

CRIMINAL CODE
(entered into force on 15 May 1971, amended on 2 October 2009)

[...]

SEVENTH TITLE
CONFISCATION AND DEPRIVATION ORDERS

Section 73

Conditions of confiscation

(1) If an unlawful act has been committed and the principal or a secondary participant has acquired proceeds from it or obtained anything in order to commit it, the court shall order the confiscation of what was obtained. This shall not apply to the extent that the act has given rise to a claim of the victim the satisfaction of which would deprive the principal or secondary participant of the value of what has been obtained.

(2) The order of confiscation shall extend to benefits derived from what was obtained. It may also extend to objects which the principal or secondary participant has acquired by way of sale of the acquired object, as a replacement for its destruction, damage to or forcible loss of it or on the basis of a surrogate right.

(3) If the principal or secondary participant acted for another and that person acquired anything thereby, the order of confiscation under subsections (1) and (2) above shall be made against him.

(4) The confiscation of an object shall also be ordered if it is owned or subject to a right by a third party, who furnished it to support the act or with knowledge of the circumstances of the act.

Section 73a

Confiscation of monetary value

To the extent that the confiscation of a particular object is impossible due to the nature of what was obtained or for some other reason or because confiscation of a surrogate object pursuant to section 73 (2) 2nd sentence has not been ordered, the court shall order the confiscation of a sum of money which corresponds to the value of what was obtained. The court shall also make such an order in addition to the confiscation of an object to the extent that its value falls short of the value of what was originally obtained.

Section 73b

Assessment of value

The scope of what was obtained and its value as well as the amount of the victims claim the satisfaction of which would deprive the principal or secondary participant of that which was obtained may be estimated.

Section 73c

Hardship

(1) Confiscation shall not be ordered to the extent it would constitute an undue hardship for the person affected. The order may be waived to the extent the value of what was obtained is no longer part of the affected persons assets at the time of the order or if what was obtained is only of minor value.

(2) As to conditions of payment section 42 shall apply mutatis mutandis.

Section 73d

Extended confiscation

(1) If an unlawful act has been committed pursuant to a law which refers to this provision, the court shall also order the confiscation of objects of the principal or secondary participant if the circumstances justify the assumption that these objects were acquired as a result of unlawful acts, or for the purpose of committing them. The 1st sentence shall also apply if the principal or secondary participant does not own or have a right to the object merely because he acquired the object as a result of an unlawful act or for the purpose of committing it. Section 73 (2) shall apply mutatis mutandis.

(2) If the confiscation of a particular object has, after the act, become impossible in whole or in part section 73a and section 73b shall apply mutatis mutandis.

(3) If after an order of confiscation pursuant to subsection (1) above, due to another unlawful act which the principal or secondary participant committed before that order, a decision must again be taken as to the confiscation of objects of the principal or secondary participant, the court in doing so shall take into account the previous order.

(4) Section 73c shall apply mutatis mutandis.

Section 73e

Effect of confiscation

(1) If the confiscation of an object is ordered title to the property or the right confiscated shall pass to the state once the order becomes final if the person affected by the order has a right to it at the time. The rights of third parties in the object remain unaffected.

(2) Prior to its becoming final the order shall have the effect of a prohibition to sell within the meaning of section 136 of the Civil Code; the prohibition shall also cover dispositions other than sales.

Section 74**Conditions of deprivation**

(1) If an intentional offence has been committed objects generated by or used or intended for use in its commission or preparation, the court may make a deprivation order.

(2) A deprivation order shall not be admissible unless

1. the principal or secondary participant owns or has a right to the objects at the time of the decision; or
2. the objects, due to their nature and the circumstances, pose a danger to the general public or if there is reason to believe that they will be used for the commission of unlawful acts.

(3) Under the provisions of subsection (2) No 2 above the deprivation of objects shall also be admissible if the offender acted without guilt.

(4) If deprivation is prescribed or permitted by a special provision apart from subsection (1) above, subsections (2) and (3) above shall apply *mutatis mutandis*.

Section 74a**Extended conditions of deprivation**

If the law refers to this provision, objects may be subject to a deprivation order as an exception to section 74 (2) No 1 if at the time of the decision the person who owns or has a right to them

1. at least with gross negligence contributed to the property or the right being the object of or being used for the act or its preparation; or
2. acquired the objects dishonestly with knowledge of the circumstances that would have allowed their deprivation.

