party in return for influencing the course or result of a professional sports competition in a manner which is contrary to the rules incurs the same penalty.
(5) A professional sports competition within the meaning of this provision is any sports event in Germany or abroad

1. which is organised by a national sports association or an international sports organisation or on its instructions or with its recognition,

2. during which rules are to be followed which were adopted by a national or international sports organisation with binding effect for its member organisations and

3. in which predominantly athletes participate who directly or indirectly earn a significant amount of their income through their sporting activities.

(6) Section 265c (6) applies accordingly.

Section 265e
Especially serious cases of sports betting fraud and manipulation of professional sports competitions

In especially serious cases, an offence under sections 265c and 265d incurs a penalty of imprisonment for a term of between three months and five years. An especially serious case typically occurs where

1. the offence relates to a major benefit or

2. the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

Section 266
Embezzlement

(1) Whoever abuses the power conferred on them by law, by commission of an authority or legal transaction to dispose of the assets of another or to make binding agreements for another, or whoever breaches their duty to safeguard the pecuniary interests of another which are incumbent upon them by reason of law, by commission of an authority, legal transaction or fiduciary relationship, and thereby adversely affects the person whose pecuniary interests they were responsible for, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Section 243 (2), sections 247 and 248a, and section 263 (3) apply accordingly.

Section 266a
Withholding wages and salaries

(1) Whoever, in the capacity as an employer, withholds an employee's contributions to the social security system, including employment promotion, regardless of whether wages or salaries are actually being paid, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever, in the capacity as an employer,

1. supplies, to the agency responsible for collecting contributions, incorrect or incomplete particulars regarding facts which are relevant under social insurance law or

2. contrary to their duty, withholds from the agency responsible for collecting contributions facts which are relevant to the social insurance system,

and thereby withholds the contributions to be paid by the employer to social insurance, including employment promotion, regardless of whether salary or wages are actually being paid, incurs the same penalty.
(3) Whoever, in the capacity as an employer, otherwise withholds parts of wages or salaries which they are under a duty to pay to another on behalf of the employee but does not pay them to the other party and omits to inform the employee about the failure to make the payment at the latest on the due date or promptly thereafter incurs a penalty of imprisonment for a term not exceeding five years or a fine. Sentence 1 does not apply to those parts of the wages or salary which are deducted as income tax on wages and salaries.
(4) In especially serious cases under subsections (1) and (2), the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. withholds, out of gross self-interest, contributions on a large scale,

2. by using counterfeit or falsified supporting documentation continually withholds contributions,

3. continually withholds contributions and procures incorrect, counterfeit or falsified supporting documentation from a third party for the purpose of concealing the true

employment relationship, that third party offering such supporting documentation on a commercial basis,

4. acts as a member of a gang whose purpose is the continued withholding of contributions and which presents incorrect, counterfeit or falsified supporting documentation for the purpose of concealing the true employment relationship or

5. takes advantage of the assistance of a public official who abuses his or her powers or position.

(5) A person who hires people who work or conduct a trade at home or who are equal to them within the meaning of the Home Work Act (*Heimarbeitsgesetz*) as well as the intermediary are equal to an employer.
(6) In the cases under subsections (1) and (2), the court may dispense with imposing a penalty pursuant to this provision if the employer, at the latest on the due date or promptly thereafter,

1. informs the collecting agency in writing of the amount of the withheld contributions and

2. explains in writing why it is not possible to make the payment on time although the employer has made earnest efforts to do so.

If the conditions of sentence 1 are met and the contributions are subsequently paid within the appropriate period determined by the collecting agency, the offender incurs not penalty. In the cases under subsection (3), sentences 1 and 2 apply accordingly.

Section 266b
Misuse of cheque and credit cards

(1) Whoever abuses the possibility accorded them, on account of being supplied with a cheque or credit card, of obliging the issuer to make a payment, and thereby causes damage to the issuer, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Section 248a applies accordingly.

Chapter 23
Forgery of documents

Section 267
Forgery of documents

(1) Whoever, for the purpose of deception in legal commerce, produces a counterfeit document, falsifies a genuine document, or uses a counterfeit or falsified document incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. acts on a commercial basis or as a member of a gang whose purpose is the continued commission of fraud or forgery of documents,

2. causes major financial loss,

3. substantially endangers the security of legal commerce through a large number of counterfeit or falsified documents or

4. abuses his or her powers or position as a public official or European official.

(4) Whoever commits forgery of documents on a commercial basis as a member of a gang whose purpose is the continued commission of offences under sections 263 to 264 or sections 267 to 269 incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.

Section 268
Forgery of technical records

(1) Whoever, for the purpose of deception in legal commerce,

1. produces a counterfeit technical record or falsifies a technical record or
2. uses a counterfeit or falsified technical record

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) A technical record is any presentation of data, measurements or calculations, conditions or sequences of events which is, in whole or in part, produced automatically by a technical device, allows the object of the record to be recognised either generally or by insiders and is intended to serve as proof of a legally relevant fact, regardless of whether the purpose of the presentation was assigned when it was produced or only later.
(3) If the offender influences the result of the record by interfering with the recording process, this is equivalent to the production of a counterfeit technical record.
(4) The attempt is punishable.
(5) Section 267 (3) and (4) applies accordingly.

Section 269
Forgery of data of probative value

(1) Whoever, for the purposes of deception in legal commerce, stores or modifies data which are of probative value in such a way that a counterfeit or falsified document would be created upon their retrieval, or whoever uses data stored or modified in such a manner incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) Section 267 (3) and (4) applies accordingly.

Section 270
Deception in relation to data processing in legal commerce

Falsely influencing data processing operations in legal commerce is equivalent to deception in legal commerce.

Section 271
Causing false records

(1) Whoever causes declarations, negotiations or facts which are of relevance for rights or legal relationships to be recorded or stored in public documents, books, data files or registers as having been made or having occurred or having been stored although they were not actually made or did not occur, or were made or occurred in another manner, or by a person lacking a professed capacity or by a different person incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, for the purpose of deception in legal commerce, uses a false notarial recording or stored data of the type indicated in subsection (1) incurs the same penalty.
(3) If the offender acts for a consideration or with the intention of personal enrichment or the enrichment of a third party or of causing losses to another person, the penalty is imprisonment for a term of between three months and five years.
(4) The attempt is punishable.

Section 272
(repealed)

Section 273
Tampering with official identity documents

(1) Whoever, for the purpose of deception in legal commerce,

1. removes, defaces, covers up or suppresses an entry in an official identity document or removes a single page from an official identity document or

2. uses an official identity document altered in such a way

incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the offence is subject to a penalty under section 267 or 274.
(2) The attempt is punishable.

Section 274
Suppression of documents; changing border mark

(1) Whoever

1. destroys, damages or suppresses a document or a technical record which does not belong to them or not exclusively to them, with the intention of causing damage to another,

2. deletes, suppresses, renders unusable or alters data (section 202a (2)) of probative value which are not or not exclusively at their disposal, with the intention of adversely affecting another, or

3. removes, destroys, defaces, moves or falsely places a border stone or another sign which is intended to designate a border or water level, with the intention of adversely affecting another,

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 275
Preparing forgery of official identity documents

(1) Whoever prepares to forge official identity documents by producing, procuring for themselves or another, offering for sale, storing, giving to another or by undertaking to import or export

1. plates, moulds, type, blocks, negatives, stencils or similar equipment which by its nature is suitable for the commission of the offence,

2. paper which is identical to the type of paper or can be easily confused with the paper which is used in the production of official identity documents and is specially protected against imitation or

3. blank forms for official identity documents

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) If the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of offences under subsection (1), the penalty is imprisonment for a term of between three months and five years.
(3) Section 149 (2) and (3) applies accordingly.

Section 276
Procurement of false official identity documents

(1) Whoever

1. undertakes to import or export or

2. with the intention of using it to facilitate deception in legal commerce, procures for themselves or another, stores or gives to another

a counterfeit or falsified official identity document or an official identity document which contains a false notarial recording of the type indicated in sections 271 and 348 incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) If the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of offences under subsection (1), the penalty is imprisonment for a term of between three months and five years.

Section 276a
Residence papers; vehicle documents

Sections 275 and 276 also apply to residence papers, namely residence permits and certification of a temporary suspension of deportation, as well as vehicle papers, namely vehicle registration and vehicle ownership documents.

Section 277
Forgery of health certificates

Whoever, using the title of 'physician' or that of another registered medical practitioner without having the right to do so, or using the name of such persons without being authorised to do so, issues a certificate relating to their own state of health or that of another, or falsifies a genuine certificate of that type and makes use of it in order to deceive public authorities or insurance companies incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 278
Issuance of incorrect health certificates

Physicians and other registered medical practitioners who, despite knowing better, issue an incorrect certificate relating to a person's state of health for use by an authority or insurance company incur a penalty of imprisonment for a term not exceeding two years or a fine.

Section 279
Use of incorrect health certificates

Whoever, in order to deceive an authority or an insurance company about their own state of health or that of another, makes use of a certificate of the type indicated in sections 277 and 278 incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 280
(repealed)

Section 281
Misuse of identity papers

(1) Whoever, for the purpose of deception in legal commerce, uses an identity paper which was issued to another or whoever, for the purpose of deception in legal commerce, gives another person an identity paper which was not issued to that person incurs a penalty of imprisonment for a term not exceeding one year or a fine. The attempt is punishable.
(2) Certificates and other documents which are used as identity documents in commerce are equivalent to identity papers.

