

Excerpts from the Criminal Code (StGB) of the Federal Republic of Germany

(Unofficial translation)

Section 3: Offences committed in Germany

German criminal law shall apply to offences committed in Germany

Section 7: Applicability to offences committed abroad in other cases

- (1) German criminal law shall apply to offences committed abroad against a German if the offence attracts criminal liability at the place of commission or if such place is not subject to any criminal jurisdiction.
- (2) German criminal law shall apply to other offences committed abroad if the offence attracts criminal liability at the place of commission or if such place is not subject to any criminal jurisdiction and if the perpetrator
 1. was a German at the time of the offence or became one subsequently, or
 2. was an alien at the time of the offence, was found inside Germany and, although the Aliens Act would permit his extradition for the type of offence involved, has not been extradited because a request was not made for extradition, or was refused, or because extradition cannot be executed.

Section 9: Place of commission of offence

- (1) An offence shall be deemed to have been committed at every place where the offender acted or, in the case of an omission, ought to have acted or where the effect, being one of the elements constituting the offence, has been achieved or was intended by the offender to be achieved.
- (2) Participation as an accessory shall be deemed to have occurred both at the place where the offence was committed and at every place where the accessory acted or, in the case of an omission, ought to have acted, or where he intended the offence to be committed. If the accessory to an offence committed abroad acted in the domestic territory, German criminal law shall apply to such accessory participation even if the act is not subject to punishment under the law of the place of commission.

Section 11: Persons and definitions

- (1) Within the meaning of this Code, the following shall be deemed to be
[...]
2. a public official:
any person who, under German law,
 - a) is a civil servant or judge,
 - b) exercises some other official capacity under public law, or
 - c) has otherwise been appointed to carry out functions of public administration with an authority or other agency, or on its behalf, irrespective of the organisational form selected to carry out the functions;

3. a judge:
any person who, under German law, is a professional or honorary judge;
4. a person specially entrusted with public service functions:
any person who, without being a public official, is employed by, or works for,
 - a) an authority or other agency exercising functions of public administration, or
 - b) an organisation or other association, operating unit or enterprise carrying out functions of public administration for an authority or other agency, and is formally obliged by statute to fulfil his/her duties conscientiously;

Section 12: Major criminal offences and minor criminal offences

- (1) Major criminal offences are unlawful acts carrying a penalty of a prison sentence of one year or more.
- (2) Minor criminal offences are unlawful acts carrying a minimum penalty of a shorter prison sentence or a fine.
- (3) Any increased penalty or mitigation provided for in the General Part or for particularly serious cases shall be left out of consideration for the purpose of classification.

Section 14: Acting for another.

- (1) Where a person acts
 1. as an organ authorised to represent a juristic person or as a member of such an organ;
 2. as a partner authorised to represent a partnership; or
 3. as the statutory representative of another person, a statutory provision under which special personal attributes, conditions or circumstances (special personal characteristics) make a person liable to prosecution shall apply also to the representative even though such characteristics attach not to him but to the person represented by him.
- (2) Where a person has, by the proprietor of an operating unit or by some other person authorised to do so,
 1. been commissioned to manage the operating unit wholly in part, or
 2. been expressly commissioned to fulfil, on his own responsibility, duties incumbent on the proprietor of the operating unit,
 and where he acts in pursuance of such commission, any statutory provision under which special personal characteristics make a person liable to prosecution shall apply also to the person so commissioned even though such characteristics attach not to him but to the proprietor of the operating unit. Equivalent to an operating unit for the purposes of the first sentence shall be an enterprise. Where a person acts in pursuance of an appropriate commission on behalf of an agency performing tasks of public administration, the first sentence shall apply analogously.
- (3) Subsections 1 and 2 shall apply even where the legal act intended to establish the right of representation or the commission relationship is invalid.

Section 15: Acting with intent and acting negligently.

Only acts committed with intent shall be punishable, unless the law expressly makes negligent acts liable to punishment.

Section 22

Definition

Whoever in terms of his conception of the crime directly begins to commit the offence shall have committed an attempt.