Section 74b**Principle of proportionality**

(1) If deprivation is not otherwise prescribed it may not be ordered in cases under section 74 (2) No 1 and section 74a if it is disproportionate to the significance of the act committed and the blameworthiness of the principal or secondary participant or of the third party in cases of section 74a.

(2) In cases under section 74 and section 74a the court shall defer the deprivation order and impose a less incisive measure if the purpose of a deprivation order can also be attained thus. Particular consideration shall be given to instructions

1. to destroy the objects;
2. to remove particular fittings or distinguishing marks from or otherwise modify the objects; or
3. to dispose of the objects in a specified manner.

If the instructions are carried out the deferment order shall be rescinded; otherwise the court shall subsequently order the deprivation.

(3) If deprivation is not otherwise proscribed it may be limited to a part of the objects.

Section 74c**Deprivation of monetary value**

(1) If the principal or secondary participant has used, particularly disposing of it or consuming it, the object which he owned or had a right to at the time of the offence and which could have been subject to deprivation, or if he has otherwise obstructed the deprivation of the object, the court may order the deprivation from the principal or secondary participant, of a sum of money no greater than the amount equivalent to the value of the object.

(2) The court may also make such an order in addition to the deprivation of an object or in place thereof, if the principal or secondary participant has, prior to the decision on the deprivation, 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 case of deprivation (section 74e (2) and section 74f); if the court makes the order in addition to the deprivation, then the amount of the surrogate value shall be assessed according to the value of the encumbrance.

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

(4) As to conditions of payment section 42 shall apply *mutatis mutandis*.

Section 74d**Deprivation and destruction of publication media**

(1) Written materials (section 11 (3)) of a content every intentional dissemination of which with knowledge of the content would fulfil the elements of a criminal provision, shall be subject to a deprivation order 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 written material, such as plates, frames, type, blocks, negatives or stencils, shall be destroyed.

(2) The deprivation shall extend only to those copies which are in the possession of the persons involved in their dissemination or preparation or which have been publicly displayed or, if they were sent for dissemination, have not yet been distributed to the recipient.

(3) Subsection (1) above shall apply mutatis mutandis to written materials (section 11 (3)) of a content the intentional dissemination of which with knowledge of the content would fulfil the elements of a criminal provision only under additional circumstances. Deprivation and destruction shall not be ordered unless

1. the copies and the objects indicated in subsection (1) 2nd sentence above are in the possession of the principal or secondary participant or another on whose behalf the principal or secondary participant acted, or are intended by these people for dissemination; and
2. the measures are required to prevent any unlawful dissemination by these persons.

(4) Dissemination within the meaning of subsections (1) to (3) above shall also mean providing access to written material (section 11 (3)) or at least one copy of it to the public by putting it on display, putting up posters, performances or other means.

(5) Section 74b (2) and (3) shall apply mutatis mutandis.

Section 74e

Effect of deprivation

(1) If the deprivation of an object is ordered, title to the property or the right ordered deprived shall pass to the state once the order becomes final.

(2) The rights of third parties in the object remain unaffected. The court shall order the cessation of these rights if it bases the deprivation on the fact that the conditions of section 74 (2) No 2 are met. It may also order the cessation of the rights of a third party if no compensation is due to him pursuant to section 74f (2) Nos 1 or 2.

(3) Section 73e (2) shall apply mutatis mutandis to the order of deprivation and the order deferring deprivation before they have become final.

Section 74f

Compensation

(1) If a third party had title to the property or to the right ordered deprived at the time the decision on deprivation or destruction became final or if the object was encumbered by a right of a third party which was extinguished or prejudiced by the decision, the third party shall be adequately compensated in money from the public treasury, taking into consideration the fair market value.

(2) Compensation shall not be granted if

1. the third party at least with gross negligence contributed to the property or the right being the object of or being used for the act or its preparation,
2. the third party acquired the objects or the right dishonestly with knowledge of the circumstances that would have allowed their deprivation, or
3. it would be lawful under the circumstances which justified the deprivation or destruction, to deprive the third party permanently of the object and without compensation on the basis of provisions outside the criminal law.

(3) In cases pursuant to subsection (2) above the court may grant compensation to the extent that it would constitute an undue hardship to deny it.