Section 282
Confiscation

Objects relating to one of the offences under section 267, section 268, section 271 (2) and (3), section 273 or section 276, the latter also in conjunction with section 276a, or under section 279 may be confiscated. In the cases under section 275, also in conjunction with section 276a, the means of falsification indicated therein are confiscated.

Chapter 24
Offences in state of insolvency

Section 283
Bankruptcy

(1) Whoever, in the case of overindebtedness or existing or imminent insolvency,

1. secretly removes or hides, or, in a manner contrary to regular business standards, destroys, damages or renders unusable parts of their assets which in the case of the opening of insolvency proceedings would belong to the insolvency estate,

2. in a manner contrary to regular business standards, enters into loss-making or speculative ventures or futures trading in goods or securities or consumes excessive sums or becomes indebted through uneconomical expenditures, gambling or wagering,

3. procures goods or securities on credit and sells or otherwise sells them or things produced from these goods substantially below market value in a manner contrary to regular business standards,

4. feigns the existence of another's rights or recognises fictitious rights,

5. fails to keep account books which they are obliged by law to keep, or keeps or modifies them in such a manner that a survey of their current asset status is made more difficult,

6. secretly removes, hides, destroys or damages, before expiry of the archiving periods for those obliged to keep books, either account books or other documentation which a merchant is obliged by commercial law to keep, and thereby makes a survey of their current asset status more difficult,

7. contrary to commercial law,

a) draws up balance sheets in such a manner that a survey of their current asset status is made more difficult or

b) fails to draw up a balance sheet of their assets or an inventory in the prescribed time or

8. in another manner which grossly contravenes regular business standards diminishes their net assets or hides or conceals their actual business circumstances

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever causes their overindebtedness or insolvency by one of the acts referred to in subsection (1) incurs the same penalty.
(3) The attempt is punishable.
(4) Whoever,

1. in the cases of subsection (1), negligently fails to recognise their overindebtedness or imminent or existing insolvency or

2. in the cases of subsection (2), recklessly causes their overindebtedness or insolvency

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(5) Whoever,

1. in the cases of subsection (1) no. 2, 5 or 7, acts negligently and at least negligently fails to recognise their overindebtedness or imminent or existing insolvency or

2. in the cases of subsection (2), in conjunction with subsection (1) no. 2, 5 or 7, acts negligently and at least recklessly causes their overindebtedness or insolvency

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(6) The act only entails criminal liability if the offender has suspended any necessary payments or if insolvency proceedings have been opened against the offender's assets or the request to institute proceedings has been refused for insufficiency of assets.

Section 283a
Especially serious case of bankruptcy

In especially serious cases under section 283 (1) to (3), the offender incurs a penalty of imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. acts out of avarice or

2. knowingly places many persons in danger of losing those assets which were entrusted to him or her or in danger of financial hardship.

Section 283b
Breach of book-keeping duties

(1) Whoever

1. fails to keep account books which they are obliged by law to keep or keeps or modifies them in such a manner that a survey of their current asset status is made more difficult,

2. secretly removes, hides, destroys or damages, before expiry of the archiving periods for those obliged to keep books, either account books or other documentation which a merchant is obliged by commercial law to keep, and thereby makes a survey of their current asset status more difficult,

3. contrary to commercial law

   a) draws up balance sheets in such a manner that a survey of their current asset status is made more difficult or

   b) fails to draw up a balance sheet of their assets or an inventory in the prescribed time

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Whoever acts negligently in the cases under subsection (1) no. 1 or 3 incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(3) Section 283 (6) applies accordingly.

Section 283c
Preferential treatment of creditors

(1) Whoever, in the knowledge of their own insolvency, grants a creditor a security or satisfaction to which that creditor is not entitled in general or not in such a manner or not at that time, and thereby intentionally or knowingly accords said creditor preferential treatment over other creditors, incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The attempt is punishable.
(3) Section 283 (6) applies accordingly.

Section 283d
Preferential treatment of debtors

(1) Whoever,

1. in the knowledge of another's imminent insolvency or

2. after suspending payments, in insolvency proceedings or in proceedings to bring about a decision on whether insolvency proceedings concerning another are to be opened,

with their consent or on their behalf, secretly removes or hides or, in a manner contrary to regular business standards, destroys, damages or renders unusable parts of the other's assets which, in the case of the opening of insolvency proceedings, would form part of the insolvency estate incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. acts out of avarice or

2. knowingly places many persons in danger of losing those assets which were entrusted to him or her or in financial hardship.

(4) The act only entails criminal liability if the other person has suspended any necessary payments or if insolvency proceedings have been opened against the other person's assets or the request to open proceedings has been refused for insufficiency of assets.

Chapter 25
Criminal self-interest

Section 284
Organising illicit gaming

(1) Whoever, without the permission of an authority, publicly organises or runs a game of chance or provides the means of doing so incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Games of chance in clubs or private parties in which games of chance are habitually organised are deemed to be publicly organised.
(3) Whoever, in the cases under subsection (1),

1. acts on a commercial basis or

2. acts as a member of a gang whose purpose is the continued commission of such offences

incurs a penalty of imprisonment for a term of between three months and five years.
(4) Whoever advertises a public game of chance (subsections (1) and (2)) incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 285
Participation in illicit gaming

Whoever participates in a public game of chance (section 284) incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates.

Section 286
Confiscation

In the cases under sections 284 and 285, the gambling equipment and the money found on the gaming table or in the bank are to be confiscated if they belong to the offender or participant at the time of the decision. Otherwise, the objects may be confiscated; section 74a applies.

Section 287
Organising illicit lottery or raffle

(1) Whoever, without the permission of an authority, organises public lotteries or raffles of movable or immovable property, in particular by offering to conclude gambling contracts for a public lottery or raffle, or whoever accepts offers directed at the conclusion of such gambling contracts incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Whoever advertises public lotteries or raffles (subsection (1)) incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 288
Obstruction of enforcement

(1) Whoever, at the time of impending enforcement of a judgment and with the intention of obstructing satisfaction of a creditor, sells or secretly removes parts of their assets incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The offence is prosecuted only upon request.

Section 289
Taking pawns

(1) Whoever, with unlawful intent, takes away their own movable property or that of another, for the benefit of the owner of the property, from the usufructuary, pawnee or another person entitled to use or to retain the movable property incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) The attempt is punishable.
(3) The offence is prosecuted only upon request.

Section 290
Unauthorised use of pledged property

Public pawnbrokers who make unauthorised use of the objects which they have taken as a pledge incur a penalty of imprisonment for a term not exceeding one year or a fine.

Section 291
Usury

(1) Whoever exploits the predicament, lack of experience, lack of judgment or substantial weakness of will of another by allowing pecuniary benefits to be promised or granted to them or a third party

1. for the letting of residential premises or additional services connected therewith,
2. for the granting of credit,
3. for any other service or
4. for the procurement of one of the previously indicated services

which are in striking disproportion to the value of the service or its procurement incurs a penalty of imprisonment for a term not exceeding three years or a fine. If several persons contribute as providers of benefits, procurers or in other ways and if the result is thereby a striking disproportion between the sum of the pecuniary benefits and the amount of the consideration therefor, then sentence 1 applies to each of the persons who exploits the predicament or other weakness of the other for themselves or a third party in order to obtain excessive pecuniary benefits.
(2) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. places the other in financial hardship by committing the offence,
2. commits the offence on a commercial basis,
3. accepts promissory notes representing usurious pecuniary benefits.

Section 292
Game poaching

(1) Whoever, in violation of another's hunting rights or rights granted by a hunting licence,

1. hunts, catches, kills or appropriates game for themselves or a third party or
2. appropriates for themselves or a third party, damages or destroys an object which is subject to hunting laws

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) In especially serious cases, the penalty is imprisonment for a term of between three months and five years. An especially serious case typically occurs where the act is committed

1. on a commercial basis or habitually,

2. during night-time, in the close season, by the use of snares or in any manner which is not good hunting practice or

3. jointly by several parties armed with firearms.

(3) Subsections (1) and (2) do not apply to persons entitled to hunt in a certain hunting district insofar as the hunting rights on land in that district which has been declared as enclosed under section 6a of the Federal Hunting Act (*Bundesjagdgesetz*) are concerned.

Section 293
Fish poaching

Whoever, in violation of another's fishing rights or rights granted by a fishing licence,

1. fishes or

2. appropriates for themselves or a third party, damages or destroys an object which is subject to fishing laws

incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 294
Request to prosecute

In the cases under section 292 (1) and section 293, the offence is prosecuted only upon request of the victim if it was committed by a relative or at a place where the offender was permitted to engage in hunting or fishing to a limited extent.

Section 295
Confiscation

Hunting and fishing equipment, dogs and other animals which the offender or participant had with them or used during the commission of the offence may be confiscated. Section 74a applies.

Section 296
(repealed)

Section 297
Endangering ships, motor vehicles and aircraft through prohibited goods

(1) Whoever, without the knowledge of the owner or the captain of the ship, or, in the capacity as captain and without the knowledge of the owner, brings or takes property on board a German ship the transport of which causes

1. the danger of seizure or confiscation (sections 74 to 74f) of the ship or its cargo or

2. the danger of criminal liability on the part of the owner or of the captain of the ship

incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Whoever, in the capacity as owner of a ship and without the knowledge of the ship's captain, brings or takes property on board a German ship the transport of which causes the danger of criminal liability on the captain's part incurs the same penalty.
(3) Subsection (1) no. 1 also applies to foreign ships which have taken on their cargo, in whole or in part, in Germany.
(4) Subsections (1) to (3) apply accordingly if goods are brought or taken on board motor vehicles or aircraft. The operator and the driver or pilot of the motor vehicle or the aircraft are equal to the owner and the captain of a ship.