Section 26

Perpetration

- (1) Whoever, while acting himself or through another, commits a criminal offence shall be punished as a perpetrator.
- (2) If the criminal offence is committed jointly by more than one person, each person shall be punished as a perpetrator (accomplice).

Section 26

Incitement

Whoever has intentionally incited another to an unlawful act perpetrated with intent shall be punished as an inciter in the same manner as the perpetrator.

Section 27

Accessorship

- (1) Whoever has intentionally aided another to commit an unlawful act perpetrated with intent shall be punished as an accessory.
- (2) The sentence imposed on an accessory shall be determined with reference to the sentence imposed on the perpetrator. The sentence shall be mitigated pursuant to Section 49 subsection 1.

Section 38: Length of prison sentence

- (1) A prison sentence shall be for a fixed term, unless the law provides for life imprisonment.
- (2) The maximum fixed term of imprisonment shall be fifteen years, the minimum term one month.

Section 40: Imposition in the form of day-fines

- (1) A fine shall be imposed in the form of day-fines. It shall amount to at least five full day-fines and, unless the law provides otherwise, at most to three hundred and sixty full day-fines.
- (2) The court shall determine the amount of the day-fine by taking the offender's personal and financial circumstances into consideration. In so doing, it shall as a rule work on the basis of the average daily net income which the offender actually does have or could have. A day-fine shall be fixed at a minimum of two and a maximum of ten thousand Deutschmark.
- (3) The offender's income, his assets and other bases for the assessment of a day-fine may be estimated.
- (4) The judgement shall state the number and amount of the day-fine.

Section 43a*Imposition of a property fine*

- (1) If the statute refers to this provision, in addition to a sentence of life or time-limited imprisonment of more than two years, the court may impose payment of a sum of money, the amount of which shall be limited by the value of the offender's property (property fine). Pecuniary benefits in respect of which forfeiture is ordered shall not be included in the estimation of the property. The value of the property may be estimated.
- (2) Section 42 shall apply *mutatis mutandis*.
- (3) The court shall impose a prison sentence, which shall substitute the property fine in the event of it being impossible to recover (substitute term of imprisonment). The maximum term of substitute imprisonment shall be two years, the minimum being one month.

Section 73*Grounds for Forfeiture*

- (1) If an unlawful act has been committed, and if the perpetrator or accessory has obtained anything for or from the act, the court shall order forfeiture thereof. This shall not apply if the injured party derives a claim from the act which, if satisfied, would deprive the perpetrator or accessory of the value of what has been obtained.
- (2) The forfeiture order shall extend to the benefits derived. It may also extend to the objects which the perpetrator or accessory has acquired through the alienation of an object obtained or as compensation for its destruction, damage or removal or by virtue of an acquired right.
- (3) If the perpetrator or accessory has acted for another person, and if the latter has thereby obtained anything, the forfeiture order as referred to in subsections (1) and (2) above shall be directed against the latter person.
- (4) Forfeiture of an object shall also be ordered if it belongs or appertains to a third party who has provided it for the act or otherwise in awareness of the circumstances of the act.

Section 73a*Forfeiture of Equivalent Value*

If forfeiture of a particular item is impossible because of the nature of what has been obtained or for any other reason, or if it is decided not to effect forfeiture of a substitute object as referred to in the second sentence of section 73, subsection (2), the court shall order the forfeiture of a sum of money equivalent in value to the object obtained. The court shall make such an order in addition to forfeiture of an object in so far as the value of that object is less than the value of the object initially obtained.

Section 73b*Assessment*

The extent of the object obtained and its value, as well as the amount of the claim, which, if satisfied, would deprive the perpetrator, or accessory of the object obtained from the act, may be assessed.

Section 73c

Hardship Provision

- (1) Forfeiture shall not be ordered if it would cause unreasonable hardship to the person concerned. The order may be waived if the value of the object obtained is no longer covered by the assets of the person concerned at the time of the order or if the object obtained is of negligible value.
- (2) Section 42 shall apply mutatis mutandis to authorisation of facilitated terms of payment.

