

# CRIMINAL CODE OF THE CZECH REPUBLIC

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**40/2009 Coll.**

**ACT**

**of 8 January 2009**

**Criminal Code**

Amendment: 306/2009 Coll.

Amendment: 181/2011 Coll.

The Parliament has adopted the following Act of the Czech Republic:

**PART ONE**

**GENERAL PART**

**CHAPTER I**

**COMPETENCY OF CRIMINAL LAWS**

**Division 1**

**No Criminal Offence without Law**

**Section 1 Prohibition of Retroactivity**

An act shall be criminal only if its criminality has been stipulated by law prior to its commission.

**Division 2**

**Time Applicability**

**Section 2 Criminality of an Act and Time of its Commission**

(1) Criminality of an act shall be assessed in accordance with the Act effective at the time of its commission; it shall only be assessed pursuant to a later Act if it is more favourable to the offender.

(2) If the law is changed during the commission of an act, the law effective at the time of completion of the conduct by which the act was committed shall be applicable.

(3) In case of later amendments of the law effective at the time of the completion of the conduct by which an act is committed, the most lenient law shall apply.

(4) An act is committed at the time when the offender or accomplice acted or in the case of negligence, were obliged to act. It is immaterial when the consequences occurred or were supposed to occur.

### **Section 3 Applicability of the Law Effective at the Time of Decision Making**

- (1) An offender may only be imposed a sentence admissible by law effective at the time of deciding on the criminal offence.
- (2) Protective measures shall always be decided on pursuant to the law effective at the time of deciding upon the protective measures.

### **Division 3**

#### **Local Applicability**

### **Section 4 Principle of Territoriality**

- (1) The criminality of an act committed in the territory of the Czech Republic shall be assessed pursuant to the law of the Czech Republic.
- (2) A criminal offence shall be considered as committed in the territory of the Czech Republic
  - a) if an offender committed the act here, either entirely or in part, even though the violation or endangering of an interest protected by the criminal law occurred or was supposed to occur, either entirely or in part abroad, or
  - b) if an offender violated or endangered an interest protected by criminal law or if such a consequence was supposed to occur, even partially, within the territory, even though the act was committed abroad.
- (3) Participation is committed in the territory of the Czech Republic,
  - a) the act of the offender has been committed within its territory; which is determined analogically according to Sub-section (2), or
  - b) if the accomplice of the act committed abroad partially acted within its territory.
- (4) If the accomplice acted in the territory of the Czech Republic, the law of the Czech Republic shall apply to the participation, regardless of whether the act of the offender is criminal abroad.

### **Section 5 Principle of Registration**

The criminality of an act committed outside of the territory of the Czech Republic, aboard a ship or another vessel, aircraft or other means of air transport, which is registered in the Czech Republic, shall also be assessed in accordance to the law of the Czech Republic. The place of commission of such an act shall be assessed according to Section 4 (2) and (3).

### **Section 6 Principle of Personality**

The law of the Czech Republic shall also apply to assessment of criminality of an act committed abroad by a citizen of the Czech Republic or a person with no nationality, who has been granted a permanent residence in its territory.

## **Section 7 Principle of Protection and Principle of Universality**

(1) The law of the Czech Republic shall apply to assessment of criminality of Torture and other cruel and inhumane treatment (Section 149), Forgery and alteration of money (Section 233), Uttering forged and altered money (Section 235), Manufacture and possession of forgery equipment (Section 236), Unauthorised production of money (Section 237), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Espionage (Section 316), Violence against public authority (Section 323), Violence against a public official (Section 325), Forgery and alteration of public documents (Section 348), Participation in organised criminal group pursuant to Section 361 (2) and (3), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Preparation of offensive war (Section 406), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of population (Section 413), Pillage in the area of military operations (Section 414), Abuse of internationally and state recognised symbols (Section 415), Abuse of flag and armistice (Section 416) and Harming a conciliator (Section 417), even when such a criminal offence was committed abroad by a foreign national or a person with no nationality, who has not been granted permanent residence in the territory of the Czech Republic.

(2) The law of the Czech Republic shall also apply to assessment of criminality of an act committed abroad against a Czech national or a person without a nationality, who has been granted permanent residence in the territory of the Czech Republic, if the act is criminal in the place of its commission, or if the place of its commission is not subject to any criminal jurisdiction.

## **Section 8 Subsidiary Principle of Universality**

(1) The law of the Czech Republic shall also apply to assessment of criminality of an act committed abroad by a foreign national or a person with no nationality, who has not been granted permanent residence in the territory of the Czech Republic, if

- a) the act is criminal also under the law effective in the territory of its commission, and
- b) the offender was apprehended in the territory of the Czech Republic and was not extradited or transferred to another state or to another authority entitled to criminal prosecution.

(2) The law of the Czech Republic shall apply to assessment of criminality of an act committed abroad by a foreign national or a person without a nationality to who has not been granted permanent residence in the territory of the Czech Republic, also when the act was committed in favour of a legal entity with a registered office or branch in the territory of the Czech Republic, or in favour of a natural person who is an entrepreneur with an enterprise, branch or place of business in the territory of the Czech Republic.

(3) However, the offender cannot be imposed a more severe sentence than the sentence prescribed by the law of the state, in the territory of which was the criminal offence committed.

## **Section 9 Jurisdiction Stipulated by International Treaty**

(1) Criminality of an act shall be assessed according to the law of the Czech Republic also if an international treaty incorporated into the system of law (hereinafter referred to as “international treaty”) stipulates so.

(2) The provisions of Section 4 to 8 shall not apply if it is not admissible according to an international treaty.

## **Section 10 Extradition and Transfer of Citizens of the Czech Republic**

(1) A citizen of the Czech Republic cannot be extradited for the purpose of criminal prosecution or execution of a sentence to a foreign state.

(2) A citizen of the Czech Republic may be transferred to another Member State of the European Union only on the basis of a European Arrest Warrant.

## **Section 11 Execution of a Judgment of a Foreign State**

A criminal judgment of a foreign state cannot be executed in the territory of the Czech Republic or have other effects in this territory unless the law or an international treaty stipulates otherwise.

# **CHAPTER II**

## **CRIMINAL LIABILITY**

### **Division 1**

#### **Fundamentals of Criminal Liability**

## **Section 12 Principle of Legality and Principle of Subsidiarity of Criminal Repression**

(1) Only criminal law shall define criminal offences and prescribe criminal penalties that may be imposed for their commission.

(2) Criminal liability of an offender and criminal consequences associated with it may only be applied in socially harmful cases where application of liability according to other legal regulations does not suffice.

## **Section 13 Criminal Offence**

(1) A criminal offence is an illegal act identified as criminal by the Criminal Code, which shows the characteristics stated in this Code.

(2) A necessary element of criminal liability is intentional culpability, unless this Code expressly stipulates that negligent culpability suffices.

## **Section 14 Misdemeanours and Felonies**

(1) Criminal offences are divided into misdemeanours and felonies.

(2) Misdemeanours are all negligent criminal offences and such intentional criminal offences for which the Criminal Code stipulates a sentence of imprisonment with the upper limit of up to five years.

(3) Felonies are all criminal offences that are not classified as misdemeanours under the Criminal Code; especially serious felonies are those intentional criminal offences for which the Criminal Code prescribes a sentence of imprisonment with the upper limit of at least ten years.

## **Division 2**

### **Culpability**

#### **Section 15 Intent**

(1) A criminal offence is committed intentionally if the offender

- a) sought to violate or endanger, in a manner specified under criminal law, any interest protected by this Code, or
- b) was aware that his/her conduct may cause such violation or endangering, and for the case he/she causes it, he/she understood it.

(2) Such understanding shall be understood also as reconciliation of the offender with the fact that he/she may violate or endanger an interest protected by the Criminal Code in the manner stipulated in this Code.

#### **Section 16 Negligence**

(1) A criminal offence is committed out of negligence if an offender

- a) was aware that he/she may violate or endanger an interest protected by the Criminal Code in the manner stipulated in this Code, but without adequate reasons he/she believed that he/she would not cause such violation or endangering, or
- b) was unaware that his/her conduct may cause such violation or endangering although he/she could and should have been aware of it considering the circumstances and the personal relations.

(2) A criminal offence is committed out of gross negligence if an offender's approach to the requirements for due diligence shows evident irresponsibility of the offender for the interests protected by the Criminal Code.

#### **Section 17 Culpability with Especially Aggravating Circumstances**

Circumstances that condition application of a more severe sentence shall be taken into consideration,

- a) if a more severe consequence is concerned, even if the offender caused it out of negligence, except for cases when the Criminal Code requires intentional culpability, or



- b) if another fact is concerned, even if the offender was unaware of such a fact, although he/she could and should have been aware of it considering the circumstances and the personal relations, except for cases when criminal law requires that the offender was aware of such fact.

### **Section 18 Error in Fact**

(1) Whoever does not know nor presume in the course of commission of an act a factual circumstance, which is a characteristic of a criminal offence, to be possible, does not act intentionally; this does not affect liability for a criminal offence committed out of negligence.

(2) Whoever erroneously presumes, in the course of commission of an act, factual circumstances that would fulfil statutory characteristics of a less serious intentional criminal act, shall be sentenced only for this less serious offence, unless it is a criminal act committed out of negligence.

(3) Whoever erroneously presumes, in the course of commission of a criminal offence, factual circumstances that would fulfil statutory characteristics of a more serious intentional criminal offence, shall be sentenced for an attempt of this more serious criminal offence.

(4) Whoever erroneously presumes, in the course of commission of a criminal offence, factual circumstances precluding its criminality does not act intentionally; this does not affect liability for a criminal offence committed out of negligence.

### **Section 19 Error in Law**

(1) Whoever is unaware of illegality of his/her conduct during commission of such act, does not act culpably, provided that he/she could not have avoided the error.

(2) The error could have been avoided if the duty to acquaint with the relevant legal regulation resulted for the offender from the law or another legal regulation, administrative decision or a contract, from their employment, occupation, position or function, or if the offender could identify the act as illegal without any apparent difficulties.

## **Division 3**

### **Preparation and Attempt of Criminal Offence**

#### **Section 20 Preparation**

(1) Conduct that consists in intentional creation of conditions for the commission of an especially serious felony (Section 14 (3)), especially in its organisation, acquisition or adaptation of the means or instruments for its commission, in conspiracy, unlawful assembly, in inducing of or assisting with such a crime, shall be considered as preparation only if the Criminal Code expressly stipulates it for a specific criminal offence and an attempt or completion of an especially serious felony did not occur.

(2) Preparation is criminal according to the term of sentence stipulated for an especially serious felony to which it led, unless the Criminal Code stipulates otherwise.

(3) Criminal liability for the preparation of an especially serious felony shall expire if the offender voluntarily abandoned further conduct aimed towards the commission of the especially serious felony and

a) removed the threat to an interest protected by the Criminal Code which occurred due to the committed preparation, or

b) reported the preparation to commit an especially serious felony at a time the threat to an interest protected by the Criminal Code which occurred due to the committed preparation could still be removed; the report must be made to a public prosecutor or police authority. A soldier may report it to his/her superior officer.

(4) If there are several persons involved in an act, expiration criminal liability for the preparation is not precluded in case of an offender who acted in such manner, if the act is completed by the other offenders despite his/her timely reporting or earlier participation in such an act.

(5) The provisions of Sub-section (3) and (4) shall have no effect on the criminal liability of an offender for any other completed criminal offence which they have committed by their conduct referred to in Sub-section (1).

### **Section 21 Attempt**

(1) A conduct imminently leading to completion of a criminal offence, which has been undertaken by the offender with the intent to commit such an offence, shall be considered as an attempt to commit an offence, unless the offence was completed.

(2) Attempt to commit an offence shall be punishable according to the term of sentence for the respective completed criminal offence.

(3) Criminal liability for an attempted criminal offence shall expire if an offender voluntarily abandoned further conduct leading to the completion of the criminal offence and

a) removed the threat to an interest protected by the Criminal Code which occurred due to the committed attempt, or

b) reported the attempt to commit an especially serious felony at a time the threat to an interest protected by the Criminal Code which occurred due to the committed attempt could still be removed; the report must be made to a public prosecutor or police authority. A soldier may report it to his/her superior officer.

(4) If there are several persons involved in an act, expiration criminal liability for the attempt is not precluded in case of an offender who acted in such manner, if the act is completed by the other offenders despite his/her timely reporting or earlier participation in such an act.

(5) The provisions of Sub-section (3) and (4) shall have no effect on the criminal liability of an offender for any other completed criminal offence which they have committed by their conduct referred to in Sub-section (1).

## **Division 4**

### **Offender, Accomplice and Accessory to a Criminal Offence**

## **Section 22 Offender**

(1) An offender of a criminal offence is anyone who fulfilled the characteristics of the merits of a criminal offence or attempt or preparation thereof, if they are criminal.

(2) An offender of a criminal offence is also anyone who uses for its commission another person, who is not criminally liable due to lack of age, insanity, error or because he/she acted within the scope of necessary defence, extreme necessity, or other circumstances precluding criminal liability, or who did not act by him-/herself or did not act culpably. An offender of a criminal offence is also anyone who uses for commission of a criminal offence such a person, who did not act with a special intention or out of a motive stipulated by the law; in such cases is the criminal liability of such a person for another offence committed by this conduct not precluded.

## **Section 23 Accomplice**

If a crime is committed by joint intentional conduct of two or more persons, each of them shall be criminally liable as if they alone had committed the offence (accomplices).

## **Section 24 Participant**

(1) A participant in a completed offence, or an attempt to commit an offence, is anyone who intentionally

- a) plotted or directed commission of a criminal offence (an organiser);
- b) instigated another person to commit the criminal offence in (instigator), or
- c) enabled or facilitated commission of a criminal offence by another person, in particular by providing the means, removing of barriers, eliciting the aggrieved person to the crime scene, keeping watch during commission of an act, providing advice, encouraging the resolve or promising to participate in a criminal offence (accessory).

(2) Criminal liability and criminality of an act of a participant shall be governed by provisions on criminal liability of an offender and criminality of an act, unless this Code stipulates otherwise.

(3) Criminal liability of the participant shall expire, if he/she voluntarily abandons any further participation in commission of a crime and

- a) eliminates the threat to an interest protected by this Code arising from his/her participation in the offence; or
- b) reports his/her attempt at a time when the threat to an interest protected by this Code arising from his/her participation in the offence could still be eliminated. The report must be made to a public prosecutor or police authority. A soldier may report it to his/her superior officer.

(4) If there are several persons involved in an act, expiration criminal liability for the participation is not precluded in case of a participant who acted in such manner, if the act is completed by the other offenders despite his/her timely reporting or earlier participation in such an act.

(5) The provisions of Sub-section (3) and (4) shall have no effect on the criminal liability of an offender for any other completed criminal offence which they have committed by their conduct referred to in Sub-section (1).

### **Section 25 Age**

Anyone who has not reached the fifteenth year of age at the time of committing an offence, shall not be criminally liable.

### **Section 26 Insanity**

Anyone who due to a mental disorder can not identify the illegal nature of an act at the time of its commission or control his/her conduct, shall not be criminally liable for such an act.

### **Section 27 Diminished Sanity**

Anyone who due to a mental disorder suffers from a substantially diminished capacity to recognise the illegal nature of an act at the time of its commission or to control his/her conduct, is in a state of diminished sanity.

## **CHAPTER III**

### **CONDITIONS PRECLUDING ILLEGALITY OF AN ACT**

#### **Section 28 Extreme Necessity**

(1) An act otherwise criminal, by which a person repels an impending danger to an interest protected by this Code, shall not be considered as a criminal offence.

(2) Extreme necessity is not concerned if such danger could have been repelled otherwise under the given conditions, or if the consequences caused are evidently equally serious or even more serious than the imminent consequence, or if the person threatened by the consequence was obliged to bear it.

#### **Section 29 Necessary Defence**

(1) An act otherwise criminal, by which a person averts an impending or progressing attack to an interest protected by the Criminal Code, shall not be considered as a criminal offence.

(2) Necessary defence is not concerned, if the defence was obviously grossly disproportionate to the manner of the attack.

#### **Section 30 Consent of the Aggrieved Party**

(1) A criminal offence is not committed by those who act with the consent of the injured person, who is fully competent to decide about his/her interests that are affected by such an act.

(2) The consent according to Sub-section (1) must be given in advance or during the conduct of the person committing an otherwise punishable act, voluntarily, certainly, seriously and

comprehensibly; if such consent is granted after commission of the act, the offender shall not be criminally liable if he/she could reasonably assume that the person referred to in Sub-section (1) would otherwise grant such a consent with regard to circumstances of the case and their personal relations.

### **Section 31 Admissible Risk**

(1) A criminal offence is not committed by those who, in accordance with the current state of knowledge and information available to them at the time of their decision-making on taking further procedures, perform a socially beneficial activity as part of their employment, occupation, position or function, by which they imperil or violate an interest protected by the Criminal Code, unless the socially beneficial result could have been achieved otherwise.

(2) Admissible risk is not concerned if such activity imperils the life or health of a person without their consent given in accordance with another legal regulation, or if the result to which it leads evidently does not correspond to the degree of the risk, or if the performance of the activity clearly contravenes the requirements of another legal regulation, public interest, principles of humanity or if it contravenes good morals.