Section 75

Special provision for organs and representatives

If a person commits an act

1. in his capacity as an organ authorised to represent a legal entity or as a member of such an organ;
2. in his capacity as a director or member of board of directors of an association lacking independent legal capacity;
3. as a partner authorised to represent a partnership with independent legal capacity; or
4. as an authorised representative with full power of attorney or in a management position as general agent or authorised representative, with a commercial power of attorney, of a legal entity or association listed in Nos 2 or 3 above; or
5. as another person acting in a responsible capacity for the management of the business or enterprise of a legal entity or association listed in Nos 2 or 3 above, including the supervision of the management of the business, or other exercise of controlling powers in a senior management position,

which in relation to him and under the other conditions of section 74 to 74c and section 74f would allow the deprivation of an object or its surrogate value or justify the denial of compensation, his act shall be attributed and these provisions applied to the person or entity represented. Section 14 (3) shall apply mutatis mutandis.

-Common provisions-

Section 76

Subsequent orders for confiscation or deprivation of monetary value

If an order for confiscation or deprivation of an object is not enforceable or inadequate because after making it one of the conditions indicated in section 73a, section 73d (2), or section 74c has arisen or come to its attention, the court may subsequently order the confiscation or deprivation of the monetary value.

Section 76a

Independent orders

(1) If for reasons of fact no person can be prosecuted or convicted of the offence, confiscation or deprivation of the object or the monetary value or destruction must or may be independently ordered if the conditions under which the measure is prescribed or available otherwise are met.

(2) Subsection (1) above shall, under the provisions of section 74 (2) No 2, (3) and section 74d, apply if

1. prosecution of the offence is barred by the statute of limitations; or
2. for other reasons of law no person may be prosecuted and the law does not provide otherwise.

Deprivation or destruction must not be ordered in the absence of a request or authorisation to prosecute or a request by a foreign state.

(3) Subsection (1) above shall apply if the court orders a discharge or if the proceedings are terminated pursuant to a provision allowing this in the discretion of either the public prosecution service or the court or with their mutual agreement.

[...]

Section 84

Continuation of a political party declared unconstitutional

(1) Whosoever within the Federal Republic of Germany as a ringleader or hinterman, maintains the organisational existence 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 for a banned party,
- shall be liable to imprisonment from three months to five years. The attempt shall be punishable.

(2) Whosoever is an active member in a party indicated in subsection (1) above or whosoever supports its organisational existence shall be liable to imprisonment of not more than five years or a fine.

(3) Whosoever contravenes a decision on the merits of the Federal Constitutional Court issued in a proceeding pursuant to Article 21 (2) of the Basic Law or in a proceeding pursuant to section 33 (2) of the Law on Political Parties or an enforceable measure imposed in execution of a decision on the merits issued in such proceedings, shall be liable to imprisonment of not more than five years or a fine. A proceeding pursuant to Article 18 of the Basic Law shall be the equivalent of the proceedings indicated in the 1st sentence of this subsection.

(4) In cases under subsection (1) 2nd sentence and subsections (2) and (3) 1st sentence above the court in its discretion may mitigate the sentence (section 49 (2)) or order a discharge in the case of accomplices whose guilt is minor and whose participation is of a minor nature.

(5) In cases under subsections (1) and (3) 1st sentence above the court in its discretion may mitigate the sentence (section 49 (2)) or order a discharge if the offender makes a voluntarily and earnest effort to prevent the continued existence of the party; if he achieves this goal or if it is achieved regardless of his efforts the offender shall not be held liable.

Section 85

Violation of a ban on forming an association

(1) Whosoever, within the Federal Republic of Germany as a ringleader or hinterman, maintains the organisational existence of

1. a political party or organisation which has been finally determined in a proceeding pursuant to section 33 (3) of the Law on Political Parties 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 idea of the comity of nations or which has been held by final decision to be a surrogate organisation of such a banned organisation,
- shall be liable to imprisonment of not more than five years or a fine. The attempt shall be punishable.

(2) Whosoever is an active member in a party or organisation indicated in subsection (1) above or whosoever supports its organisational existence shall be liable to imprisonment of not more than three years or a fine.

(3) Section 84 (4) and (5) shall apply mutatis mutandis.

Section 86

Dissemination of propaganda material of unconstitutional organisations

(1) Whosoever within Germany disseminates or produces, stocks, imports or exports or makes publicly accessible through data storage media for dissemination within Germany or abroad, 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 idea of the comity of nations 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 Federal Republic of Germany active in pursuing the objectives of one of the parties or organisations indicated in Nos 1 and 2 above; or
 4. propaganda materials the contents of which are intended to further the aims of a former National Socialist organisation,
- shall be liable to imprisonment of not more than three years or a fine.