Section 73d

Extended Forfeiture

- (1) If an unlawful act has been committed in violation of a law that refers to this provision, the court shall also order forfeiture of objects of the perpetrator or accessory if circumstances justify the assumption that such objects have been obtained for or from unlawful acts. The first sentence above shall also apply if the sole reason why the object does not belong or appertain to the perpetrator or accessory is that he obtained it for or from an unlawful act. Section 73, subsection (2), shall apply mutatis mutandis.
- (2) If, after the act, forfeiture of a particular object has become wholly or partially impossible, sections 73a and 73b shall apply analogously.
- (3) If, after forfeiture has been ordered pursuant to subsection (1) above, a new decision is to be taken on forfeiture of objects of the perpetrator or accessory because of another unlawful act that the perpetrator or accessory committed prior to the order, the court shall take into account the order previously made.
- (4) Section 73c shall apply mutatis mutandis.

Section 73e

Effect of Forfeiture

- (1) If forfeiture of an object is ordered, the ownership of the thing or the forfeited right shall pass to the state upon entry into force of the decision if at that time it appertains to the person affected by the order. Rights of third parties to the object shall continue to exist.
- (2) Prior to its entry into force, the order shall have the effect of a prohibition of alienation within the meaning of section 136 of the Civil Code; this prohibition shall also cover forms of disposal other than alienation.

Section 74

Grounds for Confiscation

- (1) If an offence has been committed with intent, objects deriving from it or used or intended for its commission or preparation may be confiscated.
- (2) Confiscation is permissible only if
 1. at the time of the decision the objects belong or appertain to the perpetrator or accessory, or
 2. the objects, by their nature and in the prevailing circumstances, endanger the general public, or there is a danger that they will be used for the commission of unlawful acts.
- (3) Under the conditions referred to in subsection (2), number 2, above, confiscation of the objects is also permissible if the perpetrator acted innocently.

- (4) If confiscation is prescribed or permitted by a specific provision in addition to subsection (1) above, subsections (2) and (3) above shall apply mutatis mutandis.

Section 74a

Extended Grounds for Confiscation

If the law refers to this provision, objects may, in derogation of section 74, subsection (2), number 1, also be confiscated if the person to whom they belong or appertain at the time of the decision

1. has at least recklessly contributed to the thing or right having been the means or object of the act or of its preparation, or
2. has wrongfully acquired the objects in awareness of circumstances that would have permitted their confiscation.

Section 74b

Principle of Proportionality

- (1) If confiscation is not prescribed, it may not be ordered in the cases referred to in section 74, subsection (2), number 1, and section 74a, if it is disproportionate to the gravity of the offence committed and to the culpability of the perpetrator or accessory affected by the confiscation or, in the cases referred to in section 74a, of the third party.
- (2) In the cases referred to in sections 74 and 74a, the court shall order that the right of confiscation be reserved and shall take a less stringent measure if the purpose of confiscation can also be thereby achieved. In particular, consideration may be given to directing
 1. that the objects be rendered unserviceable,
 2. that particular fittings or features of the objects be removed or that the objects be otherwise altered, or
 3. that the objects be disposed of in a particular manner.If the direction is complied with, the reserved right of confiscation shall be revoked; otherwise the court shall subsequently order confiscation.
- (3) If confiscation is not prescribed, it may be restricted to part of the objects.

Section 74c

Confiscation of Equivalent Value

- (1) If the perpetrator or accessory, prior to the decision on confiscation, has utilised, in particular alienated or consumed, the object that belonged or appertained to him at the time of the act and in respect of which confiscation could have been imposed, or has otherwise frustrated confiscation of the object, the court may order confiscation from the perpetrator or accessory of a sum of money not exceeding the value of the object.
- (2) The court may also make such an order in addition to, or instead of, the confiscation of an object if, prior to the decision on confiscation, the perpetrator or accessory has encumbered it with the right of a third party, the extinguishment of which cannot be ordered without compensation or could not be ordered in the event of confiscation (section 74e, subsection (2), and section 74f); if the court makes the order in addition to confiscation, the amount of equivalent value shall be measured in accordance with the value of the encumbrance upon the object.
- (3) The value of the object and of the encumbrance may be assessed.
- (4) Section 42 shall apply to authorisation of facilitated terms of payment.