Chapter 26
Offences against competition

Section 298
Collusive tendering

(1) Whoever, in connection with an invitation to tender relating to goods or services, makes an offer based on an unlawful agreement whose purpose is to cause the organiser to accept a specific offer incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The award of a contract by direct agreement following a prior call for competition is equivalent to an invitation to tender within the meaning of subsection (1).
(3) Whoever voluntarily prevents the organiser from accepting the offer or from providing a service does not incur the penalty specified in subsection (1), also in conjunction with subsection (2). If the offer is not accepted or the organiser's service is not rendered without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the offer being accepted or the service being rendered.

Section 299
Taking and giving bribes in commercial practice

(1) Whoever, in commercial practice in the capacity as an employee or agent of a business,

1. demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for giving an unfair preference to another in the competitive purchase of goods or services in Germany or abroad or

2. without the permission of the business demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for performing or refraining from performing an act in the competitive purchase of goods or services, thereby breaching the duty incumbent on them towards the business,

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, in commercial practice,

1. offers, promises or grants a benefit to an employee or agent of a business or a third party in return for giving that person or another an unfair preference in the competitive purchase of goods or services in Germany or abroad or

2. without the permission of the business offers, promises or grants an employee or agent of a business or a third party a benefit in return for performing or refraining from performing an act in the competitive purchase of goods or services, and thereby breaches the duty incumbent on them in relation to the business,

incurs the same penalty.

Section 299a
Taking bribes in healthcare sector

Whoever, as a member of a healing profession which requires state-regulated training to exercise the profession or to use the professional title, demands, allows themselves to be promised or accepts a benefit for themselves or another in connection with the exercise of their profession in return for

1. prescribing medication, remedies or health aids or medical devices,

2. procuring medication or health aids or medical devices which are designed for direct use by the member of the profession or one of their professional assistants or

3. supplying patients or samples and diagnostic data,

and thereby provides an unfair competitive advantage to another in Germany or abroad, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 299b
Giving bribes in healthcare sector

Whoever offers, promises or grants a benefit to a member of a healing profession within the meaning of section 299a or to a third party in connection with their professional activities in return for

1. prescribing medication, remedies or health aids or medical devices,

2. procuring medication or health aids or medical devices which are designed for direct application by the member of the healing profession or one of their professional assistants or

3. supplying patients or samples and diagnostic data,

and thereby provides an unfair competitive advantage to that person or another in Germany or abroad, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 300
Especially serious cases of taking and giving bribes in commercial practice and healthcare sector

In especially serious cases, an offence under sections 299, 299a and 299b incurs a penalty of imprisonment for a term of between three months and five years. An especially serious case typically occurs where

1. the offence relates to a major benefit or

2. the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

Section 301
Request to prosecute

(1) The offences of taking and giving bribes in commercial practice under section 299 are prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.
(2) In the cases under section 299 (1) no. 1 and (2) no. 1, the right to file the request under subsection (1) is vested in the victim as well as in all associations and chambers referred to in section 8 (3) nos. 2 and 4 of the Act against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb*).

Section 302
(repealed)

Chapter 27
Criminal damage

Section 303
Criminal damage

(1) Whoever unlawfully damages or destroys an object belonging to another incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) Whoever, without being authorised to do so, substantially and permanently alters the appearance of an object belonging to another incurs the same penalty.
(3) The attempt is punishable.

Section 303a
Data manipulation

(1) Whoever unlawfully deletes, suppresses, renders unusable or alters data (section 202a (2)) incurs a penalty of imprisonment for a term not exceeding two years or a fine.
(2) The attempt is punishable.

Section 303b
Computer sabotage

(1) Whoever interferes with data processing operations which are of substantial importance to another by

1. committing an offence under section 303a (1),

2. entering or transmitting data (section 202a (2)) with the intention of adversely affecting another or

3. destroying, damaging, rendering unusable, removing or altering a data processing system or a data carrier

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) If the data processing operation is of substantial importance for another's business, enterprise or an authority, the penalty is imprisonment for a term not exceeding five years or a fine.
(3) The attempt is punishable.
(4) In especially serious cases under subsection (2), the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. causes major financial loss,

2. acts on a commercial basis or as a member of a gang whose purpose is the continued commission of computer sabotage or

3. by committing the offence jeopardises the population's supply with vital goods or services or the security of the Federal Republic of Germany.

(5) Section 202c applies accordingly to acts preparatory to an offence under subsection (1).

Section 303c
Request to prosecute

In the cases under section 303, section 303a (1) and (2) and section 303b (1) to (3), the offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

Section 304
Criminal damage to objects of public interest

(1) Whoever unlawfully damages or destroys objects of veneration of a religious community in Germany or property dedicated to religious worship, or tombstones, public monuments, natural monuments, or objects of art, science or craft which are kept in public collections or are publicly exhibited, or objects which serve a public interest or add to the ambience of public roads and ways, squares or parks incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, without being authorised to do so, substantially and permanently alters the appearance of an object referred to in subsection (1) incurs the same penalty.
(3) The attempt is punishable.

Section 305
Destruction of buildings and structures

(1) Whoever unlawfully destroys, in whole or in part, a building, ship, bridge, dam, a constructed road, a railway or another edifice belonging to another incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Section 305a
Destruction of important work equipment

(1) Whoever unlawfully destroys, in whole or in part,

1. technical equipment belonging to another and of significant value which is of substantial importance for the construction of a facility or an enterprise within the meaning of section 316b (1) no. 1 or 2, or a facility which serves the operation or the waste disposal of such facility or enterprise or

2. technical equipment of significant value which is essential for operations of the police, the Federal Armed Forces, the fire brigade, the civil protection service or one of the rescue services or

3. a motor vehicle belonging to the police, Federal Armed Forces, the fire brigade, the civil protection service or one of the rescue services

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.

Chapter 28
Offences constituting public danger

Section 306
Arson

(1) Whoever sets fire to or by setting fire to them destroys, in whole or in part,

1. buildings or huts,

2. plants or technical facilities, in particular machines,

3. warehouses or stored goods,

4. motor vehicles, railway vehicles, aircraft or watercraft,

5. forests, heaths or moors,

6. agricultural, food or forestry facilities or products

belonging to another incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 306a
Aggravated arson

(1) Whoever sets fire to or by setting fire to them destroys, in whole or in part,

1. a building, ship, hut or other premises which serve to accommodate people,

2. a church or other building which serves the practice of religion,

3. premises which serve to temporarily accommodate people, at a time when people are usually in those premises,

incurs a penalty of imprisonment for a term of at least one year.
(2) Whoever sets fire to an object referred to in section 306 (1) nos. 1 to 6 or destroys it in whole or in part by setting fire to it, and thereby places another person at risk of damage to health, incurs the same penalty.
(3) In less serious cases under subsections (1) and (2), the penalty is imprisonment for a term of between six months and five years.

Section 306b
Especially aggravated arson

(1) Whoever, by committing arson within the meaning of section 306 or 306a, causes serious damage to another person’s health or damage to a large number of people’s health incurs a penalty of imprisonment for a term of at least two years.

(2) The penalty is imprisonment for a term of at least five years if, in the cases under section 306a, the offender

1. places another person in danger of death by committing the offence,
2. acts with the intention of facilitating or covering up another offence or
3. prevents the fire from being extinguished or makes extinguishing the fire more difficult.

Section 306c
Arson resulting in death

If the offender, by committing arson within the meaning of sections 306 to 306b, at least recklessly causes another person's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.

Section 306d
Negligent arson

(1) Whoever acts negligently in the cases under section 306 (1) or section 306a (1) or causes the danger in the cases under section 306a (2) by negligence incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever acts negligently in the cases under section 306a (2) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 306e
Active remorse

(1) The court may, at its discretion, mitigate the penalty (section 49 (2)) in the cases under sections 306, 306a and 306b or dispense with imposing a penalty pursuant to those provisions if the offender voluntarily extinguishes the fire before substantial damage occurs.
(2) Whoever voluntarily extinguishes the fire before substantial damage occurs does not incur the penalty specified in section 306d.
(3) If the fire is extinguished before substantial damage occurs without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 306f
Causing fire hazard

(1) Whoever, by smoking, using an open fire or light, by throwing away burning or smouldering objects or by other means, causes a risk of fire in another person's

1. easily flammable operations or facilities,
2. agricultural or food facilities or operations in which their products are stored,
3. forests, heaths or moors or
4. cultivated fields or easily flammable agricultural produce which is stored in fields

incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever causes the danger that objects indicated in subsection (1) nos. 1 to 4 will catch fire, and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs the same penalty.
(3) Whoever acts negligently in the cases under subsection (1) or causes the danger by negligence in the cases under subsection (2) incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 307
Causing nuclear explosion

(1) Whoever undertakes to cause an explosion by releasing nuclear energy, and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term of at least five years.
(2) Whoever causes an explosion by releasing nuclear energy, and thereby negligently endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term of between one year and 10 years.
(3) If, by committing the offence, the offender at least recklessly causes another person's death, the penalty is

1. imprisonment for life or imprisonment for a term of at least 10 years in the cases under subsection (1),

2. imprisonment for a term of at least five years in the cases under subsection (2).