### **Section 32 Authorised Use of Weapons**

A criminal offence is not committed by those who use a weapon within the limits stipulated by another legal regulation.

## **CHAPTER IV**

### **EXPIRATION OF CRIMINAL LIABILITY**

#### **Division 1**

#### **Expiration of Criminal Liability through Effective Regret**

### **Section 33 Effective Regret**

Criminal liability for criminal offences of Failure to provide assistance (Section 150), Failure to provide assistance by drivers of motor vehicles (Section 151), Spreading of contagious human diseases (Section 152), Negligent spreading of contagious human diseases (Section 153), Endangering public health by unhealthy food and other objects (Section 156), Negligent endangering of public health by unhealthy food and other objects (Section 157), Entrusting a child to another person (Section 169), Abduction (Section 172), Hostage taking (Section 174), Abandoning a child or an entrusted person (Section 195), Breach of duty in administration of property of another (Section 220), Negligent breach of duty in administration of property of another (Section 221), Breach of duty in insolvency proceedings (Section 225), Breach of duty to make a true declaration of property (Section 227), Damage to a thing of another (Section 228), Evasion of tax, fees and other similar compulsory payments (Section 240), Breach of information duty in tax proceedings (Section 243), Breach of prohibitions during emergency state in foreign exchange economy (Section 247), Breach of regulations on circulation of goods in relation with foreign states (Section 261), violation of regulations on the control of the export of dual-use goods and technologies (Section 262), Breach of regulations on export control of goods and technologies of dual use (Section 263),

Conducting foreign business with military material without licence or permit (Section 265), Distortion of data and non-keeping of records of foreign trade with military material (Section 266), Public menace (Section 272), Negligent public menace (Section 273), Breach of duty in imminent distress (Section 275), Damage and compromise of operation of publicly beneficial facility (Section 276), Negligent damage and compromise of operation of publicly beneficial facility (Section 277), Damage of trigonometrical point (Section 278), Environmental damage and environmental hazard (Section 293), Negligent environmental damage and environmental hazard (Section 294), Damage to forest (Section 295), Unauthorised waste disposal (Section 298), Unauthorised disposing with protected wild animals and herbs (Section 299), Negligent unauthorised disposal with protected wild animals and herbs (Section 300), Spreading of contagious animal diseases (Section 306), Spreading of contagious disease and parasites of utility herbs (Section 307), Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Abuse of representation of state and international organisations (Section 315), Espionage (Section 316), Endangering classified information (Section 317), Negligent endangering of classified information (Section 318), Mutiny of prisoners (Section 344), Spreading of alarming news (Section 357), Non-obstruction of criminal offence (Section 367), Non-reporting of criminal offence (Section 368) shall expire if the offender voluntarily

- a) prevented or rectified the detrimental consequence of a criminal offence, or
- b) reported a criminal offence at the time when the detrimental effects of the criminal offence could still be prevented; a report must be made to the public prosecutor or police authority. A soldier may report it to his/her superior officer.

## **Division 2**

### **Limitation of Criminal Liability**

#### **Section 34 Period of Limitation**

(1) Criminal liability for a criminal offence shall expire upon the lapse of the period of limitation, which amounts to

- a) twenty years where is concerned a criminal offence for which the Criminal Code stipulates imposition of an exceptional sentence of imprisonment, and a criminal offence committed as part of the drafting or approving of a privatisation project according to another legal regulation,
- b) fifteen years where the upper limit of a sentence of imprisonment amounts to a minimum of ten years,
- c) ten years where the upper limit of a sentence of imprisonment amounts to a minimum of five years,
- d) five years where the upper limit of a sentence of imprisonment amounts to a minimum of three years,
- e) three years for other criminal offences.

(2) The limitation period in case of criminal offences where the characteristic is an effect or those where the effect is a characteristic of the merits of the case, shall start from the moment when such effect occurred; for other criminal offences, the period of limitation shall start upon completion of their conduct. The period of limitation of a participant shall start upon completion of the act by the main offender.

(3) The following shall not be counted into the period of limitation

- a) the period of time during which the offender could not have been brought to the court due to a legal obstacle,
  - b) the period of time during which the criminal prosecution was suspended,
  - c) the period of time during which a victim of Human trafficking (Section 168) or of any of the criminal offences referred to in Chapter III of the Special Part of this Act on Sexual criminal offences against human dignity was younger than 18 years,
  - d) probation period applying to conditional discontinuation of criminal prosecution.
- (4) The period of limitation shall be discontinued
- a) by commencing a criminal prosecution for the criminal offence to which the period of limitation applies, as well as by following placement in custody, issue of an order to arrest, an arrest warrant or a European Arrest Warrant, by submitting an indictment, by filing a motion for punishment, enunciation of a convicting judgment for this criminal offence or by serving a criminal order for such criminal offence to the accused, or
  - b) if the offender has committed a new criminal offence during the period of limitation for which criminal law sets out the same or a more severe punishment.
- (5) Any discontinuation of the period of limitation shall cause the period of limitation to start anew from the beginning.

### **Section 35 Exceptions from Limitation**

The lapse of the period of limitation shall not cause expiration of criminal liability

- a) for criminal offences under Chapter XIII of the Special Part of this Act, except for any criminal offences of Founding, support and promotion of a movement aimed at suppression of human rights and freedoms (Section 403), Expressing Sympathies for Movements Seeking to Suppress Human Rights and Freedoms (Section 404), Denial, Impugnation, Approval and Justification of Genocide (Section 405), including such acts committed in the past that would now meet the criteria of such criminal offences,
- b) for criminal offences of Subversion of the Republic (Section 310), Terrorist attack (Section 311) and Terror (Section 312), if they were committed under such circumstances that they constitute war crimes or crimes against humanity as specified under regulations of international law,
- c) for any other criminal offences committed between February 25, 1948 and December 29, 1989, where the upper limit of the sentence of imprisonment amounts to at least ten years, if, due to reasons incompatible with the fundamental principles of the legal order of a democratic State, final conviction or acquittal has not occurred, and for any criminal offences committed by public officials or in association with persecution of an individual or a group of people due to political, racial or religious reasons.

## **CHAPTER V**

### **CRIMINAL PENALTIES**

#### **Division 1**

#### **Types of Criminal Penalties and General Principles Applying to their Imposition**

## **Section 36 Types of Criminal Penalties**

Criminal penalties are punishments and protective measures.

## **Section 37 General Provisions Applying to Imposition of Criminal Penalties**

- (1) Criminal penalties may only be imposed in accordance with the Criminal Code.
- (2) An offender may not be sentenced to cruel or disproportionate criminal penalties. Human dignity may not be impaired by executing a criminal penalty.

## **Section 38 Proportionality of Criminal Penalties**

- (1) Criminal penalties shall be imposed with regard to the nature and gravity of the criminal offence committed and the personal situation of the offender.
- (2) In cases where the imposition of a less severe criminal penalty to the offender will suffice, a more severe penalty may not be imposed.
- (3) While imposing criminal penalties, the legally protected interests of parties injured by the criminal offence shall be taken into account.

### **Division 2**

#### **Punishments**

##### **Sub-Division 1**

#### **General Principles Applying to Imposition of Punishments**

### **Section 39 Determination of the Type and Extent of Punishment**

- (1) When determining the type and extent of the punishment, the court shall take into account the nature and seriousness of the criminal offence committed, of the personal, family, property and other relations of the offender and his/her previous way of life and the possibility of his/her personal reform; furthermore, the offender's behaviour after the act shall also be taken into account, in particular their efforts to compensate any damage or mitigate any other detrimental effects of the act, and where the offender has been designated as a co-operating accused; moreover shall be taken into consideration the extent to which the offender has contributed to the clarification of a especially serious felony committed by members of an organised group, in connection with an organised group or in favour of an organised criminal group, or to what extent he/she has helped to prevent an attempted or completed criminal offence as described above. The court shall also take account of the effects and consequences that may be expected from the punishment in terms of the offender's future life.
- (2) The nature and seriousness of a criminal offence is particularly determined by the importance of the protected interest affected by the act, by the method in which the act was committed and its consequences, the circumstances under which the act was committed, and by the offender him-/herself, the extent of his/her culpability fault and motives, intentions or objectives.



(3) When determining the type and extent of the punishment, the court shall take into account any mitigating and aggravating circumstances (Section 41 and 42), the time that has lapsed since the criminal offence was committed, any change in the situation, and the length of criminal proceeding should it take a disproportionately long time. When assessing the proportionality of the length of a criminal proceeding, the court shall take into account the complexity of the case, the actions taken by the authorities involved in criminal proceedings, the importance of the criminal proceeding for the offender and his/her conduct as a result of which they may have contributed to delaying the criminal proceeding.

(4) A circumstance constituting a statutory characteristic of a criminal offence, including such circumstances that conditions imposition of a more severe punishment, cannot be regarded as a mitigating or aggravating circumstance. A circumstance justifying an extraordinary reduction of the extent of a sentence of imprisonment cannot be taken into account as a mitigating circumstance.

(5) An aggravating circumstance shall be taken into consideration

- a) where a more serious consequence is considered, including where the offender caused it out of negligence, except for cases in which the criminal law also requires intentional culpability,
- b) where another fact is involved, including such facts which the offender did not know of, even though given the circumstances and his personal situation, he should or could have known about it, except when the Criminal Code requires the offender's knowledge of such a fact.

(6) When determining the type of punishment and its extent, the court shall take into consideration

- a) in the case of accomplices, the degree to which the activity of each accomplice contributed to the commission of the offence,
- b) in the case of an organizer, instigator or assistant, the significance and nature of their participation in the commission of the offence,
- c) in the case of preparation of an especially serious felony or an attempted offence, how close the offender's activity came to completing the offence, as well as the circumstances and grounds on which the crime was not completed.

(7) When determining the type of punishment and its extent, the court shall consider whether an offender acquired or attempted to acquire material profit; if it is possible with regard to offender's property and personal situation, the court shall consider the amount of the material profit and impose as an aggregate sentence or in addition to another sentence some of the punishments that is to affect offender's property (Section 66 – 72).

#### **Section 40 Imposing Penalties to an Offender with Diminished Sanity**

(1) If an offender commits a criminal offence in a state of diminished sanity that he/she has not, even negligently, incurred to him-/herself by an addictive substance, the court shall take it into consideration when determining the type and extent of the sentence.

(2) If the court believes that with regard to the medical condition of the offender referred to in sub-section (1) it would be possible to achieve the possibility of his/her correction also by a sentence of shorter extent with parallel imposition of protective therapy (Section 99), it shall

reduce a sentence of imprisonment below the lower limit of the term of sentence; therein the court shall not be bound by the restriction referred to in Section 58(3) and shall at the same time impose a protective therapy.

### **Section 41 Mitigating Circumstances**

The Court may consider following circumstances as mitigating, particularly when the offender:

- a) committed the criminal offence for the first time and under the conditions not depending on him,
- b) committed the criminal offence under distraction, out of compassion or by lack of life experiences,
- c) committed the criminal offence under dependence or subordination,
- d) committed the criminal offence under duress or compulsion,
- e) committed the criminal offence under oppressive personal or family circumstances, which he did not cause himself,
- f) committed the criminal offence in the age close to the age of juveniles,
- g) committed the criminal offence by averting an attack or any other danger without meeting the conditions for necessary defence or extreme necessity or otherwise exceeding the limits of admissible risk or limits of other circumstance precluding the unlawfulness,
- h) committed the criminal offence in legal error, which could be avoided,
- i) caused lower damage or any other less harmful consequence by committing the criminal offence,
- j) participated in elimination of the harmful consequences of the criminal offence or voluntarily compensated the caused damage,
- k) reported his criminal offence to the authorities,
- l) assisted in clarification of his criminal activity or significantly contributed to clarification of a criminal offence committed by another,
- m) contributed as a cooperative accused to clarification of criminal activity committed by the members of an organized group, in connection with an organized group or in benefit of an organized criminal group,
- n) regretted sincerely the criminal offence,
- o) led an upright life before committing the criminal offence.

### **Section 42 Aggravating Circumstances**

The Court may consider following circumstances as aggravating, particularly when the offender:

- a) committed the criminal offence with premeditation or after previous deliberation,
- b) committed the criminal offence out of greed, for revenge, due to hatred relating to nationality, ethnic, racial, religious, class or another similar hatred or out of another particularly condemnable motive,
- c) committed the criminal offence in a brutal or agonizing manner, insidiously, with special deceit or in a similar manner,
- d) committed the criminal offence by exploiting another person's distress, duress, vulnerability, dependence or subordination,
- e) breached a special duty by the criminal offence,
- f) abused his occupation, position or function when committing the criminal offence,

- g) committed the criminal offence against a person participating in saving life and health or in protection of property,
- h) committed the criminal offence to the harm of a child, close person, person pregnant, ill, disabled, of high age or impuissant,
- i) led another person, especially a child under the age of fifteen, a juvenile or a person of an age close to the legal age of juveniles, to commit an act otherwise criminal, into misconduct or to commit a criminal offence,
- j) committed the criminal offence during an emergency situation, natural disaster or another event seriously threatening life, public order or property, or at the territory where evacuation is in progress or has been carried out,
- k) caused higher damage or another larger harmful effect by the criminal offence,
- l) acquired higher profit by the criminal offence,
- m) committed the criminal offence in a larger extent, on more things or more persons, was committing the criminal offence or continued in its commitment for a longer time,
- n) committed more criminal offences,
- o) committed the criminal offence as an organizer, a member of an organized group or a member of a conspiracy, or
- p) had already been sentenced for a criminal offence; the court is authorized not to consider such a fact as an aggravating circumstance according to the nature of the previous conviction, particularly in respect of the significance of a protected interest affected by such an act, the manner of commission of such an act and its consequences, the circumstances under which it was committed, the offender's personality, the extent of his culpability, his motives and the period which has passed since his last conviction; concerning an offender of the criminal offence committed in a state induced by a mental disorder, or an offender who indulges in abuse of an addictive substance and has committed the criminal offence under its influence or in connection with its abuse, also when he/she commenced treatment or took other necessary measures for its commencement.

### **Section 43 Cumulative and Aggregate Sentence**

(1) If the court sentences an offender for two or more criminal acts, it shall impose a cumulative sentence to him/her according to the provision which applies to the most severely punishable criminal offence; if a multi-acting concurrence of a larger number of criminal offences is concerned, the court may impose a sentence within a term whose upper limit shall be raised by one third; however the upper limit of the term of imprisonment after this raising cannot exceed twenty years, and if imposing an exceptional sentence of imprisonment beyond twenty years up to thirty years, it cannot exceed thirty years. Besides a punishment admissible according to such a provision may be within a cumulative sentence be imposed also another type of penalty, if its imposition is reasoned by any of the tried criminal acts. If the lower limits of terms of imprisonment are different, the lower limit of the sentence shall be the highest one. If the Criminal Code only stipulates a sentence of imprisonment for any of these criminal acts, the cumulative sentence may only be a sentence of imprisonment as an individual sentence.

(2) The court shall impose an aggregate sentence according to principles referred to in subsection (1) when sentencing an offender for a criminal offence committed before the court of the first instance announced a convicting judgement for another his/her criminal offence. Along with imposing an aggregate sentence shall the court cancel the verdict on punishment imposed to the offender by the former sentence, as well as all other decisions by their contents

consequential to this verdict, if with regard to the modification caused by this cancellation those decisions lost their basis. An aggregate sentence cannot be lower than the sentence imposed by the former judgement. The court shall enunciate loss of honorary titles and decorations, loss of military rank or confiscation of a thing or other asset value within the aggregate sentence, if such a penalty was imposed by the former judgement.

(3) A convicting judgement according to Sub-section (2) shall be understood also as a judgement by which was the punishment waived with supervision according to Section 48(1). Along with imposing an aggregate sentence shall the court cancel the verdict on conditional waiver of punishment with supervision, as well as all other decisions by their contents consequential to this verdict, if with regard to the modification caused by this cancellation those decisions lost their basis.

(4) Provisions on aggregate sentence shall not apply, if the former conviction is of such a nature that the offender shall be regarded as if he/she was never convicted.

#### **Section 44 Waiving the Imposition of an Aggregate Sentence**

The court shall waive the imposition of any aggregate sentence under Section 43 (2), if it believes that a punishment imposed by an earlier judgment is adequate.

#### **Section 45 Imposition of a Joint Punishment for Continued Criminal Offence**

(1) If the court sentences an offender for a partial attack of a continuing criminal offence (Section 116), where the offender has already been sentenced for the rest of the attacks of the offence by a previous judgment, which has already become final, the court shall cancel the verdict of guilt regarding the continuing criminal offence and criminal offences committed in single-acting concurrence stated in the previous judgment, the whole verdict under which the earlier sentence was imposed, as well as all other decisions connected thereto, and once more, bound by facts from the cancelled sentence, the court shall render a decision on the continuing criminal offence, including the new attack, eventually of criminal offences committed in single-acting concurrence therewith, on the joint sentence for continuing criminal offence, which must not be lower than the sentence imposed under the previous verdict, as well as on all other decisions connected to the verdict of guilty. Within the joint sentence for the continuing criminal offence, the court shall impose a sentence of loss of honorary titles or decorations, loss of military rank, confiscation of property, confiscation of a thing, if such a punishment was stated in the previous judgment.