- (5) Whoever, in the cases referred to in subsections 1 or 2, recklessly fails to realise that the item derives from an unlawful act as specified in subsection 1, shall be punished by imprisonment not exceeding two years or by a fine.
- (6) The act shall not be punishable pursuant to subsection 2 if a third person has previously acquired the item without thereby committing a criminal offence.
- (7) Items to which the criminal offence relates may be confiscated. Section 74a shall be applied. Sections 43a and 73d shall be applied if the perpetrator acts as a member of a gang formed in order to commit money laundering repeatedly. Section 73d shall also be applied where the perpetrator acts on a commercial basis.
- (8) The items specified in subsections 1, 2 and 5 shall be equal to items deriving from offences committed abroad of the nature specified in subsection 1, provided the offence is punishable at the place of commission as well.
- (9) Punishment pursuant to subsections 1 to 5 shall not be imposed on anyone who
 1. voluntarily reports the offence to the competent authority, or arranges voluntarily for such a report to be made, provided that at the time, the offence had not yet been discovered either wholly or in part, and that the perpetrator was aware of this, or on reasonable consideration of the facts must have anticipated this, and
 2. in the cases referred to in subsections 1 or 2, causes the item to which the criminal offence relates to be seized under the conditions designated in no. 1.
 Punishment pursuant to subsections 1 to 5 shall not be imposed on anyone who is punishable in respect of the predicate offence.
- (10) In the cases referred to in subsections 1 to 5, the court may, within its discretion, reduce punishment (section 49 subsection 2) or refrain from imposing punishment in accordance with these provisions if the perpetrator, by voluntarily disclosing his knowledge, has substantially helped to make it possible for the offence, going beyond his own contribution thereto, or an unlawful act of another as specified in -subsection 1, to be detected.

Section 78: Period of limitation.

- (1) Expiry of the limitation period shall exclude punishment for the offence and the ordering of measures (section 11 subsection 1 no. 8). Section 76a subsection 2 first sentence no. 1 shall remain unaffected.
- (2) Major crimes pursuant to section 220a (genocide) and pursuant to section 211 (murder) shall not be subject to limitation.
- (3) Where there is a limitation on prosecution, the periods of limitation shall be:
 1. thirty years for offences punishable with life imprisonment,
 2. twenty years for offences punishable with a maximum of more than ten years' imprisonment,
 3. ten years for offences punishable with a maximum of more than five years' but not more than ten years' imprisonment,
 4. five years for offences punishable with a maximum of more than one year's but less than five years' imprisonment,
 5. three years for all other crimes.
- (4) The period shall be determined with reference to the punishment provided for in the provision the elements of which have been fulfilled by the offence, irrespective of any increase or mitigation stipulated by provisions of the General Part or for particularly serious or less serious cases.

Section 78a: Commencement.

The period of limitation shall begin to run as soon as the offence is completed. If a result, which constitutes one of the elements of the crime, does not take effect until later, the period of limitation shall commence from that point in time.

Section 78c: Interruption.