(4) Whoever acts negligently in the cases under subsection (2) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 308
Causing explosion

(1) Whoever causes an explosion other than by releasing nuclear energy, in particular using explosives, and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term of at least one year.
(2) If, by committing the offence, the offender causes serious damage to another person's health or damage to a large number of people's health, the penalty is imprisonment for a term of at least two years.
(3) If, by committing the offence, the offender at least recklessly causes another person's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.
(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.
(5) Whoever negligently causes the danger in the cases under subsection (1) incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(6) Whoever acts negligently in the cases of subsection (1) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 309
Misuse of ionising radiation

(1) Whoever, with the intention of damaging the health of another person, undertakes to expose that person to ionising radiation which is capable of being damaging to health incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) If the offender undertakes to expose a vast number of people to such radiation, the penalty is imprisonment for a term of at least five years.
(3) If, in the cases under subsection (1), by committing the offence the offender causes serious damage to another person's health or damage to a large number of people's health, the penalty is imprisonment for a term of at least two years.
(4) If, by committing the offence, the offender at least recklessly causes another person's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.
(5) In less serious cases under subsection (1), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (3) imprisonment for a term of between one year and 10 years.
(6) Whoever, with the intention of

1. impairing the usability of property of significant value belonging to another,

2. permanently altering the properties of a body of water, the air or soil in a negative manner or

3. damaging animals or plants of significant value belonging to another,

exposes the property, body of water, air, soil, animals or plants to ionising radiation which is capable of causing such impairments, alterations or damage incurs a penalty of imprisonment for a term not exceeding five years or a fine. The attempt is punishable.

Section 310
Preparing explosion or radiation offence

(1) Whoever, in preparation of

1. a particular undertaking within the meaning of section 307 (1) or section 309 (2),
2. an offence under section 308 (1) which is to be committed using explosives,
3. an offence under section 309 (1) or
4. an offence under section 309 (6),

produces, procures for themselves or another, stores or gives to another nuclear fuel, other radioactive materials, explosives or any equipment required for the commission of the offence incurs a penalty of imprisonment for a term of between one year and 10 years in the cases under no. 1, imprisonment for a term of between six months and five years in the cases under nos. 2 and 3, and imprisonment for a term not exceeding three years or a fine in the cases under no. 4.
(2) In less serious cases under subsection (1) no. 1, the penalty is imprisonment for a term of between six months and five years.
(3) In the cases under subsection (1) nos. 3 and 4, the attempt is punishable.

Section 311
Releasing ionising radiation

(1) Whoever, in breach of duties under administrative law (section 330d (1) nos. 4 and 5 and (2)),

1. releases ionising radiation or
2. causes nuclear fission processes

which are capable of causing harm to the life or limb of another person or of damaging property of significant value belonging to another or of causing serious damage to animals or plants, bodies of water, the air or soil incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) Whoever, acting negligently,

1. when operating a facility, in particular a plant, engages in an activity within the meaning of subsection (1) in a manner which is suitable for causing damage outside the area belonging to the facility or
2. in other cases under subsection (1) acts in gross breach of duties under administrative law

incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 312
Faulty construction of nuclear facility

(1) Whoever constructs or delivers a defective nuclear facility (section 330d no. 2) or objects which are intended to be used in the construction or operation of such a facility, and thereby causes a danger to the life or limb of another person or to property of significant value belonging to another which arises from the effects of a nuclear fission process or radiation from radioactive materials, incurs a penalty of imprisonment for a term of between three months and five years.

(2) The attempt is punishable.
(3) If, by committing the offence, the offender causes serious damage to another person's health or damage to a large number of people's health, the penalty is imprisonment for a term of between one year and 10 years.
(4) If, by committing the offence, the offender causes another person's death, the penalty is imprisonment for a term of at least three years.
(5) In less serious cases under subsection (3), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (4) imprisonment for a term of between one year and 10 years.
(6) Whoever, in the cases under subsection (1),

1. causes the danger by negligence or
2. acts recklessly and causes the danger by negligence

incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 313
Causing flooding

(1) Whoever causes a flood, and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) Section 308 (2) to (6) applies accordingly.

Section 314
Causing public danger by poisoning

(1) Whoever poisons or releases substances which are harmful to health into

1. water in contained springs, wells, pipes or drinking water storage facilities or
2. objects intended for public sale or use,

or sells, offers for sale or otherwise puts into circulation poisoned objects within the meaning of no. 2 or those into which substances which are harmful to health have been released incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) Section 308 (2) to (4) applies accordingly.

Section 314a
Active remorse

(1) The court may, at its discretion, mitigate the penalty (section 49 (2)) in the cases under section 307 (1) and section 309 (2) if the offender voluntarily abandons the further commission of the offence or otherwise averts the danger.
(2) The court may, at its discretion, mitigate the penalty (section 49 (2)) under the following provisions or dispense with imposing a penalty pursuant to these provisions if the offender,

1. in the cases under section 309 (1) or section 314 (1), voluntarily abandons the further commission of the offence or otherwise averts the danger or
2. in the cases under
   a) section 307 (2),
   b) section 308 (1) and (5),
   c) section 309 (6),
   d) section 311 (1),
   e) section 312 (1) and (6) no. 1,
   f) section 313, also in conjunction with section 308 (5),

voluntarily averts the danger before substantial damage occurs.

(3) Whoever,

1. in the cases under

   a) section 307 (4),

   b) section 308 (6),

   c) section 311 (3),

   d) section 312 (6) no. 2,

   e) section 313 (2) in conjunction with section 308 (6),

   voluntarily averts the danger before substantial damage occurs or

2. in the cases under section 310, voluntarily abandons the further commission of the offence or otherwise averts the danger

does not incur the penalty specified in the aforementioned provisions.
(4) If the danger is averted without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 315
Dangerous interference with rail, ship and air traffic

(1) Whoever interferes with the safety of traffic by railway, suspension railway, ship or air by

1. destroying, damaging or removing facilities or means of transport,

2. setting up obstacles,

3. giving false signs or signals or

4. undertaking a similar act of interference of equal dangerousness,

and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term of between six months and 10 years.
(2) The attempt is punishable.
(3) The penalty is imprisonment for a term of at least one year if the offender

1. acts with the intention of

   a) causing an accident,

   b) facilitating or covering up another offence or

2. by committing the offence causes serious damage to another person's health or damage to a large number of people's health.

(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (3) imprisonment for a term of between six months and five years.
(5) Whoever causes the danger in the cases under subsection (1) by negligence incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(6) Whoever acts negligently in the cases under subsection (1) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 315a
Endangering rail, ship and air traffic

(1) Whoever

1. is in control of a track railway or suspension railway vehicle, a ship or an aircraft although they are not in a condition to control the vehicle safely due to having consumed alcoholic drinks or other intoxicating substances, or due to mental or physical deficiencies or

2. being in control of such a vehicle or otherwise as a person responsible for safety by a gross breach of their duties violates legal provisions relating to the safety of the track railway, suspension railway, shipping or air traffic,

and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) In the cases under subsection (1) no. 1, the attempt is punishable.
(3) Whoever, in the cases under subsection (1),

1. causes the danger by negligence or

2. acts negligently and causes the danger by negligence

incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 315b
Dangerous interference with road traffic

(1) Whoever interferes with the safety of road traffic by

1. destroying, damaging or removing facilities or vehicles,

2. setting up obstacles or

3. undertaking a similar act of interference of equal dangerousness,

and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) If the offender acts under the conditions of section 315 (3), the penalty is imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.
(4) Whoever causes the danger in the cases under subsection (1) by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(5) Whoever acts negligently in the cases under subsection (1) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 315c
Endangering road traffic

(1) Whoever, in road traffic,

1. drives a vehicle although they are not in a condition to drive the vehicle safely

   a) due to having consumed alcoholic drinks or other intoxicating substances or

   b) due to mental or physical deficiencies

or

2. in gross violation of road traffic regulations and carelessly

   a) does not observe the right of way,

   b) overtakes improperly or otherwise drives improperly in the process of overtaking,

c) drives improperly in the vicinity of pedestrian crossings,

d) drives too fast in places with poor visibility, at road crossings, junctions or railway crossings,

e) fails to keep to the right-hand side of the road in places with poor visibility,

f) turns, drives backwards or contrary to the direction of traffic, or attempts to do so on a motorway or a main road or

g) fails to make vehicles which have stopped or broken down recognisable at a sufficient distance although this is required to ensure the safety of traffic,

and thereby endangers the life or limb of another person or property of significant value belonging to another, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) In the cases under subsection (1) no. 1, the attempt is punishable.
(3) Whoever, in the cases under subsection (1),

1. causes the danger by negligence or

2. acts negligently and causes the danger by negligence

incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 315d
Illegal motor racing

(1) Whoever, in road traffic,

1. organises or conducts an illegal motor race,

2. participates in an illegal motor race as the driver of a motor vehicle or

3. moves with inappropriate speed as the driver of a motor vehicle and in gross violation of road traffic regulations and carelessly in order to achieve maximum speed incurs a penalty of imprisonment for a term not exceeding two years or a fine.

(2) Whoever, in the cases under subsection (1) no. 2 or 3, endangers the life or limb of another person or property of significant value belonging to another incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) In the cases under subsection (1) no. 1, the attempt is punishable.
(4) Whoever causes the danger by negligence in the cases under subsection (2) incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(5) Whoever, in the cases under subsection (2), causes another person's death or serious damage to another person's health or causes damage to the health of a large number of people incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.