(2) Provisions of Sections 43 and 44 shall be applied accordingly, if a sentence for more criminal offences is imposed simultaneously.

(3) The provision on the joint sentence for a continuing criminal offence shall be applied also when the previous sentence is of such a nature, that the offender is considered not to be sentenced at all.

### **Sub-Division 2**

#### **Waiver of Punishment**

## **Section 46 General Provisions**

(1) The punishment for an offender who has committed a misdemeanour and who regrets having committing the act and demonstrates genuine efforts of reformation may be waived, if it can be reasonably expected, with regard to the nature and seriousness of the offence committed and the current way of life of the offender, that merely discussing the matter in court will suffice to ensure their reformation and the protection of society.

(2) The court may further waive a punishment where an offender found guilty of premeditating or attempting a criminal offence did not recognise, with respect to the nature or type of subject of assault against which the act was to be committed, or the nature or type of the means by which the act was to be committed, that the premeditation or attempt could not possibly have led to completion of the act.

(3) Where the court decides to waive a punishment, the offender shall be regarded as if he/she has not been convicted.

## **Section 47 Waiver of Punishment and Concurrent Imposing of Protective Therapy or Protective Detention**

(1) The court may waive punishment also if the offender committed the criminal offence in a state of diminished sanity or in a state incited by a mental disorder and if the court believes that a protective therapy (Section 99) that it imposes at the same time shall secure correction of the offender and protection of society better than punishment. This provision shall not apply in case the offender induced the state of diminished sanity or mental disorder to him-/herself, even negligently, by an addictive substance.

(2) The court may waive punishment also if the offender committed the criminal offence in a state of diminished sanity or in a state incited by a mental disorder and it cannot be expected, with regard to the nature of the mental disorder and possibilities of influencing the offender, that a protective therapy would secure sufficient protection of society and if the court believes that a protective detention (Section 100) that it imposes to the offender would secure protection of society better than punishment.

## **Section 48 Conditional Waiver of Punishment with Supervision**

(1) Under the conditions referred to in Section 46(1) or (2) may the court conditionally waive punishment and order supervision over an offender if it considers it necessary to supervise behaviour of the offender for the stated time.

(2) In conditional waiver of punishment shall a court prescribe a probationary period for up to one year and at the same time order supervision over the offender (Section 49 too 51).

(3) A court may impose adequate restrictions and duties to the offender whose punishment has been waived to induce him/her to lead an upright life; generally shall the court also order him/her to compensate for the damage caused according to his/her possibilities.

(4) The court may impose as adequate restrictions and obligations especially

- a) to submit to a training programme for gaining suitable work qualification,
- b) to submit to a suitable programme of social training and re-education,

- c) to submit to therapy for addiction to addictive substances that is not a protective therapy according to this Code,
- d) to submit to suitable programmes of psychological counselling,
- e) to refrain from visiting unsuitable areas, sport, cultural and other social events and contact with certain persons,
- f) to refrain from illicit interference with rights or legally protected interests of other persons,
- g) to refrain from gambling, gaming on gaming machines and placing bets,
- h) to refrain from consummation of alcoholic beverages or other addictive substances,
- i) to pay due alimony or other due payments,
- j) to publically personally apologize to the aggrieved person, or
- k) to provide the aggrieved person with adequate satisfaction.

(5) If an offender at the age close to the age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Sub-section (4) also some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

(6) If an offender, whose punishment was conditionally waived, has lead an upright life during the probationary period and complied with the prescribed conditions, the court shall pronounce him/her as approved; otherwise it shall decide to impose the sentence.

(7) If the court has not rendered a decision according to Sub-section (6) without any fault of the conditionally sentenced person, he/she shall be considered as approved.

(8) If the court pronounced the conditionally sentenced person as approved, or if he/she is considered as approved, he/she shall be regarded as if he/she was never convicted.

### **Sub-Division 3**

#### **Supervision**

##### **Section 49 Definition and Purpose of Supervision**

(1) The supervision shall be understood as a regular personal contact of an offender with an officer of the Probation and Mediation Service (further only "probation officer"), cooperation in creation and realization of the probation supervision program during the probationary period and monitoring of compliance with the conditions imposed upon the offender by a court or implied by the Law.

(2) The purpose of supervision is:

- a) to observe and monitor behaviour of the offender, whereby protection of society is ensured and lowering the possibility to repeat the criminal activity,
- b) professional guidance and assistance to the offender with the aim to ensure he/she will lead an upright life in the future.

(3) Supervision over the offender is conducted by a probation officer.

## **Section 50 Duties of Offender**

(1) An offender, who is under a supervision, is obliged to:

- a) cooperate with the probation officer in the way determined by the probation officer and fulfil the supervision plan,
- b) make appearances to the probation officer at the time determined up by the officer,
- c) inform the probation officer about his/her residence, employment, means of support, compliance with the imposed adequate restrictions and duties and about other important circumstances regarding the supervision determined by the probation officer,
- d) enable the probation officer to enter the residence which the offender occupies.

## **Section 51 Rights and Duties of Probation Officer**

(1) Probation officer is obliged to perform the supervision over the offender in compliance with the probation program, to be helpful to him/her in his matters and to follow the instructions of the presiding judge regarding the supervision as well as ensuring that the offender leads an upright life. The probation officer is obliged to regularly update the probation plan, while taking into account the results of the supervision and the personal, family and other circumstances of the offender.

(2) If the offender, who is under a supervision, breaches either significantly or repeatedly the conditions of probation, probation program or adequate restrictions and adequate duties, the probation officer shall without undue delay notify the judge, who imposed the supervision. In case of less severe infringements of the set conditions, probation plan or adequate restrictions and adequate duties shall the probation officer bring such deficiencies to the attention of the offender and shall warn him that in case of repetition or more significant infringements of the conditions, probation program or adequate restrictions and adequate duties, he/she will inform the presiding judge thereof..

(3) If not determined otherwise by the judge, the probation officer shall, at least once in six month, compile a report notifying the presiding judge, who had imposed the probation, of the process of supervision over the offender, compliance with the set conditions, probation program and adequate restrictions and adequate duties of the offender and his situation.

## **Sub -Division 4**

### **Types of Penalties and Exceptional Sentence of Imprisonment**

## **Section 52 Types of Punishments**

- (1) The court may impose the following punishments for committed criminal offences
- a) sentence of imprisonment,
  - b) house confinement,
  - c) community service,
  - d) confiscation of property,
  - e) pecuniary penalty,
  - f) confiscation of a thing or other asset value,
  - g) prohibition of activity,

- h) prohibition of stay,
- i) prohibition of entering sport, cultural and other social events,
- j) loss of honorary titles or decorations,
- k) loss of military rank,
- l) banishment.

(2) Unless defined otherwise by the Criminal Code, a sentence of imprisonment shall be understood as

- a) an unsuspended prison sentence,
- b) a suspended sentence of imprisonment,
- c) a suspended sentence of imprisonment with supervision.

(3) Exceptional sentence of imprisonment (Section 54) is a special type of a sentence of imprisonment.

### **Section 53 Imposing Multiple Punishments Individually and in Parallel**

(1) If the Criminal Code stipulates several punishments for a criminal act, each of these penalties may be imposed separately, or more punishments may be imposed concurrently. Besides a punishment stipulated by the Criminal Code for a criminal offence, other punishments referred to in Section 52 may also be imposed. However, house confinement may not be imposed in parallel to imprisonment and community service, community service in parallel to imprisonment, pecuniary penalty in parallel to confiscation of property and prohibition of stay in parallel to banishment.

(2) House confinement, community service, pecuniary penalty, prohibition of entering sport, cultural and other social events, banishment and prohibition of stay may be also imposed individually, even if the Criminal Code does not stipulate such a punishment for a particular criminal offence.

### **Section 54 Exceptional Sentence of Imprisonment**

(1) An exceptional sentence of imprisonment shall be understood as a sentence of imprisonment beyond twenty years up to thirty years and a sentence of imprisonment for life. An exceptional sentence of imprisonment may be imposed only for an especially serious felony, where the Criminal Code allows it.

(2) A sentence of imprisonment beyond twenty years up to thirty years may the court impose only if the seriousness of the an especially serious felony is very high or if the possibility of reformation of the offender is especially complicated.

(3) A sentence of imprisonment for life may the court impose only to an offender who has committed an especially serious felony of Murder according to Section 140(3) or who has, in the course of commission of an especially serious felony of Public menace according to Section 272(3), Treason (Section 309), Terrorist attack according to Section 311(3), Terror (Section 312), Genocide (Section 400), Attack against humanity (Section 401), Use of prohibited means and methods of combat according to Section 411 (3), War cruelty according to Section 412(3), Persecution of population according to Section 413(3) or Abuse of internationally and state recognised symbols according to Section 415(3), intentionally caused death of another person, and under the conditions that



- a) such an especially serious felony is extraordinarily serious in the view of especially condemnable manner of commission of the act or due to especially condemnable motive or especially serious and difficultly remediable consequence and
- b) imposition of such a sentence is required for effective protection of society or there is no hope that the offender could be corrected by a sentence of imprisonment beyond twenty years up to thirty.

(4) If the court imposes a sentence of imprisonment for life, it may also decide that the time of the sentence served in a prison with increased security shall not count into the served time of sentence for the purposes of conditional release.

## **Sub-Division 5**

### **Imposition and Execution of Individual Penalties**

#### **Section 55 Imprisonment**

(1) Unsuspended sentence of imprisonment shall be imposed for twenty years at most, unless extraordinary increase of a sentence of imprisonment (Section 59), imposition of a sentence of imprisonment to a perpetrator of a criminal offence committed in favour of an organised criminal group (Section 108) or an exceptional sentence of imprisonment is concerned.

(2) For criminal offences where the upper limit of the term of imprisonment does not exceed three years may an unsuspended sentence of imprisonment be imposed only under the condition that with regard to the character of the offender would imposition of another penalty evidently not induce the offender to lead an upright life.

(3) An unsuspended sentence of imprisonment shall be served according to another legal regulation in a prison.

#### **Section 56 Execution of a Sentence of Imprisonment**

(1) An unsuspended sentence of imprisonment shall be served differentially in prisons

- a) with surveillance,
- b) with supervision,
- c) with security, or
- d) with increased security.

(2) The court shall generally place to a prison

- a) with surveillance an offender who was sentenced for a negligent misdemeanour and who has not yet served a sentence for an intentional criminal offence,
- b) with supervision an offender who was sentenced for a negligent misdemeanour and who has already served a sentence for an intentional criminal offence, or an offender who was sentenced for an intentional criminal offence to less than three years of imprisonment and who has not yet served a sentence for an intentional criminal offence,
- c) with supervision an offender who was sentenced for an intentional criminal offence, when conditions for placing to a prison with supervision or with increased security are not met, and an offender who was sentenced for a negligent misdemeanour and who was not placed to a prison with surveillance or supervision,

d) with increased security an offender who was sentenced to an exceptional sentence of imprisonment (Section 54), who was sentenced to imprisonment for a criminal offence committed in favour of an organised criminal group (Section 108), who was sentenced for an especially serious felony (Section 14(3)) to imprisonment for at least eight years, or who was sentenced for an intentional criminal offence and has escaped from custody or from serving a sentence during last five years.

(3) The court may place an offender to a prison of a different type than to which is he/she supposed to be placed according to Sub-section (2), if the court believes that in the view of the seriousness of the criminal offence and the degree and nature of disturbance of the offender his/her placement to another type of prison shall better induce him/her to lead an upright life; however an offender who was sentenced to imprisonment for life will always be placed to a prison with increased security.

(4) The manner of execution of a sentence of imprisonment in individual types of prisons is regulated by a special legal enactment.

### **Section 57 Transfer of a Convict to another Type of Prison**

(1) In the course of execution of a sentence of imprisonment may the court decide to transfer an offender to another type of prison, which may differ from the current prison the offender is serving the sentence in by one level.

(2) The court shall decide to transfer a convict to a prison with a lighter regime, if the behaviour of the convict and the manner of fulfilling his/her duties give reason to a conclusion that the transfer shall contribute to his/her reformation.

(3) The court shall decide to transfer a convict to a prison with stricter regime if

- a) the convict significantly or repeatedly breached prescribed order or discipline, or
- b) the convict was found guilty of a criminal offence committed during execution of the sentence by a final decision.

(4) From a prison with increased security may not be transferred

- a) a convict who was sentenced to imprisonment for life a who has not yet served at least ten years of the sentence,
- b) another convict who is serving the sentence in a prison with increased security before serving at least one quarter of the imposed sentence.

(5) To a prison with supervision and with surveillance may not be transferred a convict who is to be submitted to a protective institutional treatment on the basis of a court decision, or a convict who was sentenced to banishment.

(6) The court may decide, upon a petition of a convict who has served at least one quarter of the imposed sentence in a prison of a certain type, but at least six months, to transfer him/her to a prison with lighter regime; this does not apply to a convict who was sentenced to imprisonment for life and is serving the sentence in a prison with increased security.

(7) If the petition according to sib-section (6) is not granted, the convict may repeat it no sooner than six months after conclusion of the proceeding on the former petition.

## **Section 58 Extraordinary Mitigation of a Sentence of Imprisonment**

(1) If the court believes that with regard to circumstances of a case or in the view of the situation of an offender would imposition of the regular term of imprisonment stipulated by the Criminal Code be unreasonably strict and that correction of the offender may be reached also by a shorter term of imprisonment, it may reduce the term of imprisonment below the lower limit of the term stipulated by this Code.

(2) The court may reduce a sentence of imprisonment below the lower limit of the term also if it convicts an offender who helped to prevent a criminal offence that was prepared or attempted by another person, if with regard to personal situation of the offender and nature of the criminal activity he/she has committed the court believes that reformation of the offender may be reached also by a shorter term of imprisonment.

(3) When reducing a term of imprisonment according to sub-sections (1) and (2) the court may not impose a sentence

- a) below five years, if the lower limit of the term of imprisonment is at least twelve years,
- b) below three years, if the lower limit of the term of imprisonment is at least eight years,
- c) below one year, if the lower limit of the term of imprisonment is at least five years.

(4) The court may reduce a sentence of imprisonment below the lower limit of the term also to an offender designated as a cooperative accused person, who fulfilled the stipulated conditions according to another legal enactment; in doing so the court shall consider the nature of the criminal offence specified in his/her confession in comparison to an especially serious felony committed by members of an organised criminal group, in connection to an organised criminal group or in favour of an organised criminal group, completion of which he/she helped to prevent or in clarification of which he/she has assisted, furthermore shall the court consider the significance of such his/her behaviour, character of the offender and circumstances of the case, especially whether and in what way has he/she participated in such an especially serious felony, completion of which he/she helped to prevent or clarification of which has he/she undertaken, and what consequences has he/she eventually caused by his/her actions. Therein the court shall not be bound by restrictions referred to in Sub-section (3).

(5) The court may reduce a sentence of imprisonment below the lower limit of the term of imprisonment also in it sentences an offender for preparation of a criminal offence, for an attempt of a criminal offence or for assistance in a criminal offence and believes that with regard to the nature and gravity of the preparation, attempt or assistance would imposing the regular term stipulated by this Code be unreasonably strict and that correction of the offender may also be reached by a shorter term of imprisonment. Therein the court shall not be bound by restrictions referred to in Sub-section (3).

(6) The court may reduce a sentence of imprisonment below the lower level of the term of imprisonment also if the offender acted on the basis of a legal error, but he/she could have avoided this error (Section 19 (2)), if he/she committed the criminal offence while trying to prevent another attack or danger, without fully complying with the conditions of Extreme necessity (Section 28) or Necessary defence (Section 29), or if he/she crossed the limits of Admissible risk (Section 31) or limits of another circumstance precluding liability. Therein the court shall not be bound by restrictions referred to in sub-section (3).

## **Section 59 Extraordinary Increase of a Sentence of Imprisonment**

(1) To an offender who has repeatedly committed an especially serious felony (Section 14 (3)), though he/she has already been sentenced for an especially serious felony, may the court impose a sentence in the upper half of the term of imprisonment stipulated by the Criminal Code, the upper limit of which shall be raised by one third, if the seriousness of the especially serious felony is high with regard to such re-commission and to other circumstances of the case or the possibility of reformation of the offender is low.

(2) The upper limit of the term of imprisonment may exceed twenty years after the increase referred to in Sub-section (1). When imposing an exceptional sentence of imprisonment beyond twenty years up to thirty, the upper limit may not exceed thirty years.

## **Section 60 House Confinement**

(1) The court may impose a sentence of house confinement for up to two years if sentencing a perpetrator of a misdemeanour, provided that

- a) with regard to the nature and gravity of the committed misdemeanour and character and personal situation of the offender may be reasonably believed that imposing such a sentence shall suffice, eventually also in parallel to another sentence, and
- b) the offender gives a promise in writing that within a designated period of time he/she shall stay inside premises at the specified address and shall provide all necessary cooperation for performing inspections.