(2) Propaganda materials within the meaning of subsection (1) above shall only be written materials (section 11 (3)) the content of which is directed against the free, democratic constitutional order or the idea of the comity of nations.

(3) Subsection (1) above shall not apply if the propaganda materials or the act is meant to serve civil education, to avert unconstitutional movements, to promote art or science, research or teaching, the reporting about current or historical events or similar purposes.

(4) If the guilt is of a minor nature, the court may order a discharge under this provision.

Section 86a

Using symbols of unconstitutional organisations

(1) Whosoever

1. domestically distributes or publicly uses, in a meeting or in written materials (section 11 (3)) disseminated by him, symbols of one of the parties or organisations indicated in section 86 (1) Nos 1, 2 and 4; or
 2. produces, stocks, imports or exports objects which depict or contain such symbols for distribution or use in Germany or abroad in a manner indicated in No 1,
- shall be liable to imprisonment of not more than three years or a fine.

(2) Symbols within the meaning of subsection (1) above shall be in particular flags, insignia, uniforms and their parts, slogans and forms of greeting. Symbols which are so similar as to be mistaken for those named in the 1st sentence shall be equivalent to them.

(3) Section 86 (3) and (4) shall apply mutatis mutandis.

[...]

Section 88

Sabotage against the constitution

(1) Whosoever as ringleader or hinterman of a group or individually without acting with or for such a group intentionally causes, by acts of interference within the Federal Republic of Germany

1. enterprises or facilities which provide public mail services or public transportation;
 2. telecommunications facilities, which serve public functions;
 3. enterprises or facilities which provide the public with water, light, heat or power or are otherwise vital for the supply of the population;
 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 efforts against the continued existence or security of the Federal Republic of Germany or against its constitutional principles, shall be liable to imprisonment of not more than five years or a fine.

(2) The attempt shall be punishable.

Section 89

Exerting anti-constitutional influence on the Armed Forces and public security forces

(1) Whosoever systematically exerts influence on members of the Armed Forces or of a public security force in order to undermine their readiness to protect the security of the Federal Republic of Germany or the constitutional order and thereby intentionally supports efforts against the continued existence or security of the Federal Republic of Germany or against its constitutional principles, shall be liable to imprisonment of not more than five years or a fine.

(2) The attempt shall be punishable.

(3) Section 86 (4) shall apply mutatis mutandis.

Section 89a

Preparation of a serious violent offence endangering the state

(1) Whosoever prepares a serious offence endangering the state shall be liable to imprisonment from six months to ten years. A serious violent offence endangering the state shall mean an offence against life under sections 211 or 212 or against personal freedom under sections 239a or 239b, which under the circumstances is intended to impair and capable of impairing the existence or security of a state or of an international organisation, or to abolish, rob of legal effect or undermine constitutional principles of the Federal Republic of Germany.

- (2) Subsection (1) above shall only be applicable if the offender prepares 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 that contain or can generate poison, other substances detrimental to health, special facilities necessary for the commission of the offence or other skills that can be of use for the commission of an offence under subsection (1) above,
 2. producing, obtaining for himself or another, storing or supplying to another weapons, substances or devices and facilities mentioned under No. 1 above,
 3. obtaining or storing objects or substances essential for the production of weapons, substances or devices and facilities mentioned under No. (1) above, or
 4. collecting, accepting or providing not unsubstantial assets for the purpose of its commission.

(3) Subsection (1) above shall also apply if the preparation occurs abroad. If the preparation occurs outside the territory of the member states of the European Union, the aforesaid shall apply only if the preparation is performed by a German citizen or a foreign citizen whose existence is based within the territory of the Federal Republic of Germany or if the serious violent offence endangering the state so prepared is meant to be committed within the territory of the Federal Republic of Germany or against a German citizen.

(4) In the cases of subsection (3) 2nd sentence above the prosecution shall require the authorisation by the Federal Ministry of Justice. If the preparation occurred on the territory of another member state of the European Union, the prosecution shall require the authorisation by the Federal Ministry of Justice if the preparation was neither performed by a German citizen nor the serious violent offence endangering the state so prepared to be committed within the territory of the Federal Republic of Germany or by or against a German citizen.

(5) In less serious cases the penalty shall be imprisonment from three months to five years.

(6) The court may make an order for supervision (section 68(1)); section 73 shall apply.