Section 315e
Rail traffic on roads

Insofar as track railways participate in road traffic, only the provisions concerning the protection of road traffic (section 315b and section 315c) apply.

Section 315f
Confiscation

Motor vehicles relating to an offence under section 315d (1) no. 2 or no. 3, (2), (4) or (5) may be confiscated. Section 74a applies.

Section 316
Driving under influence of drink or drugs

(1) Whoever drives a vehicle in traffic (sections 315 to 315e) although they are not in a condition to drive the vehicle safely due to having consumed alcoholic drinks or other intoxicating substances incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the offence is subject to a penalty under section 315a or 315c.
(2) Whoever commits the offence negligently also incurs the penalty specified in subsection (1).

Section 316a
Attacking driver to commit robbery

(1) Whoever, for the purposes of committing robbery (section 249 or 250), theft using force (section 252) or extortion with use of force or threat of force (section 255), attacks the life or limb or decision-making freedom of the driver of a motor vehicle or a passenger, and thereby exploits the specific conditions applicable in road traffic, incurs a penalty of imprisonment for a term of at least five years.
(2) In less serious cases, the penalty is imprisonment for a term of between one year and 10 years.
(3) If, by committing the offence, the offender at least recklessly causes another person's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.

Section 316b
Disruption of public services

(1) Whoever prevents or disrupts the operation of

1. enterprises or facilities which serve the public supply of postal services or public transportation,

2. a facility which serves the public supply of water, light, heat or power, or an enterprise which serves the vital needs of the population or

3. an installation or a facility serving public order and safety

by destroying, damaging, removing, altering or rendering unusable an object used in its operation, or whoever taps electrical energy which is intended for its operation incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where, by committing the offence, the offender disrupts the supply of vital goods to the population, in particular water, light, heat or power.

Section 316c
Attacks on air and maritime traffic

(1) Whoever

1. uses force or attacks a person's decision-making freedom or engages in other practices in order to gain control over or influence the navigation of

   a) an aircraft deployed in civil air traffic which is in flight or

   b) a ship deployed in civil maritime traffic or

2. uses firearms or undertakes to cause an explosion or a fire in order to destroy or damage such an aircraft or ship or any cargo on board

incurs a penalty of imprisonment for a term of at least five years. An aircraft which has already been boarded by members of the crew or passengers or the loading of the cargo of which has already begun or which has not yet been deboarded by members of the crew or passengers or the unloading of the cargo of which has not yet been completed is equivalent to an aircraft in flight.

(2) In less serious cases, the penalty is imprisonment for a term of between one year and 10 years.
(3) If, by committing the offence, the offender at least recklessly causes another person's death, the penalty is imprisonment for life or imprisonment for a term of at least 10 years.
(4) Whoever, whilst preparing to commit an offence under subsection (1), produces, procures for themselves or another, stores or gives to another firearms, explosives or other materials or equipment designed to cause an explosion or a fire incurs a penalty of imprisonment for a term of between six months and five years.

Section 317
Disruption of telecommunications systems

(1) Whoever prevents or endangers the operation of a telecommunications system which serves public purposes by destroying, damaging, removing, altering or rendering unusable an object which serves its operation, or whoever taps electrical energy intended for its operation incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) Whoever commits the offence by negligence incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 318
Causing damage to important facilities

(1) Whoever damages or destroys water pipes, sluices, weirs, dikes, dams or other water works, or bridges, ferries, roads or bulwarks, or equipment used in mining operations for water control, ventilation or for transporting employees in and out, and thereby endangers the life or limb of another person, incurs a penalty of imprisonment for a term of between three months and five years.
(2) The attempt is punishable.
(3) If, by committing the offence, the offender causes serious damage to another person's health or damage to a large number of people's health, the penalty is imprisonment for a term of between one year and 10 years.
(4) If, by committing the offence, the offender causes another person's death, the penalty is imprisonment for a term of at least three years.
(5) In less serious cases under subsection (3), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (4) imprisonment for a term of between one year and 10 years.
(6) Whoever, in the cases under subsection (1),

1. causes the danger by negligence or
2. acts negligently and causes the danger by negligence

incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 319
Dangerous construction practices

(1) Whoever, in the planning, management or execution of the construction or the demolition of an edifice, violates generally accepted good engineering practice, and thereby endangers the life or limb of another person, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever, in the exercise of a profession or trade, contravenes generally accepted good engineering practice in the planning, management or execution of a project to install technical fixtures in an edifice or to modify installed fixtures of this type, and thereby endangers the life or limb of another person, incurs the same penalty.
(3) Whoever causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(4) Whoever, in the cases under subsections (1) and (2), acts negligently and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding two years or a fine.

Section 320
Active remorse

(1) The court may, at its discretion, mitigate the penalty (section 49 (2)) in the cases under section 316c (1) if the offender voluntarily abandons further commission of the offence or otherwise prevents the result.
(2) The court may, at its discretion, mitigate the penalty (section 49 (2)) under the following provisions or dispense with imposing a penalty pursuant to these provisions if the offender, in the cases under

1. section 315 (1), (3) no. 1 or (5),
2. section 315b (1), (3) or (4), (3) in conjunction with section 315 (3) no. 1,
3. section 318 (1) or (6) no. 1,
4. section 319 (1) to (3),

voluntarily averts the danger before substantial damage occurs.
(3) Whoever,

1. in the cases under
   a) section 315 (6),
   b) section 315b (5),
   c) section 318 (6) no. 2,
   d) section 319 (4),

   voluntarily averts the danger before substantial damage occurs or
2. in the cases under section 316c (4), voluntarily abandons the further commission of the offence or otherwise averts the danger

does not incur a penalty under the preceding provisions.
(4) If the danger is averted or the result is prevented before substantial damage occurs without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 321
Supervision of conduct

In the cases under sections 306 to 306c, section 307 (1) to (3), section 308 (1) to (3), section 309 (1) to (4), section 310 (1) and section 316c (1) no. 2, the court may make an order for the supervision of conduct (section 68 (1)).

Section 322
Confiscation

If an offence under sections 306 to 306c, 307 to 314 or section 316c has been committed,

1. objects arising from the offence or used or intended for use in its commission or preparation and
2. objects relating to one of the offences under sections 310 to 312, section 314 or 316c

may be confiscated.

Section 323
(repealed)

Section 323a
Intoxication

(1) Whoever intentionally or negligently puts themselves into a state of intoxication by consuming alcoholic drinks or other intoxicating substances incurs a penalty of imprisonment for a term not exceeding five years or a fine if they commit an unlawful act whilst in this state and cannot be punished on account thereof because they lacked criminal responsibility due to the intoxication or if this cannot be ruled out.
(2) The penalty may not be more severe than the penalty provided for the offence which was committed in a state of intoxication.
(3) The offence is prosecuted only upon request, upon authorisation or request by a foreign state if the act which was committed in a state of intoxication can be prosecuted only upon request, authorisation or request by a foreign state.

Section 323b
Jeopardising addiction treatment

Whoever knowingly and without the permission of the director of the facility or of the director's agent procures for or gives alcoholic drinks or other intoxicating substances to another who has been placed in an addiction treatment facility by official order or without that person's consent or encourages said person to consume such substances incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 323c
Failure to render assistance; obstruction of persons rendering assistance

(1) Whoever does not render assistance in the case of an accident or a common danger or emergency although it is necessary and can reasonably be expected under the circumstances, in particular if it is possible without substantial danger to that person and without breaching other important duties, incurs a penalty of imprisonment for a term not exceeding one year or a fine.
(2) Whoever obstructs a person who is rendering or wishes to render assistance to another person in such a situation incurs the same penalty.

Chapter 29
Offences against environment

Section 324
Water pollution

(1) Whoever, without being authorised to do so, contaminates a body of water or otherwise negatively alters its properties incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) If the offender acts negligently, the penalty is imprisonment for a term not exceeding three years or a fine.

Section 324a
Soil pollution

(1) Whoever, in breach of duties under administrative law, introduces, allows substances to penetrate or releases substances into the soil, and thereby contaminates it or otherwise negatively alters it

1. in a manner which is capable of causing damage to the health of another, to animals or plants, other property of significant value or a body of water or

2. to a significant extent,

incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) The attempt is punishable.
(3) If the offender acts negligently, the penalty is imprisonment for a term not exceeding three years or a fine.

Section 325
Air pollution

(1) Whoever, in the operation of a facility, in particular a plant or machine, in breach of duties under administrative law, causes alterations of the air which are capable of causing damage to the health of another, to animals or plants or other property of significant value outside the area belonging to the facility incurs a penalty of imprisonment for a term not exceeding five years or a fine. The attempt is punishable.
(2) Whoever, in the operation of a facility, in particular a plant or machine, in breach of duties under administrative law, releases harmful substances in significant amounts into the air outside the grounds of the facility incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) Whoever, in breach of duties under administrative law, releases harmful substances in a significant amount into the air incurs a penalty of imprisonment for a term not exceeding three years or a fine, unless the offence is subject to a penalty under subsection (2).
(4) If, in the cases under subsections (1) and (2), the offender acts negligently, the penalty is imprisonment for a term not exceeding three years or a fine.
(5) If, in the cases under subsection (3), the offender acts recklessly, the penalty is imprisonment for a term not exceeding one year or a fine.
(6) ‘Harmful substances’ within the meaning of subsections (2) and (3) are substances which are capable of

1. causing damage to the health of another, to animals or plants or other property of significant value or

2. permanently contaminating or otherwise negatively and permanently altering a body of water, the air or soil.