(2) House confinement may be imposed as a single sentence, if with regard to the nature and gravity of the committed misdemeanour and to the character and personal relations of the offender is imposition of another penalty not necessary.

(3) If the court does not provide otherwise in a judgement, the sentence of house confinement shall consist in a duty of an offender to remain within designated premises on bank holidays and public holidays for the whole day and on other days between 20.00 hours and 05.00 hours, unless important reasons preclude it, especially work or profession engagement or medical facility treatment due to his/her health disorder; the medical facility shall be obliged to provide information about such treatment upon a request of authorities involved in criminal proceedings. The court may allow an offender to participate in periodical church service or religious congregations also on bank and public holidays.

(4) The court may impose adequate restrictions or adequate duties referred to in Section 48 (4) for the time of execution of this sentence to induce him/her to lead an upright life; generally shall it also order him/her to compensate the damage caused according to his/her possibilities.

(5) If an offender at the age close to age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Section 48 (4) also some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

## **Section 61 Supplementary Sentence of Imprisonment**

(1) If the court imposes a sentence of house confinement, it shall set a supplementary sentence of imprisonment for up to one year for a case that execution of this sentence was thwarted.

(2) Thwarting a sentence of house confinement shall be understood as failure to observing its conditions stipulated in Section 60 (3) to (5); in such a case shall the court decide on execution of the whole supplementary sentence of imprisonment and shall also determine the manner of its execution.

## **Section 62 Community Service**

(1) The court may impose a sentence of community service if it sentences an offender for a misdemeanour; community service may be imposed as an individual sentence, if with regard to the nature and gravity of the committed misdemeanour and character and relations of the offender imposition of another sentence is not necessary.

(2) The court shall generally not impose a sentence of community service if it concerns an offender whose sentence of community service was transformed to a sentence of imprisonment according to Section 65(2) within three years preceding imposition of this kind of sentence.

(3) A sentence of community service consists in a duty of an offender to perform services in the prescribed extent for publically beneficial purposes consisting in maintenance of public areas, cleaning and maintenance of public buildings and roads or other activities for the benefit of communities or state or other publically beneficial institutions which are engaged in education and science, culture, educational system, protection of health, fire safety, environmental protection, support and protection of juveniles, protection of animals, humanitarian, social, charity, religion, athletic and sport activities. The service shall not serve for profit-making purposes of the convict.

## **Section 63 Extent of a Sentence of Community Service**

(1) The court may impose a sentence of community service in the extent of 50 to 300 hours.

(2) The court may also impose adequate restrictions and duties referred to in Section 48(4) to an offender, to induce him/her to lead an upright life; generally shall it also impose a duty to the offender to compensate the damage caused according to his/her possibilities.

(3) If an offender at the age close to age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Section 48 (4) also some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

## **Section 64 Attitude of an Offender and his/her Health Competence**

When imposing a sentence of community service the court shall consider the attitude of the offender, his/her health condition and the possibility to impose this type of a sentence. A

sentence of community service shall not be imposed, if the offender is incapable of systematic work performance.

### **Section 65 Execution of a Sentence of Community Service**

(1) A convict is obliged to perform community service personally, free of charge in his/her free time within one year from the day the court ordered execution of this sentence at the latest. To this time shall not be counted the time the convict

- a) could not perform community service due to health or legal impediments, or
- b) was in custody or served a sentence of imprisonment.

(2) If an offender does not lead an upright life within the time from the conviction to termination of execution of the sentence of community service, without a substantial reason breaches the conditions of execution of the sentence of community service, otherwise thwarts execution of this sentence or culpably fails to perform the imposed sentence within the stated time, the court may transform, also during the time set for its execution, the sentence of community service or a remaining portion thereof to a sentence of imprisonment and decide on the manner of its execution; therein every commenced one hour of unexecuted sentence of community service shall be counted as one day of imprisonment.

(3) Exceptionally may the court, with regard to circumstances of the case and character of the convict, keep the sentence of community service in progress or prolong the time of execution of this sentence for up to six months, even if the convict gave rise to a reason for transformation of the sentence according to sub-section (2), and

- a) order supervision over the convict for the time of execution of the sentence or a remaining portion thereof,
- b) impose adequate restrictions or duties referred in Section 48(4) to the convict that have not been imposed so far for the time of execution of the sentence or a remaining portion thereof, or
- c) impose some of educational measures according to Section 63(3) for the time of execution of the sentence or a remaining portion thereof, if he/she is at the age close to the age of juveniles.

Section 49 to 51 shall be applied to execution of the supervision accordingly.

(4) An offender who was sentenced to community service shall be regarded as if he/she was never convicted once the sentence is executed or the execution of the sentence or a remaining portion thereof is waived.

### **Section 66 Confiscation of Property**

(1) The court may, with regard to circumstances of a case and relations of an offender, impose a sentence of confiscation of property, if it sentences an offender to an exceptional sentence of imprisonment or for an especially serious felony by which has the offender gained or tried to gain for him/herself a proprietary benefit.

(2) Without the conditions of sub-section (1) may the court impose a sentence of confiscation of property only in the event that the Criminal Code allows imposing this sentence for a specific criminal offence; as a single penalty may a confiscation of property be imposed if

with regard to the nature and gravity of the committed criminal offence and to the character and circumstances of the offender is imposition of another penalty not necessary.

(3) Confiscation of property affects the whole property of an offender or a portion thereof designated by the court; however confiscation does not apply to means and things necessary for satisfaction of necessities of life of the convict and persons, whose support or upbringing is the convict legally obliged to provide.

(4) A sentence of confiscation of property terminates community marital property.

(5) Confiscated property shall devolve to the state.

### **Section 67 Pecuniary Penalty**

(1) The court may impose a pecuniary penalty if an offender gained or tried to gain for him-/herself or for another material profit by a criminal offence.

(2) Without the conditions of Sub-section (1) may the court impose a pecuniary penalty only in the event that

- a) the Criminal Code allows imposition of this penalty for the committed criminal offence, or
- b) it imposes this penalty for a misdemeanour and with regard to the nature and gravity of the committed criminal offence and the character and circumstances of the offender is an unsuspended sentence of imprisonment not imposed concurrently.

(3) As an individual sentence may a pecuniary penalty be imposed if with regard to the nature and gravity of the committed criminal offence and the character and circumstances of the offender is imposition of another sentence not necessary.

### **Section 68 Extent of Pecuniary Penalty**

(1) A pecuniary penalty shall be imposed in daily rates in an amount of at least 20 and at most 730 whole daily rates.

(2) A daily rate shall amount to at least 100 CZK and at most 50 000 CZK.

(3) The number of daily rates shall the court determine with regard to the nature and gravity of the committed criminal offence. The amount of one daily rate shall the court determine with regard to the personal and property circumstances of the offender. Therein shall generally be considered net income the offender has or could have per one day on the average.

(4) Income of an offender, his/her assets and revenues thereof, as well as other data for determination of the amount of a daily rate may be established by an estimation of the court.

(5) The court shall state the count and amount of daily rates in the judgement. If an offender cannot be expected to pay the pecuniary penalty immediately due to his/her personal and property circumstances, the court may stipulate that the pecuniary penalty shall be paid in adequate monthly payments; therein it may provide that the benefit of payments of a pecuniary penalty shall be withdrawn if the offender fails to pay an individual payment on due time.

(6) A pecuniary penalty shall not be imposed if it would be evidently uncollectable.

(7) Collected amounts of pecuniary penalties shall devolve to the state.

### **Section 69 Supplementary Sentence of Imprisonment**

(1) If the court imposes a pecuniary penalty, it shall set for the event that it is not executed within the stated time a supplementary sentence of imprisonment for up to four years. However, the supplementary sentence may not exceed, even together with an imposed sentence of imprisonment, the upper limit of criminal of the term of imprisonment.

(2) An offender to who was imposed a pecuniary penalty for a negligent misdemeanour shall be regarded as if he/she was never convicted once the sentence is executed or the execution of the sentence or a remaining portion thereof is waived.

### **Section 70 Confiscation of a Thing or Other Asset Value**

(1) The court may impose a sentence of confiscation of a thing or other asset value that

- a) was used to commit a criminal act,
- b) was intended to commit a criminal act,
- c) has been acquired by the offender through a criminal act or as a reward for such act, or
- d) has been acquired by the offender, even in part, for a thing or other asset value referred to in letter c), provided that the value of the thing or other asset value is not insignificant in relation to the value of the acquired thing or other asset value.

(2) The sentence of confiscation of a thing or other asset value can be imposed only if a thing or other asset value belonging to the offender is concerned.

(3) If the offender possesses the thing or other asset value as specified in Sub-sections (1) and (2) in contradiction to another legal enactment, in connection to which a sentence of confiscation of a thing or other asset value may be imposed, the court shall impose also this sentence in any case.

(4) Prior to legal force of this decision shall apply prohibition of alienation of the confiscated thing or other asset value, which also includes other disposing with the thing or other asset value that leads to obstructing confiscation of the thing or other asset value.

(5) The confiscated thing or other asset value shall devolve on the state.

### **Section 71 Confiscation of Equivalent Value**

(1) If an offender, to whom a thing or other asset value that could be confiscated according to Section 70 Sub-section (1) or (2), destroys, damages or otherwise disvalues, alienates, renders useless, removes or utilizes, particularly consumes or otherwise circumvents confiscation of such thing or other asset value, or if he/she obstructs the execution of punishment of forfeiture of a thing or other asset value prior the court could decide on confiscation, the court may decide confiscation of equivalent value up to a value not exceeding the value of such thing or other asset value. The value of a thing or other asset



value, whose confiscation may be ordered by a court, shall be determined upon a professional statement or expert opinion.

(2) If the thing or other asset value is, even in part, destroyed, damaged or otherwise disvalued or removed, the court may impose confiscation of equivalent value along with confiscation of other asset value as specified in Section 70 (1).

(3) The confiscated equivalent value shall devolve on the state.

### **Section 72 Separate Sentence of Confiscation of a Thing or Other Asset Value**

The sentence of confiscation of a thing or other asset value may be imposed separately only in cases where this Criminal Code enables the imposition of such sentence a if according to the nature and gravity of the committed criminal act and personality and personal situation of the offender imposition of other sentence is not necessary.

### **Section 73 Prohibition of Activity**

(1) The court may impose a sentence of prohibition of activity for one year to ten years, if an offender commits a criminal offence in connection to this activity.

(2) A sentence of prohibition of activity may be imposed as an individual sentence, if the Criminal Code allows imposition of this sentence for the committed criminal offence and if with regard to the nature and gravity of the committed criminal offence and to the character and circumstances of the offender is imposition of another penalty not necessary.

(3) A sentence of prohibition of activity consists in banning an offender from performing a certain occupation, profession or function or such an activity that requires a special authorisation, or performance of which is regulated by another legal enactment.

### **Section 74 Execution of a Sentence of Prohibition of Activity**

(1) The time served in imprisonment shall not be counted into the time of execution of a sentence of prohibition of activity; however the time before the legal force of the judgement, during which was an authorisation to perform the prohibited activity withdrawn according another legal enactment or the time for which he/she could not perform this activity due to a measure taken by a public authority, shall be counted into the time of execution of prohibition of activity.

(2) Once the sentence of prohibition of activity is executed, the offender shall be regarded as if he/she was never convicted.

### **Section 75 Prohibition of Stay**

(1) The court may impose a sentence of prohibition of stay for one year to ten years for an intentional criminal offence, if it is required for protection of public order, family, health, morality or property with regard to previous way of living of the offender and time and place of commission of the act; the prohibition of stay cannot apply to a place or district the offender has his/her permanent residence in.

(2) A sentence of prohibition of stay may be imposed as an individual sentence for a criminal offence, for which the Criminal Code stipulates a sentence of imprisonment with the upper limit not exceeding three years, if with regard to the nature and gravity of the committed criminal offence and the character and circumstances of the offender is imposition of another sentence not necessary.

(3) The court may impose adequate restrictions and duties referred to in Section 48 (4) to an offender for the time of execution of this sentence aimed at inducing him/her to lead an upright life; generally shall it also order him/her to compensate the damage caused according to his/her possibilities.

(4) If an offender at the age close to age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Section 48 (4) also some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

(5) The time served in imprisonment shall not be counted into the time of execution of the prohibition of stay; the decision according to Sub-sections (3) and (4) shall the court render no sooner then after execution of a sentence of imprisonment or after a conditional release.

(6) A sentence on prohibition of stay consists in prohibiting an offender from staying in a certain place or in a certain district for the time of execution of this sentence; for a temporary stay in such a place or district in an urgent personal matter shall be required an authorisation.

### **Section 76 Prohibition of Entering Sport, Cultural and other Social Events**

(1) The court may impose a sentence of entering sport, cultural and other social events for up to ten years, if an offender committed an intentional criminal offence in relation to visiting such an event.

(2) As an individual sentence may prohibition of entering sport, cultural and other social events be imposed if with regard to the nature and gravity of the committed misdemeanour and the character and circumstances of the offender is imposition of another sentence not necessary.

(3) Prohibition of entering sport, cultural and other social events consists in prohibiting an offender from participation on stated sport, cultural and other social events for the time of execution of this sentence.

### **Section 77 Execution of a Sentence of Prohibition of Entering Sport, Cultural and other Social Events**

(1) During execution of a sentence of prohibition of entering sport, cultural and other social events shall the convict be obliged to cooperate with a probation officer in a prescribed way, especially to adhere to a designated probation plan, perform designated programmes of social training and correction, programmes of psychological counselling and if the probation officer considers it necessary, also to appear according to his/her instructions at a designated unit of the Police of the Czech Republic during the time imminently related to proceeding of the prohibited event.

(2) Time served in imprisonment shall not be counted into the time of execution of a sentence of prohibition of entering sport, cultural and other social events.

### **Section 78 Loss of Honour Titles or Decorations**

(1) The court may impose a sentence of loss of honour titles and decorations if it sentences an offender for an intentional criminal offence committed out of an especially condemnable motive to an unsuspended sentence of imprisonment for at least two years.

(2) The loss of honour titles or decorations consists in removing decorations, commendations and other honour titles granted according to domestic legal regulations.

### **Section 79 Loss of Military Rank**

(1) The court may impose a sentence of loss of a military rank, if it sentences an offender for an intentional criminal offence committed out of an especially condemnable motive to an unsuspended sentence of imprisonment for at least two years.

(2) The court may impose this sentence also in parallel to another penalty, if it is required for discipline and order in military forces with regard to the nature of the committed criminal offence.

(3) Loss of military rank consists in lowering the rank of the convict to the rank of a private.

### **Section 80 Banishment**

(1) The court may sentence an offender, who is not a national of the Czech Republic, to banishment from the territory of the Czech Republic, it may be imposed as an individual sentence or in parallel to another sentence, if it is required for the safety of people or property or for another public interest; as a single sentence may banishment be imposed, if with regard to the nature and gravity of the committed criminal offence and the character and circumstances of the offender is imposition of another sentence not necessary.

(2) With regard to the nature and gravity of the committed criminal offence, possibilities of correction and circumstances of the offender and to the degree of threat to the safety of people, property or another public interest may the court impose a sentence of banishment in a term of one year to ten years or indefinitely.

(3) The court shall not impose banishment, if

- a) it was impossible to establish the nationality of the offender,
- b) the offender was granted asylum or supplementary protection according to a special legal enactment,
- c) the offender was granted a permanent residence in the territory of the Czech Republic, has employment and social background here and imposing such a sentence would be contrary to the interest on integration of families,
- d) there is a threat that the offender would be persecuted in the state he/she is to be banished to for his/her race, belonging to an ethnical group, nationality, belonging to a certain social group, political or religious beliefs, or if banishment would expose the offender to torture or other inhumane treatment or punishment,

- e) the offender is a citizen of the European Union or a family member thereof disregarding his/her nationality and has a permanent residence permitted in the territory of the Czech Republic, or is a foreigner with a recognised legal status of a long-term resident in the territory of the Czech Republic according to a special legal enactment, unless the court finds substantial reasons of a threat to the security of state or public order,
- f) the offender is a citizen of the European Union and in past 10 years has uninterruptedly resided in the territory of the Czech Republic, unless substantial reasons of threat to the security of state are found, or
- g) the offender is a child who is a citizen of the European Union, unless banishment is in his/her best interest.

## **Sub-Division 6**

### **Conditionally Suspended Sentence of Imprisonment**

#### **Section 81 Conditional Suspension of Execution of a Sentence of Imprisonment**

(1) The court may conditionally suspend execution of a sentence of imprisonment not exceeding three years, if with regard to the character and circumstances of the offender, especially to his previous life and surroundings he/she works and lives in, and to circumstances of the case, the court has a reasonable belief that execution of the sentence is not necessary to induce the offender to lead an upright life.

(2) Permission of conditional suspension of execution of a sentence of imprisonment shall not apply to execution of other sentences imposed in parallel to this sentence.

#### **Section 82 Probationary Period, Adequate Restrictions and Duties**

(1) When imposing a suspended sentence the court shall prescribe a probationary period for one year to five years; the probationary period shall be counted from the day of legal force of the judgement.