(7) The court in its discretion may mitigate the sentence (section 49(2)) or order a discharge for the offence under this provision, if the offender voluntarily gives up the further preparation of the serious violent offence endangering the state, or averts or substantially reduces a danger caused and recognised by him that others will further prepare or commit the offence, or if he voluntarily prevents the completion of the offence. If the danger is averted or substantially reduced regardless of the contribution of the offender or the completion of the serious violent offence endangering the state prevented, his voluntary and earnest efforts to achieve that object shall suffice.

Section 89b

Establishing contacts for the purpose of committing a serious violent offence endangering the state

(1) Whosoever, with the intention of receiving instruction for the purpose of the commission of a serious violent offence endangering the state under section 89a(2) No 1, establishes or maintains contacts to an organisation within the meaning of section 129a, also in conjunction with section 129b, shall be liable to imprisonment not exceeding three years or a fine.

(2) Subsection (1) above shall not apply if the act exclusively serves the fulfilment of lawful professional or official duties.

(3) Subsection (1) above shall also apply if the act of establishing or maintaining contact occurs abroad. Outside the territory of the member states of the European Union this shall apply only if the act of establishing or maintaining contact is committed by a German citizen or a foreign citizen whose existence is based within the territory of the Federal Republic of Germany.

(4) The prosecution shall require the authorisation by the Federal Ministry of Justice

1. in the cases of subsection (3) 2nd sentence above or
2. if the act of establishing or maintaining contacts occurs on the territory of another member state of the European Union.

(5) If the degree of guilt is of a minor nature, the court may order a discharge for the offence under this provision.

[...]

Section 90a

Defamation of the state and its symbols

(1) Whosoever publicly, in a meeting or through the dissemination of written materials (section 11 (3))

1. insults or maliciously expresses contempt of the Federal Republic of Germany or one of its states or its constitutional order; or
 2. insults the colours, flag, coat of arms or the anthem of the Federal Republic of Germany or one of its states
- shall be liable to imprisonment of not more than three years or a fine.

(2) Whosoever removes, destroys, damages, renders unusable or defaces, or otherwise insults by mischief a publicly displayed flag of the Federal Republic of Germany or one of its states or a national emblem installed by a public authority of the Federal Republic of Germany or one of its states shall incur the same liability. The attempt shall be punishable.

(3) The penalty shall be imprisonment of not more than five years or a fine if the offender by the act intentionally supports efforts against the continued existence of the Federal Republic of Germany or against its constitutional principles.

Section 90b

Anti-constitutional defamation of constitutional organs

(1) Whosoever publicly, in a meeting or through the dissemination of written materials (section 11 (3)) defames a constitutional organ, the government or the constitutional court of the Federation or of a state or one of their members in this capacity in a manner detrimental to the respect for the state and thereby intentionally supports efforts against the continued existence of the Federal Republic of Germany or against its constitutional principles, shall be liable to imprisonment from three months to five years.

(2) The offence may only be prosecuted upon the authorisation of the constitutional organ or member affected.

Section 91

Encouraging the commission of a serious violent offence endangering the state

(1) Whosoever

1. displays or supplies to another written material (section 11(3)) which by its content is capable of serving as an instruction to the commission of a serious violent offence endangering the state (section 89a(1)), if the circumstances of its dissemination are conducive to awakening or encouraging the preparedness of others to commit a serious violent offence endangering the state,
 2. obtains written material within the meaning of No. 1 above for the purpose of committing a serious violent offence endangering the state
- shall be liable to imprisonment not exceeding three years or a fine.

(2) Subsection (1) No. 1 above shall not apply if

1. the act serves the purpose of citizenship education, the defence against anti-constitutional movements, arts and sciences, research or teaching, reporting about current or historical events or similar purposes or
2. if the act exclusively serves the fulfilment of lawful professional or official duties.

(3) If the degree of guilt is of a minor nature, the court may order a discharge for the offence under this provision.

[...]

Section 129

Forming criminal organisations

(1) Whosoever forms an organisation the aims or activities of which are directed at the commission of offences or whosoever participates in such an organisation as a member, recruits members or supporters for it or supports it, shall be liable to imprisonment of not more than five years or a fine.

(2) Subsection (1) above shall 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 of merely minor significance for the objectives or activities or
3. to the extent that the objectives or activities of the organisation relate to offences under sections 84 to 87.

(3) The attempt to form an organisation as indicated in subsection (1) above shall be punishable.