- (1) The period of limitation shall be interrupted by:
1. the first questioning of the accused, the notification that investigation proceedings have been instituted against him, or an order for such questioning or notification,
 2. any judicial examination of the accused or an order for such examination,
 3. any commissioning of an expert witness by the judge or the public prosecutor, if the accused has already been examined or notified of the institution of investigation proceedings,
 4. any judicial order authorising a seizure or a search and any judicial decision upholding its validity,
 5. an arrest warrant, a committal order, an order to bring somebody before the court and any judicial decision upholding its validity,
 6. the preferment of a public indictment,
 7. the opening of the main proceedings,
 8. any setting down of a date for the main hearing,
 9. a penal order or any other decision corresponding to a judgement,
 10. the provisional discontinuance by the court of the proceedings due to the absence of the accused as well as any order by a judge or public prosecutor which is made after such discontinuance of proceedings or in proceedings against an absent person for the purpose of determining the whereabouts of the accused or of securing evidence,
 11. The provisional discontinuance by the court of the proceedings due to the accused's unfitness to stand trial as well as any order by a judge or public prosecutor which is made after such discontinuance of proceedings for the purpose of examining the accused's fitness to stand trial, or
 12. any judicial request to conduct an investigatory act abroad.
- In preventive custody proceedings and in independent proceedings, the period of limitation shall be interrupted by any act in accordance with the first sentence above for the purpose of conducting proceedings for preventive custody or independent proceedings.
- (2) In the case of a written order or decision, the period of limitation shall be interrupted at the moment in time when the order or decision is signed. If the document is not submitted to official channels immediately after signing, the point in time when it is actually placed in official channels shall be decisive.
- (3) The period of limitation shall begin anew after each interruption. Prosecution shall, however, be barred by limitation at the very latest when twice the statutory period of limitation has elapsed since the time referred to in section 78a, and, if the period of limitation is shorter than three years pursuant to special provisions, when at least three years have elapsed. Section 78b shall remain unaffected.
- (4) The interruption shall have an effect only in respect of the person to whom the act relates.
- (5) If a statute that was in force when the offence was completed is amended prior to the decision and the period of limitation is shortened as a result, interrupting acts commenced before the new law came into force shall remain effective even if prosecution under the new law would already have been barred by limitation at the time of the interruption.

Section 108e: Bribery of a Member of Parliament

- (1) Whoever undertakes to buy or sell a vote for an election or ballot in the European Parliament or in a representative body of the Federation, of the Länder, of the municipalities or associations of municipalities shall be punished with imprisonment not exceeding five years or with a fine.
- (2) In addition to imposing a sentence of imprisonment for a criminal offence under Subsection 1 the court may deprive the convicted offender of the capacity to acquire rights ensuing from public elections and of the right to vote or cast a ballot in public matters.

Section 261: Money laundering; Disguising of illegal assets.

- (1) Imprisonment from three months to five years shall be imposed on anyone who conceals or disguises the origin of an item which derives from an illegal act specified in the second sentence, or who prevents or places in jeopardy the detection of the origin, the location, forfeiture, confiscation or seizure of such an item. Illegal acts within the meaning of the first sentence are:
 1. major crimes,
 2. minor crimes pursuant to
 - a) section 332 subsection 1, also in conjunction with subsection 3, and section 334,
 - b) section 29 subsection 1 first sentence no. 1 of the Narcotics Act and, section 29 subsection 1 no. 1 of the Precursors Control Act,
 3. minor crimes pursuant to section 373 and, if the offender acts on a commercial basis, pursuant to section 374 of the Tax Code, in each case also in conjunction with section 12 subsection 1 of the Act to Implement the Common Market Organisations,
 4. minor crimes
 - a) pursuant to sections 180b, 181a, 242, 246, 253, 259, 263 to 264, 266, 267, 269, 284, 326 subsections 1, 2 and 4 as well as section 328 subsections 1, 2 and 4,
 - b) pursuant, to section 92a of the Aliens Act and section 84 of the Asylum Procedure Act,
committed on a commercial basis or, by a member of a gang formed in order to commit such acts repeatedly, and
 5. minor crimes committed by a member of a criminal association (section 129).
In the cases referred to the second sentence no. 3, the first sentence shall also apply to an item which has been the subject of tax evasion.
- (2) The same punishment shall be imposed on anyone, who, in respect of the item specified in subsection 1,
 1. acquires such item for himself or for a third person, or
 2. keeps or uses such item for himself or for a third person, having known of such item's origin at the time of its acquisition.
- (3) An attempt shall incur criminal liability.
- (4) In particularly serious cases, the punishment shall be imprisonment from six months to ten years. A particularly serious case shall normally be deemed to exist if the perpetrator acts on a commercial basis or as a member of a gang formed in order to commit money laundering repeatedly.