(2) The court may impose adequate restrictions and duties referred to in Section 48 (4) to the conditionally sentenced person aimed at inducing him/her to lead an upright life; generally shall the court also order him/her to compensate the damage caused according to his/her possibilities.

(3) If an offender at the age close to age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Section 48 (4) also some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

(4) The time for which has a conditionally sentenced person lead an upright life within a probationary period and complied with the prescribed conditions shall be counted into a probationary period newly set upon suspending a sentence for the same deed or into a probationary period set upon imposition of a cumulative or aggregate sentence or a joint sentence for continuation in a criminal act.

### **Section 83 Decision on Suspended Sentence**

(1) If a conditionally sentenced person has lead an upright life within the probationary period and complied with the prescribed conditions, the court shall pronounce him/her as approved; otherwise shall it decide, eventually also in the course of the probationary period, that the imposed sentence shall be executed. In exceptional cases may the court, with regard to circumstances of the case and the character of the convict, keep the suspended sentence in effect even though the convict gave reason to ordering execution of the sentence, and

- a) order supervision over the convict,
- b) adequately prolong the probationary period, however by no more than two years, whereas it may not exceed the upper limit of the probationary period stated in Section 82 (1), or
- c) impose adequate restrictions or duties referred in Section 48 (4) to the convict that have not been imposed so far to induce the convict to lead an upright life.

(2) For performing supervision shall apply Sections 49 to 51.

(3) If the court has not rendered a decision according to Sub-section (1) without any fault of the conditionally sentenced person, he/she shall be considered as approved.

(4) If the court pronounced the conditionally sentenced person as approved, or if he/she is considered as approved, he/she shall be regarded as if he/she was never convicted.

(5) If the court decides that the sentence shall be executed according to Sub-section (1), it shall also decide on the manner of its execution.

### **Section 84 Conditional Suspension of Execution of a Sentence of Imprisonment with Supervision**

If it is necessary to increasingly monitor and control the behaviour of an offender and provide him/her with necessary care and assistance during the probationary period, the court may, under the conditions referred to in Section 81 (1), conditionally suspend execution of a sentence of imprisonment not exceeding three years while ordering supervision over the offender. For performing the supervision shall apply Sections 49 to 51 accordingly.

### **Section 85 Probationary Period, Adequate Restrictions and Duties**

(1) At a suspended sentence with supervision shall the court set a probationary period for one to five years; the probationary period shall be counted from the day of legal force of the judgement.

(2) To a conditionally sentenced person over who was ordered supervision may the court impose adequate restrictions and duties referred in Section 48 (4) to induce him/her to lead an upright life; generally will it also order him/her to compensate the damage caused according to his/her possibilities.

(3) If an offender at the age close to the age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in Section 48 (4) also

some of educational measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

### **Section 86 Decision on Suspended Sentence with Supervision**

(1) If a conditionally sentenced person to whom was ordered supervision has lead an upright life and complied with the prescribed terms during the probationary period, the court shall pronounce him/her as approved; otherwise it shall decide, eventually also in the course of the probationary period, that the sentence shall be executed. In exceptional cases may the court, with regard to the circumstances of the case and the character of the convict keep the suspended sentence in progress, keep the suspended sentence in effect even though the convict gave reason to ordering execution of the sentence, and

- a) impose further duties to the convict within the ordered supervision,
- b) adequately prolong he probationary period, but no more than by two years, whereas it cannot exceed the upper limit of the probationary period stated in Section 85 (1), or
- c) impose adequate restrictions or duties referred in Section 48 (4) to the convict that have not been imposed so far to induce the convict to lead an upright life.

(2) If the court has not rendered a decision according to Sub-section (1) without any fault of the conditionally sentenced person, he/she shall be considered as approved.

(3) If the court pronounced the conditionally sentenced person as approved, or if he/she is considered as approved, he/she shall be regarded as if he/she has never been convicted.

(4) If the court decides that the sentence shall be executed according to Sub-section (1), it shall also decide on the manner of its execution.

### **Section 87 Analogical Use of Provisions on Suspended Sentence**

The relation of suspension of execution of a sentence of imprisonment to other sentences imposed in parallel to this sentence according to Section 81(2) and to counting the time for which the conditionally sentenced person with supervision lead an upright life in the probationary period into a new probationary period according to Section 82(4), shall be regulated by provisions on suspended sentence accordingly.

#### **Sub-Division 7**

#### **Conditional Release from Imprisonment and Conditional Waiver of Execution of a Remaining Portion of a Sentence of Prohibition of Activity, Prohibition of Stay or Prohibition of Entering Sport, Cultural and other Social Events**

### **Section 88 Conditional Release from Imprisonment**

(1) After serving a half of an imposed or, according to a decision of the President of the Czech Republic, mitigated sentence of imprisonment may the court release the convict from imprisonment, if after the legal force of the judgement, especially in execution of the sentence, the convict has shown correction by his/her behaviour and fulfilment of his/her duties and

- a) it can be expected that he/she shall lead an upright life in the future, or
- b) the court accepts a guarantee for completing correction of the convict.

(2) If a person convicted for a misdemeanour proved by his/her model behaviour and fulfilment of his/her duties that further execution of the sentence is not necessary, the court may conditionally release him/her even before serving a half of the imposed or, according to a decision of the President of the Czech Republic, mitigated sentence of imprisonment.

(3) In decision making according to Sub-sections (1) and (2) shall the court consider also whether the convict has entered the execution of the sentence on time and whether he/she has fully or partially compensated the damage or another harm caused by the criminal offence. If the convict was subject to protective therapy before entering execution of the sentence of imprisonment or in the course thereof, the court shall also consider the attitude towards the protective therapy shown by the convict.

(4) A person convicted for a criminal offence of Murder (Section 140), Manslaughter according to Section 141(2), Grievous bodily harm according to Section 145(3), Torture and other inhumane and cruel treatment according to Section 149(4), Illicit interruption of pregnancy without the consent of the pregnant woman according to Section 159(3), (4), Unauthorised extraction of tissues and organs according to Section 164(3), (4), Trafficking in human beings according to Section 168(4), (5), Illegal confinement according to Section 170(2), (3), Abduction according to Section 172(3), (4), Robbery according to Section 173(3), (4), Sexual abuse according to Section 187(3), (4), Public menace according to Section 272(2), (3), Unauthorised production and other disposal with narcotic and psychotropic substances and poisons according to Section 283(4), Gaining control over aircraft, civil vessel and fixed platform (Section 290), Hijacking of aircraft to abroad according to Section 292(3), Treason (Section 309), Subversion of the republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Espionage according to Section 316(3), (4), Military treason (Section 320), Violent crossing of state border according to Section 339(3), Organising and facilitation of illicit crossing of state borders according to Section 340(4), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination of a group of people (Section 402) Preparation of offensive war (Section 406), Relations threatening peace (Section 409), Use of forbidden means and methods of combat (Section 411 (3), War cruelty (Section 412), Persecution of civilians (Section 413), Pillage in the area of military operations (Section 414) or Abuse of internationally and state recognised symbols according to Section 415(3), as well as a person sentenced to an exceptional sentence of imprisonment beyond twenty years up to thirty (Section 54(2)) may be conditionally discharged no sooner than after serving two thirds of the imposed sentence, if with regard to the circumstances of the deed for which he/she was convicted and the nature of his/her character there is no threat of repeating the committed or another similar especially serious felony.

(5) A person sentenced to an exceptional sentence of imprisonment for life may be conditionally discharged no sooner than after serving at least twenty five years of this sentence, if with regard to the circumstances of the deed for which he/she was convicted and the nature of his/her character there is no threat of repeating the committed or another similar especially serious felony.

## **Section 89 Probationary Period and Adequate Restrictions and Duties in Conditional Release**

(1) In conditional release shall the court set a probationary period for one year to seven years; the probationary period shall be counted from the day of conditional release of the convict. The court may also order supervision over the offender. Performance of the supervision shall be regulated by Section 49 to 51 accordingly.

(2) The court may impose adequate restrictions and duties referred to in sub-section 48 (4) to the conditionally discharged person to induce him/her to lead an upright life; it may also order him/her to compensate the damage cause by the criminal offence. The court shall order the conditionally discharged person according to Section 88 (2) to remain in his/her residence in a designated time, especially in night hours and in work and banking holidays, or to perform services in favour of cities, state or other publically beneficial institutions, or to deposit a designated financial sum for the benefit of victims of criminal offence to an account of the court.

(3) The total duration of the designated remaining of the conditionally discharged person in his/her residence according to Sub-section (2) may not exceed one year, even in case of prescribing a longer term of probationary period. Performance of services according to Sub-section (2) may be ordered in the extent of 50 to 200 hours. The financial sum for the benefit of victims criminal offence according to Sub-section (2) shall be set in the amount of 2000 CZK to 10 000 000 CZK; when determining this amount the court shall consider also the personal and property circumstances of the convict and regarding that may the court order that the designated sum shall be paid in adequate monthly payments.

## **Section 90 Conditional Waiver of Execution of a Remaining Portion of a Sentence of Prohibition of Activity or Prohibition of Entering Sport, Cultural and other Social Events**

(1) After execution of a half of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events may the court conditionally waive execution of the remaining portion thereof, if the convict has proved during the time of execution of he sentence by his/her way of life that further execution of the sentence is not necessary, or if the court accepts a guarantee for completing the correction of the convict.

(2) In conditional waiver of execution of a remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events shall the court prescribe a probationary period for up to five years, however not for a shorter time than for the remaining portion of the sentence; the probationary period shall be counted from the day of legal force of the decision on waiver of execution of this sentence.

## **Section 91 Common Provisions**

(1) If a conditionally discharged or sentenced person, whose execution of a remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events has been waived, leads an upright life during the probationary period and complies with the prescribed conditions, the court shall pronounce him/her as approved; otherwise shall it decide, also in the course of the probationary period, that he/she shall serve the rest of the imposed sentence.



(2) If the court pronounces that the conditionally discharged or sentenced person, whose execution of a remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events has been waived, that he/she has approved him-/herself, the sentence shall be considered as executed on the day he/she was conditionally discharged or on the day the decision on conditional waiver of execution of the remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events came into force.

(3) In the case of a conditionally discharged or sentenced person, whose execution of a remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events has been waived, the sentence shall be considered as executed on the day he/she was conditionally discharged or on the day the decision on conditional waiver of execution of the remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events came into force, and also if the court has not rendered a decision according to Sub-section (1) within one year from the lapse of the probationary period without any fault of the person concerned.

(4) Repeated conditional discharge from execution of the same sentence is possible after serving a half of the remaining portion of the sentence and in cases referred to in Section 88 (4) after serving two thirds of the remaining portion of the sentence. Repeated conditional discharge from an exceptional sentence of imprisonment for life is not possible.

(5) If a guarantee for completing correction of an offender was withdrawn by the person who provided it, the court shall review behaviour of the convicted person during the probationary period and if it finds that the conditional discharge or conditional waiver of execution of the remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events does not fulfil its purpose, it shall decide that the remaining portion of the sentence shall be executed; otherwise shall the court keep the conditional discharge or conditional waiver of execution of the remaining portion of a sentence of prohibition of activity, prohibition of stay or prohibition of entering sport, cultural and other social events in effect.

## **Sub-Division 8**

### **Inclusion of Custody and Punishment**

#### **Section 92 Inclusion of Custody and Punishment**

(1) In case criminal proceeding was conducted against an offender placed in custody and this proceeding leads to his/her conviction for the same deed, the time spent in custody shall be counted into the time of the imposed sentence, eventually into a cumulative or aggregate sentence, if it is possible with regard to the type of the imposed sentence.

(2) If an offender was sentenced by a court or another authority and then was sentenced for the same deed anew, the executed punishment shall be counted into the imposed sentence, if it is possible with regard to the type of the imposed sentence. Accordingly shall the court proceed if it imposes a cumulative or aggregate sentence (Section 43) or a joint sentence for a continuing criminal offence (Section 45) to the offender.

(3) If inclusion of the time spent in custody or executed punishment is not possible, the court shall take it into consideration when determining the type and extent of the sentence.

### **Section 93 Inclusion of Custody and Punishment Executed Abroad**

(1) If an offender was placed in custody abroad or sentenced by an authority of a foreign state or by an international court, the time spent in custody or the executed punishment shall be counted into a sentence imposed by a court of the Czech Republic, if it is possible with regard to the type of imposed sentence. Accordingly shall the court proceed if it imposes a cumulative or aggregate sentence (Section 43) or a joint sentence for a continuing criminal offence (Section 45) to the offender.

(2) If inclusion of custody or punishment imposed abroad (Sub-section (1)) is not possible, especially because the punishment partially or fully executed abroad was of such a type that is not known to the Code of Criminal Procedure, the court shall take it into consideration when determining the type and extent of the sentence.

## **Sub-Division 9**

### **Expiration of Execution of a Sentence**

#### **Section 94 Expiration of Limitation Period**

(1) An imposed sentence may not be executed after expiration of the period of limitation, which is

- a) thirty years, if an exceptional sentence is concerned,
- b) twenty years if a sentence for imprisonment exceeding ten years is concerned,
- c) ten years if a sentence for at least five years is concerned,
- d) five years if another sentence is concerned.

(2) The limitation period shall begin on the day of legal force of the judgement and in case of a suspended sentence or conditional discharge on the day of legal force of the decision that the sentence shall be executed.

(3) The time the sentence could not be executed because the convict stayed abroad, was subject to protective therapy or protective detention, or served another sentence of imprisonment, shall not be counted into the limitation period. If a pecuniary penalty, prohibition of activity, prohibition of stay, prohibition of entering sport, cultural and other social events or banishment is concerned, the time the convict served in imprisonment shall also not be counted into the limitation period.

(4) The limitation period shall be interrupted, if

- a) the court has taken measures aimed at execution of the sentence concerned, or
- b) the convict has committed a new criminal offence, for which the Criminal Code stipulates the similar or more severe punishment.

(5) Interruption of the limitation period starts a new limitation period.

## **Section 95 Exclusion from Expiration of Limitation Period**

Execution of sentences imposed for acts referred to in Section 35 shall not be subject to expiration of the limitation period.

### **Division 3**

#### **Protective Measures**

##### **Sub-Division 1**

#### **General Principles for Imposing Protective Measures**

### **Section 96 Principle of Proportionality**

(1) A protective measure may not be imposed if it is disproportional to the nature and seriousness of the committed act and the threat the offender shall be posing in the future for interests protected by the Criminal Code, as well as to the character of the offender and his/her circumstances.

(2) Detriment caused by the imposed and executed protective measure must not be bigger than necessary for reaching its purpose.

### **Section 97 Imposition of Protective Measures**

(1) Protective measures may be imposed under the legal conditions individually or in parallel to a punishment.

(2) In parallel to a punishment of similar nature may a protective measure be imposed only if imposing it individually would not be sufficient with regard to the person it is imposed to and to protection of society.

(3) If conditions for imposing several protective measures are met, they may be imposed in parallel to each other, unless the Criminal Code provides otherwise. However, if the required effect on the person who it is imposed to and appropriate protection of society may be reached by only one measure, the court shall impose only this single protective measure.

(4) If the court imposes several protective measures in parallel to each other that may not be executed simultaneously, it shall determine the order in which they shall be executed.

##### **Sub-Division 2**

#### **Protective Measures and Imposition thereof**

### **Section 98 Types of Protective Measures**

(1) Protective measures are protective therapy, protective detention, forfeiture of a thing or other asset value and protective education.

(2) Imposition of protective education shall be governed by the Justice over Juveniles Act.

(3) Protective therapy may not be imposed in parallel to protective detention.

### **Section 99 Protective Therapy**

(1) A protective therapy may be imposed in a case referred to in Section 40(2) and Section 47(1), or if the offender of an act otherwise criminal is not criminally liable for insanity and may be dangerous if remained free.

(2) The court may impose a protective therapy if

- a) the offender committed the act in a state incited by a mental disorder and may be dangerous if remained free,
- b) the offender who uses an addictive substance committed the act under its influence or in connection to its use; however the court shall not impose protective therapy, if it is clear with regard to the character of the offender that its purpose cannot be reached.

(3) The court may impose protective therapy also in parallel to a punishment or when conditionally waiving execution of punishment.

(4) According to the nature of the disease and medical possibilities shall the court impose protective therapy in institutional or ambulatory form. If a sentence of imprisonment is imposed in parallel to institutional protective therapy, the protective therapy shall generally be performed after starting the sentence in prison. If the protective therapy may not be performed in prison after starting the sentence, it shall be performed in a medical facility after serving the sentence or after other termination of the sentence of imprisonment. Ambulatory protective therapy shall generally be performed after starting the sentence of imprisonment in prison; if the protective treatment cannot be performed in the prison, it shall be performed after serving the sentence of imprisonment. In case the duration of the sentence of imprisonment in a prison is not sufficient for reaching the purpose of protective therapy, the court may decide on its continuation in a medical facility providing institutional or ambulatory treatment.

(5) The court may post facto transfer institutional treatment to ambulatory treatment and vice versa. The court may transfer institutional protective therapy to protective detention under the conditions stipulated in Section 100(1) or (2).