(7) Subsection (1), also in conjunction with subsection (4), does not apply to motor vehicles, railway vehicles, aircraft or watercraft.

Section 325a
Causing noise, vibrations and non-ionising radiation

(1) Whoever, in the operation of a facility, in particular a plant or machine, in breach of duties under administrative law, causes noise which is capable of causing damage to the health of another outside the area belonging to the facility incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever, in the operation of a facility, in particular a plant or machine, in breach of duties under administrative law which serve to protect against noise, vibrations or non-ionising radiation, endangers the health of another, animals which are not their own or property of significant value belonging to another incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) If the offender acts negligently, the penalty

1. in the cases under subsection (1) is imprisonment for a term not exceeding two years or a fine,

2. in the cases under subsection (2) is imprisonment for a term not exceeding three years or a fine.

(4) Subsections (1) to (3) do not apply to motor vehicles, railway vehicles, aircraft or watercraft.

Section 326
Unauthorised waste management

(1) Whoever, without being authorised to do so, outside a facility which is authorised therefor or in substantial deviation from the prescribed or authorised procedure, collects, ships, treats, utilises, stores, deposits, discharges, disposes of or trades in, brokers or otherwise commercialises waste which

1. contains or can produce poisons or disease agents which constitute a public danger and can be communicated to humans or animals,

2. is carcinogenic, mutagenic or toxic to reproduction in humans,

3. is prone to explode, is spontaneously combustible or of more than merely minor radioactive quality or

4. because of its nature, composition or quantity is capable of

   a) permanently contaminating or otherwise negatively altering a body of water, the air or soil or

   b) endangering an animal or plant population

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever, contrary to a prohibition or without the required permit, ships into, out of or through the area of territorial scope of this statute waste within the meaning of subsection (1) incurs the same penalty.
(3) Whoever, in breach of duties under administrative law, fails to deliver radioactive waste incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) In the cases under subsections (1) and (2), the attempt is punishable.
(5) If the offender acts negligently, the penalty

1. in the cases under subsections (1) and (2) is imprisonment for a term not exceeding three years or a fine,

2. in the cases under subsections (3) is imprisonment for a term not exceeding one year or a fine.

(6) The act does not entail criminal liability if harmful effects on the environment, in particular on humans, bodies of water, the air, the soil, livestock or agricultural crops, are obviously ruled out on account of the small quantity of waste involved.

Section 327
Unauthorised operation of facilities

(1) Whoever

1. operates a nuclear facility, possesses an operational or decommissioned nuclear facility or in whole or in part dismantles such a facility or substantially modifies its operation or

2. substantially modifies a plant in which nuclear fuels are used or its location

without the required permit or contrary to an enforceable prohibition incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever operates

1. a facility which requires a permit or any other facility within the meaning of the Emission Control Act (*Immissionsschutzgesetz*) whose operation has been prohibited in order to protect against hazards,

2. a pipeline facility for the transportation of water-polluting substances within the meaning of the Environmental Impact Analysis Act (*Gesetz über die Umweltverträglichkeitsprüfung*) which requires a permit,

3. a waste disposal facility within the meaning of the Closed Substance Cycle Act (*Kreislaufwirtschaftsgesetz*) or

4. a sewage treatment facility under section 60 (3) of the Federal Water Act (*Wasserhaushaltsgesetz*)

without the permit or planning approval required under the relevant statute or contrary to an enforceable prohibition based on the relevant legislation incurs a penalty of imprisonment for a term not exceeding three years or a fine. Whoever, without the required permit or planning approval or contrary to an enforceable prohibition, operates a facility in another Member State of the European Union in which harmful substances or mixtures are stored or used or in which dangerous activities are carried out in a manner which is capable of causing damage to the life or limb of another person or of causing serious damage to animals or plants, bodies of water, the air or soil outside the facility incurs the same penalty.
(3) If the offender acts negligently, the penalty

1. in the cases under subsection (1) is imprisonment for a term not exceeding three years or a fine,

2. in the cases under subsection (2) is imprisonment for a term not exceeding two years or a fine.

Section 328
Unauthorised handling of radioactive substances and other hazardous substances and goods

(1) Whoever produces, stores, transports, treats, processes or otherwise uses, imports or exports

1. nuclear fuels without the required permit or contrary to an enforceable prohibition or

2. other radioactive substances which by their nature, composition or quantity are capable of causing another's death or serious damage to another's health or of causing serious damage to animals or plants, bodies of water, the air or soil through ionising radiation, without the required permit or contrary to an enforceable prohibition

incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Whoever

1. fails to deliver nuclear fuels which they are obliged promptly to deliver on the basis of the Atomic Energy Act (*Atomgesetz*),

2. delivers nuclear fuels or the substances referred to in subsection (1) no. 2 to unauthorised persons or procures their delivery to unauthorised persons,

3. causes a nuclear explosion or

4. induces another to commit one of the offences referred to in no. 3 or supports such an activity

incurs the same penalty.
(3) Whoever, in breach of duties under administrative law,

1. in the operation of a facility, in particular a plant or technical installation, stores, treats, processes or otherwise uses radioactive substances or hazardous substances and mixtures under Article 3 of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on 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 L 353, 31.12.2008, p. 1), as last amended by Regulation (EC) No 790/2009 (OJ L 235, 5.9.2009, p. 1) or

2. transports, ships, packs, unpacks, loads or unloads, receives from or gives to another hazardous goods,

and thereby endangers the health of another, animals or plants, bodies of water, the air or soil, or property of significant value belonging to another incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(4) The attempt is punishable.
(5) If, in the cases under subsection (1), the offender acts negligently, the penalty is imprisonment for a term not exceeding three years or a fine.
(6) Subsections (4) and (5) do not apply to acts referred to in subsection (2) no. 4.

Section 329
Endangering protected areas

(1) Whoever, contrary to a statutory instrument enacted on the basis of the Emission Control Act relating to an area which requires special protection against harmful environmental impacts through air pollution or noise or in which a great increase in harmful environmental impacts can be expected during periods of thermal inversion, operates facilities within the area incurs a penalty of imprisonment for a term not exceeding three years or a fine. Whoever operates facilities in such an area contrary to an enforceable order issued on the basis of a statutory instrument as referred to in sentence 1 incurs the same penalty. Sentences 1 and 2 do not apply to motor vehicles, railway vehicles, aircraft or watercraft.
(2) Whoever, contrary to a statutory instrument or an enforceable prohibition enacted to protect a water or mineral spring conservation area,

1. operates in-plant facilities relating to the handling of substances posing a water hazard,

2. operates pipeline facilities to transport substances which pose a water hazard or transports such substances or

3. mines gravel, sand, clay or other solid substances within the framework of a commercial operation

incurs a penalty of imprisonment for a term not exceeding three years or a fine. A facility of a public enterprise is also an in-plant facility within the meaning of sentence 1.
(3) Whoever, contrary to a statutory instrument or an enforceable prohibition enacted to protect a nature conservation area, an area provisionally set aside as a nature conservation area or a national park,

1. mines or extracts mineral resources or other soil components,

2. makes excavations or deposits,

3. creates, alters or removes bodies of water,

4. drains moors, swamps, marshes or other wetlands,

5. clears woodland,

6. kills, catches, hunts or destroys or removes, in whole or in part, the eggs of animals of a specially protected species within the meaning of the Federal Nature Conservation Act (*Bundesnaturschutzgesetz*),

7. damages or removes plants of a specially protected species within the meaning of the Federal Nature Conservation Act or

8. erects a building,

and thereby significantly interferes with the specific protected purpose, incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(4) Whoever, in breach of duties under administrative law, causes substantial damage in a Natura 2000 Area

1. to the habitat of a species listed in Annex I to 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, 26.1.2010, 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, 22.7.1992, p. 7), as last amended by Council Directive 2013/17/EU (OJ L 158, 10.06.2013, p. 193) or

2. to a type of natural habitat 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, 22.7.1992, p. 7), as last amended by Council Directive 2013/17/EU (OJ L 158, 10.06.2013, p. 193)

which is of relevance to the conservation aims or the protective aim of such an area incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(5) If the offender acts negligently, the penalty

1. in the cases under subsections (1) and (2) is imprisonment for a term not exceeding two years or a fine,

2. in the cases under subsection (3) is imprisonment for a term not exceeding three years or a fine.

(6) If, in the cases under subsection (4), the offender acts recklessly, the penalty is imprisonment for a term not exceeding three years or a fine.

Section 330
Especially serious offences against environment

(1) In especially serious cases of an intentional offence under sections 324 to 329, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

1. interferes with a body of water, the soil or a conservation area within the meaning of section 329 (3) in such a manner that the interference cannot be eliminated or only at extraordinary expense or after a lengthy period of time,

2. endangers the public water supply,

3. permanently damages a population of animals or plants of a strictly protected species,

4. acts out of avarice.

(2) Whoever, by committing an intentional offence under sections 324 to 329,

1. places another person in danger of death or at risk of serious damage to health or places a large number of people at risk of damage to health or

2. causes another person's death,

incurs a penalty of imprisonment for a term of between one year and 10 years in the cases under no. 1, imprisonment for a term of at least three years in the cases under no. 2, unless the act is subject to a penalty under section 330a (1) to (3).
(3) In less serious cases under subsection (2) no. 1, the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (2) no. 2 imprisonment for a term of between one year and 10 years.