Section 283: Conduct endangering the rights of creditors

- (1) Whoever, after having incurred excessive indebtedness, or during or immediately preceding insolvency:
1. transfers, conceals, or in a commercially irresponsible manner destroys, damages or renders useless any of his assets which would become part of the debtor's estate in the event he files for bankruptcy;
 2. enters into losing or speculative transactions, or futures trading in commodities or securities in a commercially irresponsible manner; or consumes or incurs indebtedness in excessive amounts through unproductive expenditures, gambling or wagering;
 3. procures commodities or securities on credit and sells or otherwise disposes of them, or articles produced from them, at considerably less than their value, in a commercially irresponsible manner;
 4. simulates the existence of another's rights or acknowledges the existence of fictitious rights;
 5. fails to maintain books of account where the law requires him to do so, or maintains or modifies such books so as to render it more difficult to survey his financial condition;
 6. prior to the expiration of the period during which records are required to be retained in safe custody, transfers, conceals, destroys or damages books-of account or any other type of record which commercial law requires him as a merchant to maintain and to retain in safe custody, and who thereby renders it more difficult to survey his financial condition;
 7. in violation of commercial law:
 - a) draws up his balance sheet so as to render it more difficult to survey his financial condition; or
 - b) fails to draw up the balance sheet on his assets or his inventory within the time prescribed; or
 8. in a commercially irresponsible manner, diminishes his financial resources, or conceals or covers up his real business relationships
- shall be punished by up to five years' imprisonment or by fine.
- (2) Similar punishment shall be imposed on anyone who, by committing any of the acts indicated in subparagraph (1), causes himself to incur excessive indebtedness or become insolvent.
- (3) The attempt is punishable.
- (4) Whoever, in cases falling under:
1. subparagraph (1), was negligent in not knowing of his excessive indebtedness or of his insolvency or imminent insolvency; or
 2. subparagraph (2), recklessly caused his excessive indebtedness or insolvency,
- shall be punished by up to two years' imprisonment or by fine.
- (5) Whoever, in cases falling under:
1. subparagraph (1), numbers two, five or seven, acted negligently or at least was negligent in not knowing of his excessive indebtedness or his insolvency or imminent insolvency; or I
 2. subparagraph (2), in conjunction with subparagraph (1), numbers two, five or seven, acted negligently and at least recklessly caused his excessive indebtedness or insolvency,
- shall be punished by up to two years' imprisonment or by fine.
- (6) The offence shall be subject to punishment only if the offender stopped making payments, or a petition in bankruptcy was filed, or a bankruptcy petition was dismissed because of lack of assets.

Section 283a: Especially serious cases of conduct endangering the rights of creditors

In especially serious cases of conduct endangering the rights of creditors falling under Section 283(1) to (3), the offender shall be punished by imprisonment from six months to ten years. As a general rule, an especially serious case shall be deemed to exist if the offender:

1. was motivated to act by greed;
2. knowingly created the danger that many people would lose the savings or capital investments which they entrusted to him, or would suffer an economic crisis.

Section 283b: Violation of the duty to keep books

- (1) Up to two years' imprisonment or a fine shall be imposed on anyone who:
 1. fails to maintain books of account where the law requires him to do so, or who maintains or modifies them so as to render it more difficult to survey his financial condition;
 2. prior to the expiration of the period during which records are required to be retained in safe custody, transfers, conceals, destroys or damages books of account or any other type of record which commercial law requires him to maintain and to retain in safe custody, and who thereby renders it more difficult to survey his financial condition;
 3. in violation of commercial law:
 - (a) draws up his balance sheet so as to render it more difficult to survey his financial condition; or
 - (b) fails to draw up the balance sheet on his assets or his inventory within the time prescribed.
- (2) Whoever acts negligently in cases falling under subparagraph (1), numbers one or three shall be punished by up to one year's imprisonment or by fine.
- (3) The provisions of Section 283(6) shall correspondingly apply.

Section 283c: Preferential transfers

- (1) Whoever, with knowledge of his own insolvency, grants a creditor a security or satisfaction to which he was not entitled, either at all or in that manner or at that time, and who thereby intentionally or knowingly gives a preference to him over the other creditors, shall be punished by up to two years' imprisonment or by fine.
- (2) The attempt is punishable.
- (3) The provisions of section 283(6) shall correspondingly apply.