(6) Protective therapy shall last as long as it is required for reaching its purpose, however not longer than two years; if the therapy is not concluded in this time, the court shall decide on prolonging this period before it expires, also repeatedly, every time for further two years at most; otherwise it shall decide to discharge the person concerned from the protective therapy. Duration of protective therapy imposed according to sub-section (2)(b) may be terminated, if it is found during its performance that the required purpose cannot be reached; if there is a threat the convict shall commit another criminal offence, the court shall impose surveillance over him/her for up to five years in the decision on discharge from protective therapy; execution of the surveillance shall be governed by Sections 49 to 51 accordingly. The court decides on the discharge from protective therapy.

(7) The court may waive performance of protective therapy, if the circumstances for its imposition cease to exist before it starts.

## **Section 100 Protective Detention**

- (1) The court shall impose protective detention in a case referred to in Section 47(2), or if the offender of an act otherwise criminal that would fulfil statutory features of an especially serious felony is not criminally liable, he/she could be dangerous if remained free and it cannot be expected that imposing a protective therapy would lead to sufficient protection of society with regard to the nature of the mental disorder and possibilities of influencing the offender.
- (2) The court may impose protective detention if with regard to the character of the offender and his/her previous life and circumstances
  - a) the offender has committed a felony in a state incited by a mental disorder, he/she could be dangerous if remained free and if it cannot be expected that imposing a protective therapy would lead to sufficient protection of society with regard to the nature of the mental disorder and possibilities of influencing the offender, or
  - b) the offender, who indulges him-/herself in using an addictive substance, has repeatedly committed an especially serious felony, even though he/she has previously been sentenced for an especially serious felony committed under influence of an addictive substance or in connection to its use to an unsuspended sentence of imprisonment for at least two years, and if it cannot be expected that imposing a protective therapy would lead to sufficient protection of society, also with regard to previously expressed attitude of the offender towards protective therapy.
- (3) The court may impose protective detention individually, in case of waiver of punishment, or in parallel to a punishment. If the protective detention was imposed in parallel to an unsuspended sentence of imprisonment, it shall be executed after serving the sentence of imprisonment or other termination thereof. If an unsuspended sentence of imprisonment is imposed during execution of protective detention, its execution shall be suspended for the time of execution of the sentence of imprisonment. Execution of the protective detention shall be resumed after serving the sentence of imprisonment.
- (4) Protective detention shall be executed in a facility for executing protective detention with a special security and with medical, psychological, educational, pedagogic, rehabilitation and activity programmes.
- (5) Protective detention shall remain in effect for as long as is required for protection of society. The court shall at least once in every twelve months and in case of juveniles once in every six months review whether the reasons for further continuation are still present.
- (6) The court may transfer a protective detention into an institutional protective therapy, if the reasons for which it was imposed cease to exist and at the same time conditions for imposing institutional protective treatment are present.
- (7) The court shall waive execution of protective detention if the reasons for its imposition cease to exist before it starts.

## **Section 101 Forfeiture of a Thing or Other Property Value**

- (1) Unless a sentence of confiscation of a thing or other asset value under Section 70 (1) is imposed, the court may order that such thing or other asset value shall be seized,
  - a) if it belongs to an offender who cannot be prosecuted or sentenced,

- b) if it belongs to an offender whose punishment has been waived by the court, or
- c) if it endangers safety of persons or property, eventually safety of society, or if there is a threat that it shall be used to commit a crime.

(2) If conditions under Sub-section ( )1 are not met, the court may impose seizure of a thing or other asset value only if it is, even indirectly, proceeds of crime, especially if

- a) the thing or other asset value was obtained through criminal act or as a reward for such an act and it does not belong to the offender;
- b) the thing or other property value was acquired, even partially, by a person other than the offender for other thing or asset value that was obtained through criminal act or as a reward for such an act, if the value of the thing or other asset value acquired through such a criminal act or as a reward for such an act is not insignificant in relation to the value of the acquired thing or other asset value; or
- c) the thing or other asset value was acquired, even partially, by a person other than the offender for other thing or asset value which the offender, even partially, acquired for a thing or other asset value that was obtained through a criminal act or as a reward for such act, if the value of the thing or other asset value obtained through such a criminal act or as a reward for such an act is not insignificant in relation to the value of the acquired thing or other asset value.

(3) If the offender or other person unlawfully or contrary to another legal regulation possesses a thing or other asset value referred to in Sub-section (1) or (3), in relation to which is possible to impose forfeiture of a thing or other asset value, the court shall always impose this protective measure.

(4) Instead of imposing forfeiture of a thing or other asset value, the court may impose an obligation

- a) to modify the thing or other asset value in such a way to it could not be used for a purpose dangerous to society;
- b) to remove a certain devise;
- c) to remove a marking or make alterations to it; or
- d) to restrict disposition with such thing or other asset value;

and determine a reasonable time therefor.

(5) If the obligation referred to in Sub-section (4) is not fulfilled within the stated time, the court shall decide on forfeiture of the thing or other asset value.

## **Section 102 Forfeiture of Substitute Value**

If a person, to whom a thing or other property value that could be forfeited according to Section 101 (1) or (2) belongs, prior to ordering the forfeiture, destroys, damages or otherwise disvalues, alienates, renders unusable, removes or utilizes, partially consumes or otherwise circumvents forfeiture of such a thing or other asset value, or if he/she obstructs the execution of the sentence of forfeiture of a thing or other asset value by conduct contrary to the prohibition imposed under Section 70 (4), eventually if he/she obstructs forfeiture of a thing or other asset value by conduct contrary to the prohibition imposed under Section 104 (2), the court may order forfeiture of a substitute value up to a value not exceeding the value of such thing or other asset value. The value of a thing or other asset value, forfeiture of which may

be ordered by court shall be determined by an elaborate professional opinion or an by an expert opinion.

### **Section 103 Forfeiture of Files and Equipment**

(1) A file or files with such a content, intentional dissemination with knowing their contents would fulfil statutory features of an act criminal according to the Code of Criminal Procedure, shall be forfeited according to Section 101(1), if at least one copy of the file has been disseminated, intended for dissemination or prepared for it. At the same time shall be also forfeited the equipment used or intended for creation of such files, especially a printer, plate, form, composition bushing, printing block, negative, dies, computer programme or copying equipment; provision of Section 101 (4) and (5) shall apply accordingly.

(2) Forfeiture of a thing shall apply only to an individual file or files that are in possession of persons cooperating in their dissemination or in preparation for their dissemination, or that were published by exhibition, advertising, presentation or another similar way, or that were disseminated by mail consignments and were not delivered to their recipient.

(3) Forfeiture of a file or files according to Sub-sections (1) and (2) shall be used appropriately in a case that by their intentional dissemination with knowing their contents could be committed a criminal act if other circumstances emerged, that however did not emerge in the tried case, and forfeiture of the files is also necessary to prevent their illicit dissemination.

### **Section 104 Effect of Forfeiture**

(1) Forfeited thing or other asset value, forfeited equivalent value, forfeited file or equipment shall devolve to the state.

(2) Provision of Section 70(4) shall be applied accordingly for imposing forfeiture of a thing or other asset value and for imposing an obligation according to Section 101(4), prohibition of alienation shall apply until the obligation referred to in Section 101(4) is fulfilled, and if this obligation is not fulfilled, until the day the decision on forfeiture of a thing or other asset value comes into force (Section 101(5)).

## **CHAPTER VI**

### **EXPUNGEMENT OF CONVICTIONS**

#### **Section 105 Conditions for Expungement**

(1) The court shall expunge a conviction, if after execution or waiver of punishment or after expiration of the limitation period for execution of punishment the convict has lead an upright life continuously for at least

- a) fifteen years, if conviction to an exceptional sentence is concerned,
- b) ten years, if conviction to a sentence of imprisonment not exceeding five years is concerned,
- c) five years, if conviction to a sentence of imprisonment not exceeding one year is concerned,

- d) three years if conviction to a sentence of imprisonment not exceeding one year or a sentence of banishment is concerned,
- e) one year, if conviction to a sentence of home confinement, forfeiture of property, forfeiture of a thing or other asset value, prohibition of stay, prohibition of entering sport, cultural and other social events or a pecuniary penalty for an intentional criminal offence is concerned.

(2) If a conviction to loss of honorary titles or decorations or loss of military rank is concerned, the period referred to in Sub-section (1) shall be governed by the extent of the sentence of imprisonment, in parallel to which was the stated sentence imposed.

(3) If the convict proved after execution or waiver of punishment or after expiration of punishment by his/her very good behaviour that he/she has been corrected, the court may, with regard to the interests protected by the Criminal Code, expunge the conviction on the basis of a request of the convict or a person entitled to offer a guarantee for completing correction of the convict, also before the period referred to in Sub-section (1) lapses.

(4) The period referred in Sub-section (1) shall be governed, in case that a sentence of a conditionally discharged person is considered executed on the day the convict was conditionally discharged, by the extent of the true execution of the sentence; in case the sentence has been mitigated by a decision of the President of the Czech Republic it shall be governed by the extent of such a mitigated sentence.

(5) In case more sentences were imposed in parallel to an offender, the conviction may not be expunged, unless the period for expungement of the sentence, for which the Criminal Code sets the longest period for expungement, has lapsed.

(6) Provision of Sub-section 5 shall be applied accordingly also to a case, where several sentences were imposed in parallel to an offender, at which may, according to this Code, occur the effect that the offender is regarded as if he/she was never convicted.

(7) A conviction may not be expunged even if the period referred to in Sub-section (1) has lapsed, if an imposed protective measure has not been executed or otherwise terminated; this provision shall apply accordingly also where the Criminal Code stipulates that the offender shall be regarded as if he/she was never convicted.

### **Section 106 Effects of Expungement**

If a conviction was expunged, the offender shall be regarded as if he/she was never convicted.

## **CHAPTER VII**

### **SPECIAL PROVISIONS ON SOME OFFENDERS**

#### **Section 107 Perpetrator of a Criminal Offence Committed in Favour of an Organised Criminal Group**

(1) A perpetrator of a criminal offence committed in favour of an organised criminal group (Section 129) is a person who commits a criminal offence as a member of an organised



criminal group, or a person who committed such a criminal offence consciously with a member of an organised criminal group or in intention to assist an organised criminal group.

(2) The fact that a perpetrator committed a criminal offence as a member of an organised criminal group or in connection with an organised criminal group does not prevent him/her from being penalised at the same time as a perpetrator of a criminal offence committed in favour of an organised criminal group, provided that the conditions laid down by this Code are met.

### **Section 108 Sentencing a Perpetrator of a Criminal Offence Committed in Favour of an Organised Criminal Group to a Term of Imprisonment**

(1) The upper limit of the sentence of imprisonment stipulated in the Criminal Code will be extended by one third in case of a perpetrator of a criminal offence committed in favour of an organised criminal group. The court shall sentence such an offender to imprisonment in the upper half of thus determined term of imprisonment, unless conditions for extraordinary mitigation of the sentence of imprisonment according to Section 58 are also met.

(2) The upper limit of the term of imprisonment after the extension according to Sub-section (1) may exceed twenty years. When imposing an exceptional sentence of imprisonment beyond twenty years up to thirty years, the upper limit may not exceed thirty years.

### **Section 109 Juveniles**

Criminal liability of juveniles and penalties imposed to them are provided for by the Criminal Justice over Juveniles Act. If the Criminal Justice over Juveniles act does not provide otherwise, it shall be proceeded according to this Code.

## **CHAPTER VIII**

### **EXPLANATORY PROVISIONS**

#### **Section 110 Criminal Code**

The Criminal Code shall be understood as this Code and according to the nature of the matter in question also the Criminal Justice over Juveniles Act.

#### **Section 111 Concept of a Criminal Act**

As a criminal act shall be understood solely an act punishable *per curiam*, and unless individual provisions of the Criminal Code imply otherwise, also a preparation of a criminal act, an attempt of a criminal act, organising, instructing and assisting therein.

#### **Section 112 Omission**

As conduct shall also be understood omission of such a conduct the offender was obliged to perform according to another legal regulation, official decision or a contract, as a result of a voluntary acceptance of a duty to act, or if such a special duty derives from his/her previous endangering conduct or which was he/she obliged to perform for other reasons according to the circumstances and his/her relations.

### **Section 113 Concept of an Offender**

As an offender shall also be understood an accomplice and participator, unless individual provisions of the Criminal Code provide otherwise.

### **Section 114 Specific and Special Subject**

(1) If the Criminal Code requires a special attribute, capacity or position of an offender for commission of a criminal offence, the offender or accomplice of this criminal offence may be only a person who has the required attribute, capacity or position. An offender or an accomplice of a military criminal offence according to Chapter Twelve of the Special Part of this Code may be only a soldier.

(2) If the law provides that the offender must be a bearer of a special attribute, capacity or position, it shall suffice if the special attribute, capacity or position is present at an artificial legal person on behalf of which the offender acts. This provision shall apply also if

- a) the conduct of the offender took place prior to establishment of the artificial legal person,
- b) the artificial legal person was created, but its establishment is invalid, or
- c) the legal act that was supposed to establish the entitlement to act on behalf of the artificial legal person is invalid or ineffective.

(3) An organiser, instructor or assistant in the criminal offence referred to in sub-sections (1) and (2) may also be a person who does not have the required attribute, capacity or position.

(4) Where this Code refers to a soldier, it shall be understood as

- a) a soldier in active duty,
- b) a soldier outside active duty, if he/she is in the service uniform,
- c) a member of a security corps at criminal offenses of Disobeying an order (Section 375), Negligent disobeying an order (Section 376), Insult between soldiers (Section 378), Insult between soldiers by violence or by a threat of violence (Section 379), Insult of a soldier of the same rank by violence or by a threat of violence (Section 380), Violence against a superior (Section 381), Breach of duty of a guard (Section 381), Breach of duty of a warden or other service (Section 390) and Founding, support and promotion of a movement aimed at suppression of human rights and freedoms according to Section 403 (2) (c), or
- d) a prisoner of war.

(5) Where this Code refers to a military service or military duty, it shall be understood as a service or duty of persons referred to in sub-section (4).

### **Section 115 Wilful Departure**

Wilful departure is committed by anyone who

- a) fails to enter a duty on the stated time,
- b) departs from duty without a permission,

- c) is departed in a combat situation from the place of performing a duty and after the cause of the departure passes, he/she fails to report to a superior or to another military formation; this applies also in case of returning from captivity or after being liberated from captivity.

### **Section 116 Continuing in a Criminal Offence**

As continuing in a criminal offence shall be understood such a conduct, individual component attacks of which conducted with a single purpose fulfil, even in their summation, the merits of the same criminal offence, are connected by the same or similar manner of commission and by a close coincidence of time and object of the attack.

### **Section 117 Public Commission of a Criminal Offence**

A criminal offence is committed publically, if it is committed

- a) by the contents of a printed paper or disseminated file, film, broadcast, television, publically accessible computer network or in another similarly effective manner, or
- b) in front of at least three simultaneously present persons.

### **Section 118 Commission of a Criminal Offence with a Weapon**

A criminal offence is committed with a weapon if the offender or with his/her knowledge one of the accomplices uses a weapon to attack, overcome or preclude resistance or if he/she has it in his/her possession for this purpose; a weapon shall be considered anything that may render an attack against a body more vigorous, unless the individual provisions of the Criminal Code provide otherwise.

### **Section 119 Commission of a Criminal Offence by Violence**

A criminal offence is committed by violence also if it is committed on a person who was rendered defenceless by deceit or in another similar manner by the offender.

### **Section 120 Misleading of Persons and Using their Error by the Means of a Technical Appliance**

Misleading of persons or using their error may be committed also by interfering with computer information or data, interfering with software equipment of a computer or by performing another operation on a computer, interfering with an electronic or other technical appliance, including an interference with objects designated to control such an appliance, or by using such an operation or interference performed by another person.

### **Section 121 Burglary**

As a burglary shall be understood breaking and entering into closed premises by deceit, unauthorised overcoming of a lock or another security obstacle with the use of force.

### **Section 122 Bodily Harm and Grievous Bodily Harm**

(1) As a bodily harm shall be understood such a state consisting in disorder of health or a sickness that by disturbing of regular physical and mental functions complicates, not only for a short period of time, the regular way of life of the injured person and that requires medical attention.

As grievous bodily harm shall be understood a serious disorder of health or a serious sickness. Under these conditions is grievous bodily harm considered

- a) disablement,
- b) loss or substantial limitation of working capability,
- c) paralysis of a limb,
- d) loss or substantial limitation of a sensual function,
- e) injury of a vital organ,
- f) mutilation,
- g) inducing an abortion or killing a fetus,
- h) torturous suffering, or
- i) a long lasting health disorder.

### **Section 123 Mental Disorder**

A mental disorder shall also be considered, besides a mental disorder resulting from a mental illness, a deep disorder of consciousness, mental retardation, serious asocial personality disorder or another serious mental or sexual deviation.