Section 330a
Causing severe danger by releasing poisons

(1) Whoever diffuses or releases substances which contain or can produce poisons, and thereby causes the danger of another person's death or serious damage to another person's health or the danger of damage to a large number of people's health, incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) If, by committing the offence, the offender causes another person's death, the penalty is imprisonment for a term of at least three years.
(3) In less serious cases under subsection (1), the penalty is imprisonment for a term of between six months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.
(4) Whoever causes the danger by negligence in the cases under subsection (1) incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(5) Whoever acts recklessly in the cases under subsection (1) and causes the danger by negligence incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 330b
Active remorse

(1) In the cases under section 325a (2), section 326 (1) to (3), section 328 (1) to (3) and section 330a (1), (3) and (4), the court may, at its discretion, mitigate the penalty (section 49 (2)) or dispense with imposing a penalty pursuant to these provisions if the offender voluntarily averts the danger or eliminates the condition he or she caused before substantial damage occurs. Under the same conditions, the offender does not incur the penalty specified in section 325a (3) no. 2, section 326 (5), section 328 (5) and section 330a (5).
(2) If the danger is averted or the unlawfully caused situation eliminated without any action on the offender's part, the offender's voluntary and earnest efforts to achieve that objective suffice.

Section 330c
Confiscation

If an offence under section 326, section 327 (1) or (2), section 328, section 329 (1), (2) or (3), the latter also in conjunction with (5), or (4), also in conjunction with (6), has been committed,

1. objects arising from the offence or used or intended for use in its commission or preparation and

2. objects relating to the offence

may be confiscated. Section 74a applies.

Section 330d
Definitions

(1) For the purposes of this chapter,

1. 'body of water' means surface water, ground water and the sea;

2. 'nuclear facility' means a facility for the production or treatment, or processing or fission of nuclear fuels or for the enrichment of irradiated nuclear fuels;

3. 'hazardous goods' means goods within the meaning of the Transportation of Hazardous Goods Act (*Gesetz über die Beförderung gefährlicher Güter*) or a statutory instrument based thereon and within the meaning of the provisions relating to the international transportation of hazardous goods in the specific territories of their application;

4. 'duty under administrative law' means 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 also have been imposed by administrative act

and which serves to protect against hazards or harmful environmental impacts, in particular on humans, animals or plants, bodies of water, the air or soil;

5. 'acting without a permit, planning approval or other permission' also means acting on the basis of a permit, planning approval or other permission which was effected by threats, taking and giving of bribes or collusion, or which was obtained by deception by supplying incorrect or incomplete particulars.

(2) For the purposes of applying sections 311, 324a, 325, 326, 327 and 328 in cases where the offence was committed in another Member State of the European Union,

1. a duty under administrative law,

2. a prescribed or authorised procedure,

3. a prohibition,

4. a ban,

5. an authorised facility,

6. a permit and

7. planning approval

also means the respective duties, procedures, prohibitions, bans, authorised facilities, permits and planning approvals on the basis of a legal provision of the other Member State of the European Union or on the basis of an act of state of the Member State of the European Union. This only applies insofar as a legal act of the European Union or a legal act of the European Atomic Community is being implemented or applied which serves to protect against hazards or harmful environmental impacts, in particular to humans, animals or plants, bodies of water, the air and soil.

Chapter 30
Offences committed in public office

Section 331
Accepting benefits

(1) Public officials, European officials or persons entrusted with special public service functions who demand, allow themselves to be promised or accept a benefit for themselves or for a third party in return for the discharge of a duty incur a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Judges, members of a court of the European Union or arbitrators who demand, allow themselves to be promised or accept a benefit for themselves or a third party in return for the fact that they performed or will in the future perform a judicial act incur a penalty of imprisonment for a term not exceeding five years or a fine. The attempt is punishable.
(3) The offence does not entail criminal liability pursuant to subsection (1) if offenders allow themselves to be promised or accept a benefit which they did not demand and the competent authority, within the scope of its powers, either previously authorised the acceptance or offenders promptly make a report to the competent authority and it authorises the acceptance.

Section 332
Taking bribes

(1) Public officials, European officials or persons entrusted with special public service functions who demand, allow themselves to be promised or accept a benefit for themselves or for a third party in return for the fact that they performed or will in the future perform an official act, and thereby breached or would breach their official duties, incur a penalty of imprisonment for a term of between six months and five years. In less serious cases, the penalty is imprisonment for a term not exceeding three years or a fine. The attempt is punishable.
(2) Judges, members of a court of the European Union or arbitrators who demand, allow themselves to be promised or accept a benefit for themselves or for a third party in return for the fact that they performed or will in the future perform a judicial act, and thereby breached or would breach their judicial duties, incur a penalty of imprisonment for a term of between one year and 10 years. In less serious cases, the penalty is imprisonment for a term of between six months and five years.
(3) If offenders demand, allow themselves to be promised or accept a benefit in return for a future act, then subsections (1) and (2) already apply if they have indicated to the other person that they are willing

1. to breach their duties by doing the act or

2. to the extent that the act is within their discretion, to allow themselves to be influenced by the benefit when exercising their discretion.

Section 333
Granting benefits

(1) Whoever offers, promises or grants a public official, a European official, a person entrusted with special public service functions or a soldier in the Federal Armed Forces a benefit for that person or a third party in return for the discharge of a duty incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(2) Whoever offers, promises or grants a judge, a member of a court of the European Union or an arbitrator a benefit for that person or a third party in return for the fact that they performed or will in the future perform a judicial act incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(3) The offence does not entail criminal liability pursuant to subsection (1) if the competent authority, within the scope of its powers, either previously authorised the recipient's acceptance of the benefit or authorises it upon prompt reporting by the recipient.

Section 334
Giving bribes

(1) Whoever offers, promises or grants a public official, a European official, a person entrusted with special public service functions or a soldier in the Federal Armed Forces a benefit for that person or a third party in return for the fact that they have performed or would in future perform an official act, and thereby breached or would breach their official duties, incurs a penalty of imprisonment for a term of between three months and five years. In less serious cases, the penalty is imprisonment for a term not exceeding two years or a fine.
(2) Whoever offers, promises or grants a judge, a member of a court of the European Union or an arbitrator a benefit for that person or a third party in return for the fact that they

1. performed a judicial act and thereby breached their judicial duties or

2. would perform a judicial act and would thereby breach their judicial duties

incurs a penalty of imprisonment for a term of between three months and five years in the cases under no. 1, imprisonment for a term of between six months and five years in the cases under no. 2. The attempt is punishable.
(3) If offenders offer, promise or grant the benefit in return for a future act, then subsections (1) and (2) already apply if they attempt to induce others

1. to breach their duties by doing the act or

2. to the extent that the act is within their discretion, to allow themselves to be influenced by the benefit when exercising their discretion.

Section 335
Especially serious cases of taking and giving bribes

(1) In especially serious cases

1. of an offence under

   a) section 332 (1) sentence 1, also in conjunction with (3), and

   b) section 334 (1) sentence 1 and (2), in each case also in conjunction with (3),

   the penalty is imprisonment for a term of between one year and 10 years and

2. of an offence under section 332 (2), also in conjunction with (3), the penalty is imprisonment for a term of at least two years.

(2) An especially serious case within the meaning of subsection (1) typically occurs where

1. the act relates to a major benefit,

2. the offender accepts continued benefits which are demanded in return for the fact that the offender would perform an official act in the future or

3. the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

Section 335a
Foreign and international officials

(1) For the purposes of applying section 331 (2), section 333 (2) and sections 332 and 334, in each case also in conjunction with section 335, to an offence relating to a future judicial act or a future official act, the following are equal to

1. a judge:

   a member of a foreign or an international court;

2. any other public official:

   a) an official of a foreign state and a person entrusted with performing public functions for a foreign state,

   b) an official of an international organisation and a person entrusted with performing functions for an international organisation,

   c) a soldier of a foreign state and a soldier entrusted with performing functions for an international organisation.

(2) For the purposes of applying section 331 (1) and section 333 (1) and (3) to an offence relating to a future judicial act or a future official act, the following are equal to

1. a judge:

   a member of the International Criminal Court;

2. any other public official:

   a member of staff of the International Criminal Court.

(3) For the purposes of applying section 333 (1) and (3) to an offence relating to a future official act, the following are equal to

1. a soldier in the Federal Armed Forces:

   a soldier in the non-German troops of one of the member states of the North Atlantic Treaty Organization deployed in Germany and who are residing in Germany at the time of the unlawful act;

2. any other public official:

   a member of staff of these troops;

3. a person entrusted with special public service functions:

   a person who is employed by the troops or acts for them and has been formally obliged by general or specific instructions issued by a higher service unit of the troops to conscientiously discharge his or her duties.

Section 336
Omission of official act

The omission to act is equivalent to the performance of an official act or of a judicial act within the meaning of sections 331 to 335a.

Section 337
Remuneration for arbitrators

Remuneration for arbitrators is only deemed to be a benefit within the meaning of sections 331 to 335 if arbitrators demand it, allow it to be promised to them or accept it from a party unbeknown to the other, or if one party offers, promises or grants it to them unbeknown to the other.

Section 338
(repealed)

Section 339
Judicial perversion of justice

Judges, other public officials or arbitrators who, in the course of conducting or deciding a legal matter, bend the law for the benefit or to the detriment of a party incur a penalty of imprisonment for a term of between one year and five years.