Section 283d: Assisting debtors to defeat the rights of creditors

- (1) Up to five years' imprisonment or a fine shall be imposed on anyone who:
 1. with knowledge of the impending insolvency of another person; or
 2. after another person has stopped making payments, or in another person's bankruptcy proceeding or, with respect to another person, in a judicial settlement proceeding to avert bankruptcy, or in a proceeding to decide whether to commence a bankruptcy proceeding or judicial settlement proceeding,
conceals, or covers up, with the consent of, or on behalf of, the other person, any of that other person's assets which would become part of the debtor's estate in the event bankruptcy is filed or, in a commercially irresponsible manner, destroys, damages or renders them useless.

- (2) The attempt is punishable.
- (3) Imprisonment from six months to ten years shall be imposed in especially serious cases. As a general rule, an especially serious case shall be deemed to exist if the offender:
 1. was motivated to act by greed,
 2. knowingly created the danger that many people would lose the savings or capital investments which they entrusted to the other person, or would suffer an economic crisis.
- (4) The offence shall be subject to punishment only if the other person stopped making payments or a petition in bankruptcy was filed against him of a bankruptcy petition was dismissed because of lack of assets.

Section 334: Offering a bribe

- (1) Whoever offers, promises or grants, for the person concerned or a third person, an advantage to a public official, a person under a special obligation in respect of the public service or a soldier of the Federal Armed Forces in return for his having performed, or his performing in future, an official act, so that the person concerned has violated, or would violate, his official duties, shall be punished by imprisonment of three months to five years. In less serious cases the sentence shall be imprisonment not exceeding two years or a fine.
- (2) Whoever offers, promises or grants a judge or an arbitrator an advantage, for the judge or the arbitrator concerned or a third person, in return for
 1. his having performed a judicial act, thereby violating his judicial duties, or
 2. his performing a judicial act in future, so that he would violate his judicial duties
 shall be punished in the cases referred to in number 1 with imprisonment of three months to five years, and in the cases referred to in number 2, with imprisonment of six months to five years. An attempt shall incur criminal liability.
- (3) Where the perpetrator offers, promises or grants the advantage in return for a future act, Subsections 1 and 2 shall already apply if he attempts to make the other person
 1. violate his duties in performing the act, or
 2. allow himself to be influenced by the advantage in the exercise of his discretion in a case where performance of the act is at his discretion.

Section 335: Particularly serious cases of Taking a bribe and Offering a bribe

- (1) In particularly serious cases
 1. an offence pursuant to
 - a) Section 332 Subsection 1, first sentence, also in conjunction with Subsection 3, and
 - b) Section 334 Subsection 1, first sentence, and Subsection 2, in each case also in conjunction with Subsection 3, the sentence shall be imprisonment of one to ten years, and
 2. an offence pursuant to Subsection 332 Subsection 2, also in conjunction with Subsection 3, the sentence shall be imprisonment of not less than two years.
- (2) A particularly serious case within the meaning of Subsection 1 shall, as a rule, be deemed to exist if
 1. the offence relates to an advantage on a large scale,
 2. the perpetrator recurrently accepts advantages that he has demanded in return for his performing an official act in the future, or
 3. the perpetrator acts commercially or as a member of a gang that has come together for recurrent commission of such offences.

Section 336: Omission to perform the official act

Omission to perform an official act or a judicial act shall be deemed equivalent to performance of an official act or a judicial act within the meaning of Sections 331 to 335.

Section 337: Remuneration of arbitrators

Remuneration of an arbitrator shall only be deemed an advantage within the meaning of Sections 331 to 335 if the arbitrator demands, allows himself to be promised or accepts it from one party behind the back of the other or if it is offered, promised or granted to the arbitrator by one party behind the back of the other.

Section 338: Property fine and extended forfeiture

- (1) Section 73d shall be applied in the cases referred to in Section 332, also in conjunction with Sections 336 and 337, if the perpetrator acts commercially or as a member of a gang that has come together for recurrent commission of such offences.
- (2) Sections 43a and 73d shall be applied in the cases referred to in Section 334, also in conjunction with Sections 336 and 337, if the perpetrator acts as a member of a gang that has come together for recurrent commission of such offences. Section 73d shall also be applied if the perpetrator acts commercially.