(4) If the offender is one of the ringleaders or hintermen or the case is otherwise especially serious the penalty shall be imprisonment from six months to five years; the penalty shall be imprisonment from six months to ten years if the aim or the activity of the criminal organisation is directed at the commission of an offence set out in section 100c (2) No 1 (a), (c), (d), (e), and (g) with the exception of offences pursuant to section 239a or section 239b, (h) to (m) Nos 2 to 5 and 7 of the Code of Criminal Procedure.

(5) The court may order a discharge under subsections (1) and (3) above in the case of accomplices whose guilt is of a minor nature or whose contribution is of minor significance.

(6) The court may in its discretion mitigate the sentence (section 49 (2)) or order a discharge under these provisions if the offender

1. voluntarily and earnestly makes efforts to prevent the continued existence of the organisation or the commission of an offence consistent with its aims; or
2. voluntarily discloses his knowledge to a government authority in time so that offences the planning of which he is aware of may be prevented;

if the offender succeeds in preventing the continued existence of the organisation or if this is achieved without his efforts he shall not incur criminal liability.

Section 129a

Forming terrorist organisations

(1) Whosoever forms an organisation whose aims or activities are directed at the commission of

1. murder under specific aggravating circumstances (section 211), murder (section 212) or genocide (section 6 of the Code of International Criminal Law) or a crime against humanity (section 7 of the Code of International Criminal Law) or a war crime (section 8, section 9, section 10, section 11 or section 12 of the Code of International Criminal Law); or
2. crimes against personal liberty under section 239a or section 239b,
3. (repealed)

or whosoever participates in such a group as a member shall be liable to imprisonment from one to ten years.

(2) The same penalty shall be incurred by any person who forms an organisation whose aims or activities are directed at

1. causing serious physical or mental harm to another person, namely within the ambit of section 226,
2. committing offences under section 303b, section 305, section 305a or offences endangering the general public under sections 306 to 306c or section 307 (1) to (3), section 308 (1) to (4), section 309 (1) to (5), section 313, section 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 the following provisions of the Weapons of War (Control) Act: 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) or
5. committing offences under section 51 (1) to (3) of the Weapons Act;

or by any person who participates in such a group as a member, if one of the offences stipulated in Nos 1 to 5 is intended to seriously intimidate the population, to unlawfully coerce a public authority or an international organisation through the use of force or the threat of the use of force, or to significantly impair or destroy the fundamental political, constitutional, economic or social structures of a state or an international organisation, and which, given the nature or consequences of such offences, may seriously damage a state or an international organisation.

(3) If the aims or activities of the group are directed at threatening the commission of one of the offences listed in subsection (1) or (2) above, the penalty shall be imprisonment from six months to five years.

(4) If the offender is one of the ringleaders or hintermen the penalty shall be imprisonment of not less than three years in cases under subsections (1) and (2) above, and imprisonment from one to ten years in cases under subsection (3) above.

(5) Whosoever supports a group as described in subsections (1), (2) or (3) above shall be liable to imprisonment from six months to ten years in cases under subsections (1) and (2), and to imprisonment of not more than five years or a fine in cases under subsection (3). Whosoever recruits members or supporters for a group as described in subsection (1) or subsection (2) above shall be liable to imprisonment from six months to five years.

(6) In the cases of accomplices whose guilt is of a minor nature and whose contribution is of minor significance, the court may, in cases under subsections (1), (2), (3) and (5) above, mitigate the sentence in its discretion (section 49 (2)).

(7) Section 129 (6) shall apply mutatis mutandis.

(8) In addition to a sentence of imprisonment of not less than six months, the court may order the loss of the ability to hold public office, to vote and be elected in public elections (section 45 (2) and (5)).

(9) In cases under subsections (1), (2) and (4) above the court may make a supervision order (section 68 (1)).

Section 129b

Criminal and terrorist organisations abroad; extended confiscation and deprivation

(1) Section 129 and section 129a shall apply to organisations abroad. If the offence relates to an organisation outside the member states of the European Union, this shall not apply unless the offence was committed by way of an activity exercised within the Federal Republic of Germany or if the offender or the victim is a German or is found within Germany. In cases which fall under the 2nd sentence above the offence shall only be prosecuted on authorisation by the Federal Ministry of Justice. Authorisation may 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 of Justice shall take into account whether the aims of the organisation 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 73d and section 74a shall apply to cases under section 129 and section 129a, in each case also in conjunction with subsection (1) above.