Section 340
Bodily harm in public office

(1) Public officials who, in the course of discharging their duties or in relation to their duties, commit bodily harm or allow it to be committed incur a penalty of imprisonment for a term of between three months and five years. In less serious cases, the penalty is imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) Sections 224 to 229 apply accordingly to offences under subsection (1) sentence 1.

Sections 341 and 342
(repealed)

Section 343
Extortion of testimony

(1) Whoever, in the capacity as a public official who is involved in

1. criminal proceedings, proceedings to impose detention by official order,

2. regulatory fines proceedings or

3. disciplinary proceedings, disciplinary court or professional disciplinary court proceedings,

physically abuses another, otherwise uses force against another, threatens another with force or psychologically abuses another in order to coerce that person into testifying or declaring something in the proceedings or to refrain from doing so incurs a penalty of imprisonment for a term of between one year and 10 years.
(2) In less serious cases, the penalty is imprisonment for a term of between six months and five years.

Section 344
Prosecution of innocent persons

(1) Whoever, in the capacity as a public official who is involved in criminal proceedings other than proceedings to order a measure not involving deprivation of liberty (section 11 (1) no. 8), intentionally or knowingly prosecutes an innocent person or a person who cannot otherwise by law be prosecuted, or makes efforts to bring about such a prosecution, incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between three months and five years. Sentence 1 applies analogously to a public official who is involved in proceedings to impose detention by official order.
(2) Whoever, in the capacity as a public official involved in proceedings to order a measure not involving deprivation of liberty (section 11 (1) no. 8), intentionally or knowingly prosecutes a person who cannot by law be prosecuted, or makes efforts to bring about such a prosecution, incurs a penalty of imprisonment for a term of between three months and five years. Sentence 1 applies analogously to a public official involved in

1. regulatory fines proceedings or
2. disciplinary proceedings, disciplinary court or professional disciplinary court proceedings.

The attempt is punishable.

Section 345
Enforcement against innocent persons

(1) Whoever, in the capacity as a public official who is involved in the enforcement of a sentence of imprisonment, a measure of reform and prevention involving deprivation of liberty, or detention by official order, enforces such a penalty, measure or detention although it cannot by law be enforced incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between three months and five years.
(2) If the offender acts recklessly, the penalty is imprisonment for a term not exceeding one year or a fine.
(3) Whoever, in the capacity as a public official who is involved in the enforcement of a penalty or a measure (section 11 (1) no. 8), other than in the cases under subsection (1), enforces a penalty or measure although it cannot by law be enforced incurs a penalty of imprisonment for a term of between three months and five years. Whoever, in the capacity as a public official who is involved in the enforcement of

1. juvenile detention,
2. a fine or incidental legal consequences under the law on regulatory offences,
3. a coercive fine or arrest for disobedience to court orders or
4. a disciplinary measure or a measure imposed by a disciplinary court or professional disciplinary court,

enforces such a legal consequence although it cannot by law be enforced incurs the same penalty. The attempt is punishable.

Sections 346 and 347
(repealed)

Section 348
Making false records in public office

(1) Public officials who are authorised to record public documents and who, within their area of competence, falsely record a legally relevant fact or falsely register or enter it into public registers, books or data files incur a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt punishable.

Sections 349 to 351
(repealed)

Section 352
Demanding excessive fees

(1) Public officials, lawyers or other persons providing legal assistance who charge fees or other remuneration for the discharge of official functions, if they charge fees or remuneration which they know are not due to them in the first place or only in a lesser amount, incur a penalty of imprisonment for a term not exceeding one year or a fine.
(2) The attempt is punishable.

Section 353
Levying excessive taxes; benefit reduction

(1) Public officials who are charged with collecting taxes, fees or other fiscal charges for a public treasury, if they collect fiscal charges which they know are not due in the first place or only in a lesser amount and do not deposit, in full or in part, the unlawfully collected amount with the treasury, incur a penalty of imprisonment for a term of between three months and five years.
(2) Whoever, in the capacity as a public official, in the course of official disbursements of money or in kind unlawfully withholds amounts from the recipient and charges the account as if the disbursements had been made in full incurs the same penalty.

Section 353a
Breach of trust in Foreign Service

(1) Whoever, whilst representing the Federal Republic of Germany to a foreign government, a community of states or an intergovernmental institution, contravenes an official instruction or, with the intention of misleading the Federal Government, files untrue reports of a factual nature incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The offence is prosecuted only upon authorisation by the Federal Government.

Section 353b
Breach of official secrecy and special obligation of secrecy

(1) Whoever, without being authorised to do so, discloses a secret which has been disclosed or otherwise become known to them in the capacity as

1. a public official,
2. a person entrusted with special public service functions or
3. a person who discharges duties or exercises powers under the law on staff representation,

and thereby jeopardises important public interests, incurs a penalty of imprisonment for a term not exceeding five years or a fine. Offenders who, by committing the offence, have negligently jeopardised important public interests incur a penalty of imprisonment for a term not exceeding one year or a fine.

(2) Whoever, other than in the cases under subsection (1), without being authorised to do so, allows an object or information

1. which they are obliged to keep secret on the basis of a resolution of a legislative body of the Federation or of one of its *Länder* or one of their committees or

2. which they have been formally put under an obligation to keep secret by another official agency under notice of criminal liability for a breach of the obligation to maintain secrecy

to come to the attention of another or makes it publicly known, and thereby jeopardises important public interests, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(3) The attempt is punishable.
(3a) Acts of aiding by one of those persons referred to in section 53 (1) sentence 1 no. 5 of the Code of Criminal Procedure are not deemed unlawful if they are restricted to the receipt, analysis or publication of the secret or of the object or the information in respect of which a special duty of secrecy exists.
(4) The offence is prosecuted only upon authorisation. Such authorisation is granted by

1. the president of the legislative body

   a) in the cases under subsection (1) if the secret became known to the offender during his or her service in or for a legislative body of the Federation or of one of the *Länder*,

   b) in the cases under subsection (2) no. 1;

2. the highest federal authority

   a) in the cases under subsection (1) if the secret became known to the offender during his or her service otherwise in or for an authority or in another official agency of the Federation or for such an agency,

   b) in the cases under subsection (2) no. 2 if the offender was put under an obligation by an official agency of the Federation;

3. the highest *Land* authority in all other cases under subsection (1) and subsection (2) no. 2.

Section 353c
(repealed)

Section 353d
Unlawful disclosure concerning judicial hearings

Whoever

1. publicly communicates information regarding a court hearing from which the public was excluded or about the content of an official document which concerns the matter, despite a statutory prohibition,

2. without being authorised to do so and contrary to an obligation of confidentiality imposed by the court on the basis of a statute discloses facts which came to their attention in a non-public judicial hearing or through an official document which concerns the matter or

3. publicly communicates verbatim all or essential parts of the bill of indictment or other official documents in criminal proceedings, regulatory fines proceedings or disciplinary proceedings before they have been addressed in a public hearing or before the proceedings have been concluded

incurs a penalty of imprisonment for a term not exceeding one year or a fine.

Section 354
(repealed)

Section 355
Breach of tax secrecy

(1) Whoever, without being authorised to do so, discloses or uses

1. circumstances of another which became known to them in their capacity as a public official

   a) in administrative proceedings, an audit procedure or judicial proceedings in tax matters,

   b) in criminal proceedings on account of a tax offence or in regulatory fines proceedings on account of a breach of tax regulations,

   c) on another occasion by means of a communication by a revenue authority or through the legally required submission of a tax assessment notice or a certificate concerning the findings made on taxation or

2. the business or trade secret of another which became known to them in their capacity as a public official in one of the proceedings listed in no. 1

incurs a penalty of imprisonment for a term not exceeding two years or a fine. Circumstances of another or a business or trade secret of another are deemed to have become known to the offender in the capacity as a public official in one of the proceedings referred to in sentence 1 no. 1 if they result from data to which the offender had access and which the offender retrieved without being authorised to do so.
(2) The following are equal to a public official within the meaning of subsection (1):

1. persons entrusted with special public service functions,

2. officially consulted experts and

3. office holders in the churches and other religious communities under public law.

(3) The act is prosecuted only upon request by the official superior or the victim. In the case of offences by officially consulted experts, the head of the authority whose proceedings have been affected is entitled to file a request in addition to the victim.

Section 356
Betrayal of client

(1) Lawyers or other persons rendering legal assistance who, in relation to matters confided to them in this capacity, serve both parties in the same legal matter with counsel and assistance in breach of their duty incur a penalty of imprisonment for a term of between three months and five years.
(2) Offenders who collude with the opposing party to the detriment of their client incur a penalty of imprisonment for a term of between one year and five years.

Section 357
Incitement of subordinate to commit offence

(1) Superiors who incite or undertake to incite a subordinate to commit an unlawful act in public office or allow such an unlawful act to be committed by their subordinate incur the penalty provided for this unlawful act.
(2) The same provision applies to public officials to whom oversight or control over the official business of another public official has been transferred, insofar as the unlawful act committed by the supervised public official concerns the business subject to oversight or control.

Section 358
Incidental legal consequences

In addition to a sentence of imprisonment of at least six months for an offence under sections 332, 335, 339, 340, 343 and 344, section 345 (1) and (3), sections 348, 352 to 353b (1), sections 355 and 357, the court may deprive the person of the capacity to hold public office (section 45 (2)).