### **Section 124 Obligation of Silence Imposed and Recognised by State**

A state-imposed or recognised duty of silence shall be considered a duty of silence imposed or recognised by another legal regulation. A state-recognised duty of silence according to the Criminal Code shall not be considered such a duty, the extent of which is not determined by another legal regulation, but derives from a legal act performed on the basis of another legal regulation.

### **Section 125 Close Person**

As a close person shall be understood a relative in a direct generation, adoptive parent, adoptive child, sibling, spouse and partner; other persons in family or similar relation shall be considered close to each other only if a detriment suffered by one would the other reasonably feel as his/her own.

### **Section 126 Child**

As a child shall be understood a person under 18 years of age, unless the Criminal Code provides otherwise.

### **Section 127 Public Official**

(1) A public official is

- a) a judge,
- b) a public prosecutor,

- c) the president of the Czech Republic, a member of Parliament or a Senator of the Czech Republic, a member of the government or another person holding an office in another public body,
- d) a member of a city council or a responsible official of local authorities, public administration or another body of public authority,
- e) a member of the armed forces or a security corps or a police officer of the local police,
- f) a judicial executor when performing execution duties and duties arising from a assignment by a judge or a public prosecutor,
- g) a public notary when performing duties in inheritance proceedings as a judicial commissioner,
- h) a financial arbiter,
- i) a natural person assigned by woodland guard, nature guard, hunting guard or fishing guard, if he/she fulfils the duties of a state or community and therein uses the assigned powers.

(2) For criminal liability and protection of a public official according to individual provisions of the Criminal Code is required that the criminal offence is committed in relation to their power or responsibility.

(3) A public official of a foreign state or international organisation shall be considered, under the conditions referred to in sub-section (1) and (2), a public official according to the Criminal Code, if an international treaty provides so.

### **Section 128 Insolvency Administrator and Insolvency Proceedings**

(1) As an insolvency administrator shall be understood also a preliminary insolvency administrator, insolvency administrator deputy, separated insolvency administrator, special insolvency administrator; the same position as an insolvency administrator has also an administrator of bankruptcy assets, preliminary administrator of bankruptcy assets, special administrator of bankruptcy assets, deputy administrator of bankruptcy assets and a compensatory administrator. As an insolvency administrator shall also be understood a person designated by the insolvency administrator to substitute for him/her in performing his/her duties according to another legal regulation in the territory of another state, and a foreign insolvency administrator, foreign insolvency administrator of an insurance company or reinsurance company and a person who the foreign insolvency administrator, foreign insolvency administrator of an insurance company or reinsurance company appointed to assist him/her or to substitute for him/her.

(2) As insolvency proceedings shall also be understood bankruptcy and compensatory proceedings.

### **Section 129 Organised Criminal Group**

An organised criminal group is a community of multiple persons with an inner organisational structure, division of functions and activities, aimed at systematic commission of criminal activities.

### **Section 130 Addictive Substance**

As addictive substance shall be understood alcohol, narcotic substances, psychotropic substances and other substances capable to adversely affect human psyche, recognition or control abilities or social behaviour.

### **Section 131 Public Document**

(1) As public document shall be understood a document issued by the court of the Czech Republic, by another public authority or another subject so designated or empowered by another legal regulation within the limits of its competence, confirming that it is an order or declaration of an authority or another subject that issued the document, or certifying a legally significant matter. A public document is also a document declared as public by another legal regulation.

(2) Protection according to Section 348 is also granted to a public document issued by a public authority or another authorised subject of a foreign state or an authority of an international organisation, if it is effective in the territory of the Czech Republic according to an international treaty.

### **Section 132 Publically Beneficial Device**

As a publically beneficial device shall be understood as a public protective device against fire, flood or another force of nature, a protective or defensive device against airborne and other similar attacks or consequences thereof, a protective device against leakage of polluting substances, an energetic or water-work device, a submarine cable or submarine pipeline, devices and networks of electronic communications and end telecommunication and radio devices, a device of a holder of postal service license, a device of public transportation, including components of rails and railroad vehicles in public railroad transportation and vertical restrictive and mandatory traffic signs and priority traffic signs.

### **Section 133 Residence**

As residence shall be understood a house or another premises used for habitation and accessories thereof.

### **Section 134 Things and Other Asset Values**

(1) As a thing shall be also understood a controllable force of nature. Provisions on things shall also apply to living animals, processed separated parts of human body, financial means on an account and bonds, unless individual provisions of the Criminal Code provide otherwise.

(2) As other asset value shall be understood a title of property or other valuables consideration that is not a thing and to which do not apply the provisions on objects according to Sub-section (1).

## **Section 135 Things and Other Asset Values Belonging to an Offender**

An object or other asset value belongs to an offender if in the time of decision making the offender owns it, it is a part of his/her property or he/she disposes with it as if he/she was the owner, while the rightful owner or holder of such an thing or other asset value is unknown.

## **Section 136 Files**

As files shall be understood data, audio and visual records, illustrations and other visualisations, unless individual provisions of the Criminal Code provide otherwise.

## **Section 137 Determination of Amount of Damage**

When determining an amount of damage, the value for which the object of the attack is usually being sold in the time and place of the criminal act shall be considered. If the amount of damage cannot be determined in this way, reasonably expended costs for obtaining the same or similar thing or restitution into the previous state shall be considered. Accordingly shall be proceeded in determination of an amount of damage on another asset value.

## **Section 138 Thresholds of Damage, Profit, Costs for Liquidation of Environmental Damage, and Value of a Thing and Other Property Value**

(1) *Damage not insignificant* shall be understood as damage amounting to at least 5 000 CZK, *damage not small* shall be understood as damage amounting to at least 25 000 CZK, *larger damage* shall be understood as damage amounting to at least 50 000 CZK, *substantial damage* shall be understood as damage amounting to at least 500 000 CZK and *extensive damage* shall be understood as amounting to at least 5 000 000 CZK.

(2) The amounts as specified in Sub-section (1) shall apply *mutatis mutandis* to assess the amount of profit, cost for removing environmental damage and value of a thing or other asset value.

## **Section 139 Calculation of Time**

Where this Code links an effect with lapse of a certain time period, the day when the event which determined its start occurred shall not be counted into it.

# **PART TWO SPECIAL PART**

## **CHAPTER I CRIMES AGAINST LIFE AND HEALTH**

### **Division 1 Criminal Offences against Life**

## **Section 140 Murder**

(1) Whoever intentionally kills another person shall be sentenced to imprisonment for ten to eighteen years.

(2) Whoever intentionally kills another person with premeditation and after prior consideration sentenced to imprisonment for twelve to twenty years.

(3) An offender shall be sentenced to imprisonment for fifteen to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) or (2)

- a) on two or more persons,
- b) on a pregnant woman,
- c) on a child under fifteen years of age,
- d) on an official person in the service or execution of their competencies,
- e) on a witness, expert or interpreter in connection with the performance of his/her obligations,
- f) on a medical worker during performance of the medical profession or employment aimed at saving life or health, or on a person who fulfilled his/her similar obligation of saving life, health or property arising from his/her employment, profession, position or function, or imposed by law,
- g) on another person for their true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
- h) repeatedly,
- i) by a particularly cruel or agonising manner, or
- j) with the intention to obtain for him-/herself or for another material profit, or in an attempt to conceal or facilitate another criminal offence, or out of another condemnable motives.

(4) Preparation is criminal.

## **Section 141 Manslaughter**

(1) Whoever intentionally kills another person in strong derangement caused by fear, shock, confusion or another excusable mental motion or as a result of previous condemnable conduct of the aggrieved person, shall be sentenced to imprisonment for three to ten years.

(2) An offender shall be sentenced to imprisonment for five to fifteen years, if he/she commits the act referred to in Sub-section (1)

- a) on two or more persons,
- b) on a pregnant woman, or
- c) on a child under fifteen years of age.



### **Section 142 Murder of a Newborn Child by its Mother**

A mother, who in a state of mental disturbance caused by the child's birth intentionally kills her child during the child birth or immediately after it, shall be sentenced to imprisonment for three to eight years.

### **Section 143 Killing by Negligence**

(1) Whoever causes the death of another person out of negligence, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to six years if he/she committed the act referred to in Sub-section (1) because he/she breached an important obligation arising from his/her employment, profession, position or function, or it was imposed to him/her by law.

(3) An offender shall be sentenced to imprisonment for two to eight years if he/she committed the act referred to in Sub-section (1) because he/she grossly breached the laws on environmental protection, laws on work safety or laws on sanitary.

(4) An offender shall be sentenced to imprisonment for three to ten years if he/she caused death to at least two persons by the act referred to in Sub-section (1).

### **Section 144 Accessory to Suicide**

(1) Whoever encourages another person to commit suicide or assists another person in committing suicide, shall be sentenced, if at least an attempted suicide occurred, to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1) on a child or a pregnant woman.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she commits the act referred to in Sub-section (1) on a child under fifteen years of age or on a person suffering from a mental disorder.

## **Division 2**

### **Criminal Offences against Health**

#### **Section 145 Grievous Bodily Harm**

(1) Whoever intentionally inflicts grievous harm to the health of another person, shall be sentenced to imprisonment for three to ten years.

(2) An offender shall be sentenced to imprisonment for five to twelve years if he/she commits act referred to in Sub-section (1)

- a) on two or more persons,
- b) on a pregnant woman,
- c) on a child under the age of fifteen years,
- d) on a witness, expert or interpreter in connection with the performance of their obligations,
- e) on a medical worker during performance of the medical profession or employment aimed at saving life or health, or on a person who fulfilled his/her similar obligation of saving life, health or property arising from his/her employment, profession, position or function, or imposed by law,
- f) ) on another person for their true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
- g) repeatedly, or
- h) out of a condemnable motive.

(3) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death by the act referred to in Sub-section (1).

(4) Preparation is criminal.

### **Section 146 Bodily Harm**

(1) Whoever intentionally harms another person's health shall be sentenced to imprisonment for six months to three years.

(2) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1)

- a) on a pregnant woman,
- b) on a child under the age of fifteen years,
- c) on a witness, expert or interpreter in connection with the performance of their obligations,
- d) on a medical worker during performance of the medical profession or employment aimed at saving life or health, or on a person who fulfilled his/her similar obligation of saving life, health or property arising from his/her employment, profession, position or function, or imposed by law, or
- e) on another person for their true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she causes severe harm to health by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for five to ten years, if he/she causes death by the act referred to in Sub-section (1).

### **Section 146a Harm to Health out of Excusable Motives**

(1) Whoever intentionally inflicts harm to the health of another person because of strong mental distress out of fear, dismay, confusion, or another excusable state of mind, or as a result of the previously condemnable conduct of the victim, shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she inflicts grievous bodily harm by the act referred to in Sub-section (1).

(3) Whoever intentionally inflicts grievous harm to the health of another person because of strong mental distress out of fear, dismay, confusion, or another excusable state of mind, or as a result of the previously condemnable conduct of the victim, shall be sentenced to imprisonment for up to four years.

(4) An offender shall be sentenced to imprisonment for one to six years, if he/she

- a) commits the act referred to in Sub-section (1) or (3) on two or more persons,
- a) b commits such an act on a pregnant woman, or
- b) commits such an act on a child under fifteen years of age.

(5) An offender shall be sentenced to imprisonment for two to eight years, if he/she causes death by the act referred to Sub-section (1) or (3).

### **Section 147 Grievous Bodily Harm out of Negligence**

(1) Whoever inflicts grievous bodily harm to the health of another person out of negligence shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to four years or to a pecuniary penalty if he/she commits the act referred to in Sub-section (1) because he/she breached an important obligation arising from his/her employment, profession, position or function, or imposed by law.

(3) Whoever causes grievous bodily harm out of negligence to at least two persons by grossly breaching environmental laws, laws on health, laws on work safety, laws on traffic safety, or sanitary laws, shall be sentenced to imprisonment for two to eight years.

## **Section 148 Bodily Harm through Negligence**

(1) Whoever negligently inflicts a bodily harm to another person by breaching an important duty arising from his employment, occupation, position or function or imposed law shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) Whoever negligently inflicts a bodily harm to at least two persons because he/she has grossly violated regulations on environmental protection on work safety, laws on traffic safety, or sanitary laws, shall be sentenced to imprisonment for up to three years.

### **Division 3**

#### **Criminal Offences Endangering Life or Health**

### **Section 149 Torture and other Cruel and Inhumane Treatment**

(1) Whoever causes bodily or mental suffering by means of torture or some other inhuman or cruel treatment to another person in connection to exercise of powers of a public authority, a local authority, a court, or another public authority, shall be sentenced to imprisonment for from six months to five years.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits an act referred to in Sub-section (1) as a public official,
- b) commits such act against a witness, an expert or an interpreter because of performance of their duty,
- c) commits such an act on another person for their true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith. commits such act with at least two other persons, or
- d) commits such an act repeatedly.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she:

- a) commits the act referred to in Sub-section (1) against a pregnant woman,
- b) commits such an act against a child under fifteen years of age,
- c) commits such act in an especially cruel or agonising manner, or
- d) causes grievous bodily harm by such an act.

(4) An offender shall be sentenced to imprisonment for eight to eighteen years if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 150 Failure to Provide Assistance**

(1) Whoever fails to provide necessary assistance to another person in danger of death or showing signs of a serious health disorder or a serious disease, even though he//she can do so

without endangering him-/herself or another person, shall be sentenced to imprisonment for up to two years.

(2) Whoever fails to provide necessary assistance to another person in danger of death or showing signs of a serious health disorder or a serious disease, even though he is required to provide such assistance by the nature of his/her employment, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

### **Section 151 Failure to Provide Assistance by Drivers of Motor Vehicles,**

A driver of a motor vehicle who fails to provide the necessary assistance to a person who sustained an injury during a traffic accident he/she was involved in, when he/she can do so without endangering him-/herself or another person, shall be sentenced to imprisonment for up to five years or to prohibition of activity.

### **Section 152 Spreading of Contagious Human Disease**

(1) Whoever intentionally causes or increases the danger of importation or spread of an infectious human disease, shall be sentenced to imprisonment for six months to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organized group,
- b) commits such an act in the state of state of national peril or a war state, natural disaster or another event seriously threatening life or health of persons, public order or property,
- c) breaches by such an act an important obligation arising from his/her employment, occupation, position or function or imposed by Law, or
- d) causes by such an act grievous bodily harm.

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she causes by the act referred to in Sub-section (1) grievous bodily harm to at least two persons, or death.

(4) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes by the act referred to in Sub-section (1) death of at least two persons.

(5) Preparation is criminal.

### **Section 153 Negligent Spreading of Contagious Human Disease**

(1) Whoever causes or increases the danger of importation or spread of an infectious human disease out of negligence, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of a thing or other asset value.

- (2) An offender shall be sentenced to imprisonment for six months to three years, if he/she
- a) commits the act referred to Sub-section (1) in the state of national peril or a state of war, natural disaster or another event seriously threatening life or health of persons, public order or property,
  - b) breaches by such an act an important obligation arising from his employment, occupation, position or function imposed by Law,
  - c) causes by such an act grievous bodily harm.
- (3) An offender shall be sentenced to imprisonment for one year to six years, if he/she
- a) causes by the act referred to in Sub-section (1) death, or
  - b) causes by an the act referred to in Sub-section (2) b) grievous bodily harm.
- (4) An offender shall be sentenced imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (3) because he grossly breached the Laws on protection of public health.
- (5) An offender shall be sentenced to imprisonment for tree to ten years, if he/she causes by the act referred to in Subsection (1) death of at least two persons because he/she grossly breached the Laws on protection of public health.

#### **Section 154 Common Provisions**

The Government shall determine by a regulation, what shall be understood as contagious human diseases.

#### **Section 155 Threat of Venereal Disease**

Whoever exposes another person, even negligently, to a risk of getting infected by a venereal disease, shall be sentenced to imprisonment for up to one year.

#### **Section 156 Endangering Public Health by Unhealthy Food and other Objects**

- (1) Whoever contrary to the legal regulations has for sale or for this purpose produces, or obtains for him-/herself or for another person, food or products consumption or usual use of which is dangerous to human health, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.
- (2) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) as a member of an organized group,
  - b) commits such an act during a state of national peril or a state of war, during a natural disaster, or another event seriously threatening human lives or health, public order or property,
  - c) by such an act breaches a special duty resulting from his occupation, profession, position or function or imposed by law, or
  - d) causes grievous bodily harm by such an act.

(3) An offender shall be sentenced to imprisonment for three to ten years, if by committing the act referred to in Sub-section (1) he/she causes a grievous bodily harm of at least two persons, or death.

(4) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes by committing the act referred to in Sub-section (1) death of at least two persons.

(5) Preparation is criminal.

### **Section 157 Negligent Endangering of Public Health by Unhealthy Food and other Objects**

(1) Whoever contrary to legal regulations negligently sells, for this purpose produces, or obtains for him-/herself or for another person food or products consumption or usual use of which is dangerous to human health, shall be sentenced to imprisonment for up to six months, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for up to two years if he/she:

- a) commits such an act during a state of national peril or a state of war, during a natural disaster, or another event seriously threatening human lives or health, public order or property,
- b) by such an act breaches a special duty resulting from his occupation, profession, position or function or imposed by law, or
- c) ) causes grievous bodily harm by such an act.