Section 130**Incitement to hatred**

(1) Whosoever, in a manner capable of disturbing the public peace

1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or
 2. assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population,
- shall be liable to imprisonment from three months to five years.

(2) Whosoever

1. with respect to written materials (section 11 (3)) which incite hatred against segments of the population or a national, racial or religious group, or one characterised by its ethnic customs, which call for violent or arbitrary measures against them, or which assault the human dignity of others by insulting, maliciously maligning or defaming segments of the population or a previously indicated group

2. disseminates such written materials;

(b)

publicly displays, posts, presents, or otherwise makes them accessible;

(c)

offers, supplies or makes them accessible to a person under eighteen years; or

(d)

produces, obtains, supplies, stocks, offers, announces, commends, undertakes to import or export them, in order to use them or copies obtained from them within the meaning of Nos (a) to (c) or facilitate such use by another; or

3. disseminates a presentation of the content indicated in No 1 above by radio, media services, or telecommunication services

shall be liable to imprisonment of not more than three years or a fine.

(3) Whosoever 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 International Criminal Law, in a manner capable of disturbing the public peace shall be liable to imprisonment of not more than five years or a fine.

(4) Whosoever publicly or in a meeting disturbs the public peace in a manner that violates the dignity of the victims by approving of, glorifying, or justifying National Socialist rule of arbitrary force shall be liable to imprisonment of not more than three years or a fine.

(5) Subsection (2) above shall also apply to written materials (section 11 (3)) of a content such as is indicated in subsections (3) and (4) above.

(6) In cases under subsection (2) above, also in conjunction with subsection (5) above, and in cases of subsections (3) and (4) above, section 86 (3) shall apply mutatis mutandis.

Section 130a**Attempting to cause the commission of offences by means of publication**

(1) Whosoever disseminates, publicly displays, posts, presents, or otherwise makes accessible written material (section 11 (3)) capable of serving as an instruction for an unlawful act named in section 126 (1) and intended by its content to encourage or cause others to commit such an act, shall be liable to imprisonment of not more than three years or a fine.

(2) Whosoever

1. disseminates, publicly displays, posts, presents, or otherwise makes accessible written material (section 11 (3)) capable of serving as an instruction for an unlawful act named in section 126 (1); or

2. gives instructions for an unlawful act named in section 126 (1) publicly or in a meeting, in order to encourage or cause others to commit such an act, shall incur the same penalty.

(3) Section 86 (3) shall apply mutatis mutandis.

Section 131**Dissemination of depictions of violence**

(1) Whosoever

1. disseminates written materials (section 11 (3)), which describe cruel or otherwise inhuman acts of violence against humans or humanoid beings in a manner expressing glorification or which downplays such acts of violence or which represents the cruel or inhuman aspects of the event in a manner which violates human dignity;

2. publicly displays, posts, presents, or otherwise makes them accessible;

3. offers, supplies or makes them accessible to a person under eighteen years; or

4. produces, obtains, supplies, stocks, offers, announces, commends, undertakes to import or export them, in order to use them or copies obtained from them within the meaning of numbers 1 to 3 above or facilitate such use by another,
- shall be liable to imprisonment of not more than one year or a fine.

(2) Whosoever disseminates a presentation with a content indicated in subsection (1) above by radio, media services, or telecommunication services shall incur the same penalty.

(3) Subsections (1) and (2) above shall not apply in cases of reporting about current or historical events.

(4) Subsection (1) No 3 above shall not apply if the person authorised to care for another person acts; this shall not apply if that person grossly neglects his duty of education by offering, giving, or making them accessible.

[...]

Section 138**Omission to bring planned offences to the attention of the authorities**

(1) Whosoever has credible information about the planning or the commission of the following offences:

1. preparation of a war of aggression (section 80);
2. high treason under sections 81 to 83 (1);
3. treason or an endangerment of peace under sections 94 to 96, section 97a or section 100;
4. counterfeiting money or securities under section 146, section 151, section 152 or counterfeiting debit cards and blank euro cheque forms under section 152b (1) to (3);
5. murder under specific aggravating circumstances (section 211), murder (section 212), genocide (section 6 of the Code of International Criminal Law), a crime against humanity (section 7 of the Code of International Criminal Law), or a war crime (section 8, section 9, section 10, section 11 or section 12 of the Code of International Criminal Law);
6. an offence against personal liberty in cases under section 232 (3), (4), or (5), section 233 (3), each to the extent it involves a felony, section 234, section 234a, section 239a or section 239b;
7. robbery or blackmail using force or threat to life and limb (sections 249 to 251 or section 255); or
8. offences creating a danger to the public under sections 306 to 306c, section 307 (1) to (3), section 308 (1) to (4), section 309 (1) to (5), section 310, section 313, section 314, section 315 (3), section 315b (3), section 316a or section 316c at a time when the commission or result can still be averted, and fails to report it in time to the public authorities or the person threatened, shall be liable to imprisonment not exceeding five years or a fine.

(2) Whosoever 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), 1st and 2nd sentences, at a time when the commission can still be averted, and fails to report it promptly to the public authorities, shall incur the same penalty. Section 129b (1) 3rd to 5th sentences shall apply mutatis mutandis in the case of No. 2 above.

(3) Whosoever by gross negligence fails to make a report although he has credible information about the planning or the commission of an unlawful act, shall be liable to imprisonment of not more than one year or a fine.

[...]

Section 261

Money laundering; hiding unlawfully obtained financial benefits

(1) Whosoever hides an object which is a proceed of an unlawful act listed in the 2nd sentence below, conceals its origin or obstructs or endangers the investigation of its origin, its being found, its confiscation, its deprivation or its being officially secured shall be liable to imprisonment from three months to five years. Unlawful acts within the meaning of the 1st sentence shall be

1. felonies;
2. misdemeanours under

(a)

Section 332 (1), also in conjunction with subsection (3), and section 334;

(b)

Section 29 (1) 1st sentence No 1 of the Drugs Act and section 19 (1) No 1 of the Drug Precursors (Control) Act;

3. misdemeanours under section 373 and under section 374 (2) of the Fiscal Code, and also in conjunction with section 12 (1) of the Common Market Organisations and Direct Payments (Implementation) Act;
4. misdemeanours

(a)

under section 152a, section 181a, section 232 (1) and (2), section 233 (1) and (2), section 233a, section 242, section 246, section 253, section 259, sections 263 to 264, section 266, section 267, section 269, section 271, section 284, section 326 (1), (2) and (4), section 328 (1), (2) and (4) and section 348;

(b)

under section 96 of the Residence Act and section 84 of the Asylum Procedure Act and section 370 of the Fiscal Code 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. misdemeanours under section 89a and under section 129 and section 129a (3) and (5), all of which also in conjunction with section 129b (1), as well as misdemeanours committed by a member of a criminal or terrorist organisation (section 129 and section 129a, all of which also in conjunction with section 129b (1)).

The 1st sentence shall apply in cases of tax evasion committed on a commercial basis or as a gang under section 370 of the Fiscal Code, to expenditure saved by virtue of the tax evasion, of unlawfully acquired tax repayments and allowances, and in cases under the 2nd sentence no 3 the 1st sentence shall also apply to an object in relation to which fiscal charges have been evaded.

(2) Whosoever

1. procures an object indicated in subsection (1) above for himself or a third person; or
2. keeps an object indicated in subsection (1) above in his custody or uses it for himself or a third person if he knew the origin of the object at the time of obtaining possession of it shall incur the same penalty.

(3) The attempt shall be punishable.

(4) In especially serious cases the penalty shall be imprisonment from six months to ten years. An especially serious case typically occurs if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of money laundering.

(5) Whosoever, in cases under subsections (1) or (2) above is, through gross negligence, unaware of the fact that the object is a proceed from an unlawful act named in subsection (1) above shall be liable to imprisonment of not more than two years or a fine.

(6) The act shall not be punishable under subsection (2) above if a third person previously acquired the object without having thereby committed an offence.

(7) Objects to which the offence relates may be subject to a deprivation order. Section 74a shall apply. Section 73d shall apply if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of money laundering.

(8) Objects which are proceeds from an offence listed in subsection (1) above committed abroad shall be equivalent to the objects indicated in subsections (1), (2) and (5) above if the offence is also punishable at the place of its commission.

(9) Whosoever

1. voluntarily reports the offence to the competent public authority or voluntarily causes 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 could reasonably have known and

2. in cases under subsections (1) or (2) above under the conditions named in No 1 above causes the object to which the offence relates to be officially secured

shall not be liable under subsections (1) to (5) above.

Whosoever is liable because of his participation in the antecedent act shall not be liable under subsections (1) to (5) above, either.

[...]