(3) An offender shall be sentenced to imprisonment for one year to five years if he/she

- a) causes death by the act referred to in Sub-section (1).
- b) causes grievous bodily harm by the act referred to in Sub-section (2) b).

(4) An offender shall be sentenced to imprisonment for two to eight years if he/she commits the act referred to in Sub-section (3) a) because he/she has grossly breached sanitation regulations or other Laws regarding such food or objects.

(5) An offender shall be sentenced to imprisonment for three to ten years if he/she caused death of at least two persons by the act referred to in Sub-section (1), because he/she grossly breached sanitation regulations or other Laws regarding such food or objects.

### **Section 158 Fight**

(1) Whoever intentionally endangers the life or health of another person by taking part in a fight, shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if a grievous bodily harm is inflicted to another person in the act referred to in Sub-section (1).

(3) An offender shall be sentenced to imprisonment for two to eight years, if death of another person is caused in the act referred to in Sub-section (1).

#### **Division 4**

### **Criminal Offences against Pregnant Women**

#### **Section 159 Illicit Abortion of Pregnancy without the Consent of the Pregnant Woman**

(1) Whoever performs a pregnancy abortion without the consent of the pregnant woman shall be sentenced to imprisonment for two to eight years.

(2) An offender shall be sentenced to imprisonment for three to ten years, if he/she

- a) commits the act referred to in Sub-section (1) on a woman under the age of eighteen years,
- b) commits such an act by using violence, threats of violence, or threats of other severe harm,
- c) commits such an act by abusing the distress or addiction of the pregnant woman,
- d) commits such an act repeatedly, or
- e) causes grievous bodily harm by committing such an act.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes grievous bodily harm to at least two persons by committing the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death to at least two persons by committing the act referred to in Sub-section (1).

(5) Preparation is criminal.

#### **Section 160 Illicit Interruption with Consent of Pregnant Woman**

(1) Whoever artificially interrupts pregnancy of a woman with her consent otherwise than in a way admissible according to the Artificial Interruption Code, shall be sentenced to imprisonment for one to five years or to prohibition of activity.

(2) An offender shall be sentenced to two to eight years of imprisonment, if he/she

- a) commits the act referred to in Sub-section (1) on a woman under eighteen years of age,
- b) gains a substantial profit for him-/herself or for another by such an act,
- c) commits such an act systematically, or



d) causes grievous bodily harm by such an act.

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes death to at least two persons by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 161 Assisting a Pregnant Woman with Artificial Interruption**

(1) Whoever provides assistance to a pregnant woman to

- a) interrupt her pregnancy by herself, or
- b) to ask or let another to artificially interrupt her pregnancy otherwise than in a way admissible according to the Artificial Interruption Act,

shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for six months to five years

- a) if he/she commits the act referred to in Sub-section (1) on a woman under eighteen years of age, or
- b) contributes to grievous bodily harm of a pregnant woman by such an act.

(3) An offender shall be sentenced to imprisonment for one to six years, if he/she contributes to death of a pregnant woman by the act referred to in Sub-section (1).

### **Section 162 Soliciting a Pregnant Woman to Abortion**

(1) Whoever solicits a pregnant woman to:

- a) artificially interrupt her pregnancy by herself, or
- b) to ask or allow another person to interrupt her pregnancy in a manner other than that admissible under the Law on abortion,

shall be sentenced to imprisonment for up to two years.

(2) An offender shall be sentenced to imprisonment of from six months to five years, if he/she

- a) commits the act referred to in Sub-section (1) against a woman under the age of eighteen years,
- b) commits such an act by abusing distress or dependence of the pregnant woman or,
- c) contributes to a substantial bodily harm of the pregnant women by such an act.

(3) An offender shall be sentenced to imprisonment for one year to six years, if he/she contributes to death of the pregnant women by the act referred to in Sub-section (1).

## **Section 163 Common Provision**

A pregnant woman, who interrupts her pregnancy herself, or who asks another person or allows another person to terminate it, shall not be criminally liable for such act, not even under the provisions on instigator and accessory.

### **Division 5**

#### **Criminal Offences Connected to Illicit Disposal with Human Tissues and Organs, Human Embryo and Human Genome**

### **Section 164 Unauthorised Extraction of Tissues and Organs**

(1) Whoever performs extraction of tissue, cell or organ from body of another contrary to other legal regulations, shall be sentenced to imprisonment for two to eight years.

(2) The same sentence shall be imposed to a anyone who contrary to other legal regulations for him-/herself or for another obtains, mediates, offers, imports, exports or transits human tissue, cell or organ withdrawn from the body of a living human, or in other ways disposes with such tissue, cell or organ.

(3) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) or (2) on a child,
- b) commits such an act with the use of violence, threat of violence or threat of another grievous injury,
- c) commits such an act while abusing distress, addiction or dependency of another,
- d) commits such an act on at least two persons,
- e) commits such an act repeatedly,
- f) commits such an act as a member of an organised group,
- g) causes grievous bodily harm by such an act, or
- h) gains substantial profit for him-//herself or for another by such an act.

(4) An offender shall be sentenced to imprisonment for eight to sixteen years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) or (2) on a child under 15 years or age,
- b) commits such an act in connection to an organised group active in several states,
- c) causes death by such an act, or
- d) gains for him-/herself or for another extensive profit by such an act.

(5) Preparation is criminal.

## **Section 165 Illicit Disposal with Human Tissues and Organs**

(1) Whoever contrary to another legal regulation extracts tissue, cellule or an organ from the body of a dead person, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who contrary to another legal regulation disposes with extracted human tissue, cellule or human organ with the intention to obtain profit for him-/herself or for another.

(3) An offender shall be sentenced to imprisonment for one year to five years or to confiscation of property if he/she

- a) commits the act referred to in Sub-section (1) or (2) repeatedly,
- b) commits such an act as a member of an organized group, or
- c) gains for him-/herself or for another substantial profit by such an act.

(4) An offender shall be sentenced to imprisonment for two to eight years or to confiscation of property if he/she

- a) gained for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2), or
- b) commits such act in connection with organized group operating in several states.

## **Section 166 Extraction of Tissue, Organ and Performing a Transplant for a Fee**

(1) Whoever contrary to another legal regulation offers, promises, or provides a fee to another or for another for performing extraction of tissue, cellules or organs from their body, or for performing a transplant, shall be sentenced to imprisonment for up to five years.

(2) The same sentence shall be imposed to anyone who by him-/herself or through someone else contrary to another legal regulation requests, accepts, or accepts a promise of a fee in connection to extraction of tissue or organs or performance of a transplant for him-/herself or for another.

(3) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if

- a) he/she commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) grievous bodily harm occurs in connection to such an act, or
- c) such an act is committed on a child.

(4) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property, if

- a) he/she commits the act referred to in Sub-section (1) or (2) as a member of an organised group operating in several states,

- b) death occurs in connection with such an act, or
- a) c) such an act is committed on a child under fifteen years of age.

### **Section 167 Illicit Disposal with Human Embryo and Human Genome**

- (1) Whoever contrary to other legal regulations
  - a) uses a human embryo or a larger amount of human embryonic stem cells or their lines,
  - b) imports or exports a human embryo or a larger amount of human embryonic stem cells or their lines,
  - c) transfers a human genome into cells of another species or vice versa,

shall be sentenced to imprisonment for up to three years or prohibition of activity.

- (2) The same sentence shall be imposed to anyone who
  - a) performs operations aimed at engineering a human embryo for another purpose than for transfer into a female organism,
  - b) transfers engineered human embryo into uterus of another species, or
  - c) in the course of research of human embryonic stem cells performs manipulations with these cells aimed at creation on a new human individual (reproductive cloning).

- (3) An offender shall be sentenced to imprisonment for three to eight years or by confiscation of property, if he/she
  - a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
  - b) commits such an act repeatedly, or
  - c) gains for him-/herself substantial profit by such an act.

- (4) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property, if he/she
  - a) commits the act referred to in Sub-section (1) or (2) in connection to an organised group,
  - b) gains for him-/herself or for another extensive profit.

- (5) Preparation is criminal.

## **CHAPTER II**

### **CRIMINAL OFFENCES AGAINST FREEDOM, PERSONAL AND PRIVACY RIGHTS AND CONFIDENTIALITY OF CORRESPONDENCE**

#### **Division 1**

#### **Criminal Offences against Freedom**

## **Section 168 Trafficking in Human Beings**

(1) Whoever forces, procures, hires, incites, entices, transports, conceals, detains, or consigns a child to be used by another for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic works,
- b) extraction of tissue, cell, or organs from his/her body,
- c) service in the armed forces,
- d) slavery or servitude, or
- e) forced labour or other forms of exploitation, or

who profits on such a conduct,

shall be sentenced to imprisonment for two to ten years.

(2) The same sentence shall be imposed to anyone who forces, procures, hires, incites, entices, transports, hides, detains, or consigns a person other than referred to in Sub-section (1) by using violence, threat of violence or other grievous harm or deceit, or by abusing his/her error, distress, or addiction in order to use him/her for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for the production of pornographic works,
- b) extraction of tissue, cell, or organs from their body,
- c) service in the armed forces,
- d) slavery or servitude, or
- e) forced labour or other forms of exploitation, or

who profits on such conduct.

(3) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property if he/she

- a) commits then act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) exposes another person to a risk of grievous bodily harm or death by such an act,
- c) commits such an act with the intention to gain a substantial profit for him-/herself or for another, or
- d) commits such an act with the intention to use another person for prostitution.

(4) An offender shall be sentenced to imprisonment for eight to fifteen years or to confiscation of property if he/she

- a) causes grievous bodily harm by the act referred to in Sub-section (1) or (2),
- b) commits such an act with the intention to gain extensive profit for him-/herself or for another, or
- c) commits such an act in connection to an organised group operating in several states.

(5) An offender shall be sentenced to imprisonment for ten to eighteen years or to confiscation of property, if he/she causes death by the act referred to in Sub-section (1) or (2).

(6) Preparation is criminal.

### **Section 169 Entrusting a Child to Another Person**

1) Whoever entrusts for a consideration a child to another person for the purpose of adoption or for another similar purpose, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to eight years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) causes grievous bodily harm by such an act,
- c) commits an such act repeatedly, or
- d) commits such an act with the intention to gain substantial profit for him-/herself or for another by such an act.

(3) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if he/she

- a) causes death by the act referred to in Sub-section (1),
- b) commits such an act with the intention to gain extensive profit for him-/herself or for another by such an act, or
- c) commits such an act in connection with an organised group operating in several states.

### **Section 170 Illegal Confinement**

(1) Whoever without authorisation imprisons or otherwise confines another person, shall be sentenced to imprisonment for two to eight years.

(2) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
- c) causes physical or mental suffering by such an act,
- d) causes grievous bodily harm by such an act, or
- e) commits such an act with the intention to gain substantial profit for him-/herself or for another.

(3) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she

- a) causes death by the act referred to in Sub-section (1) , or
- b) commits such an act with the intention to gain extensive profit for him-/herself or for another.

(4) Preparation is criminal.

### **Section 171 Illegal Restraint**

(1) Whoever restrains another from enjoying personal freedom, shall be sentenced to imprisonment for up to two years.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she commits the act referred to in Sub-section (1) with the intent to facilitate another criminal offence.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group
- b) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
- c) causes physical or mental suffering by such an act,
- d) causes grievous bodily harm by such an act, or
- e) commits such an act with the intention to gain substantial profit for him-/herself or for another.

(4) An offender shall be sentenced to imprisonment for three to ten years if he/she

- a) causes death by the act referred to in Sub-section (1), or
- b) commits such an act with the intent to gain extensive profit for him-/herself or for another.

### **Section 172 Abduction**

(1) Whoever abducts other person to a foreign country by deceit or by violence or a thread of violence or another detriment, or makes such person to depart to a foreign country or averts him/her from returning from a foreign country, shall be sentenced to imprisonment for two to eight years.

(2) The same sentence shall be imposed to anyone who abducts another person from a foreign country to the Czech Republic by deceit or by violence or a thread of violence or another detriment, or makes such person to come to Czech Republic or averts him/her from leaving the Czech Republic.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
- c) causes physical or mental suffering by such an act,

- d) causes grievous bodily harm by such an act, or
  - e) commits such an act with the intention to gain substantial profit for him-/herself or for another.
- (4) An offender shall be sentenced to imprisonment for eight to fifteen years, if he/she
- a) causes death by the act referred to in Sub-section (1) or (2), or
  - b) commits such an act with the intent to gain extensive profit for him-/herself or for another.
- (5) Preparation is criminal.

### **Section 173 Robbery**

- (1) Whoever uses violence or a threat of imminent violence against another with the intention to take possession of property of another, shall be sentenced to imprisonment for two to ten years.
- (2) An offender shall be sentenced to imprisonment for five to twelve years, if he/she
- a) commits the act referred to in Sub-section (1) as a member of an organized group,
  - b) causes grievous bodily harm by such an act,
  - c) causes substantial damage by such an act, or
  - d) commits such an act with the intention to enable or facilitate commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312).
- (3) An offender shall be sentenced to imprisonment for eight to fifteen years, if he/she causes extensive damage by the act referred to in Sub-section (1).
- (4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she causes death by the act referred to in Sub-section (1).
- (5) Preparation is criminal.

### **Section 174 Hostage Taking**

- (1) Whoever takes hostages and threatens to kill them or to cause them bodily harm or other serious detriment in order to compel another person to act, omit something or suffer, shall be sentenced to imprisonment for two to ten years.
- (2) An offender shall be sentenced to imprisonment to five to twelve years, if
- a) he/she commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) the hostage in such an act is a child,



- c) several persons are hostages in such an act,
- d) he/she causes grievous bodily harm by such an act, or
- e) he/she commits such an act with the intention to gain substantial profit for him-/herself or for another.

(3) An offender shall be sentenced to imprisonment for eight to fifteen years, if he/she commits such an act with the intention to gain extensive profit for him-/herself or for another.

(4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 175 Extortion**

(1) Whoever forces another person by violence or by a threat of violence or another serious detriment to act, omit or to suffer something, shall be sentenced to imprisonment for six months to four years, or to a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) commits such an act with at least two persons,
  - c) commits such an act with a weapon,
  - d) causes substantial damage by such an act,
  - e) commits such an act on a witness, expert, or interpreter in connection to performance of their obligations, or
  - f) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith.

(3) An offender shall be sentenced to a sentence of imprisonment for five to twelve years, if he/she

- a) causes grievous bodily harm by such an act,
- b) commits such an act with the intention to enable or facilitate commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312), or
- c) causes extensive damage by such an act.

(4) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

## **Section 176 Restricting Freedom of Religion**

- (1) Whoever uses violence, a threat of violence or another detriment to
- a) force another person to participate in a religious act,
  - b) restrict without an authorisation another person from participation in such a religious act, or
  - c) otherwise constrain another person from enjoying freedom of religion,
- shall be sentenced to imprisonment for up to two years.

- (2) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1)
- a) on at least three persons, or
  - b) with a weapon.

## **Section 177 Oppression**

- (1) Whoever forces another person, by abusing their distress or addiction, to act, omit or suffer something, shall be sentenced to imprisonment for up to one year, or to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for six months to three years, if he/she
- a) causes substantial damage by the act referred to in Sub-section (1) , or
  - b) commits such an act with the intention to gain substantial profit for him-/herself or for another.

- (3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) , or
  - a) b) commits such an act with the intention to gain extensive profit for him-/herself or for another.

## **Section 178 Breaking and Entering**

- (1) Whoever wrongfully enters a dwelling of another or wrongfully remains there, shall be sentenced to imprisonment for up to two years.

- (2) An offender shall be sentenced to imprisonment for six months to three years if he/she uses in the act referred to in Sub-section (1) violence or threat of immediate violence or overcomes an obstacle, a purpose of which is to prevent entering.

- (3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she uses in the act referred to in Sub-section (1) violence or threat of immediate violence and commits such an act with a weapon with at least two persons.

## **Section 179 Violation of Freedom of Congregation and Assembly**

(1) Whoever restricts another person by violence, by a threat of violence or another serious detriment in exercise of congregation or assembly rights, shall be sentenced to imprisonment for up to two years, or to prohibition of activity.

(2) Whoever, in connection with a congregation that is subject to the notification obligation, opposes the discipline measures of the organiser or designated organisers of such a congregation by use of violence or a threat of imminent violence, shall be sentenced to imprisonment for up to one year.

### **Division 2**

## **Criminal Offences against Rights for Protection of Personality, Privacy and Secrecy of Correspondence**

### **Section 180 Illicit Disposal with Personal Data**

(1) Whoever even negligently wrongfully publishes, communicates, makes available, in otherwise processes or misappropriates personal data gathered on another person in connection to exercise of public competence and thereby causes a serious detriment on rights or rightful interests of the person concerned by the collected data, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who even negligently breaches a state-imposed duty of silence by wrongfully publishing personal data obtained in connection to performing his/her occupation, profession or function and thereby causes a serious detriment on rights or rightful interests of the person concerned by the personal data.

(3) An offender shall be sentenced to imprisonment for one to five years, to pecuniary penalty or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) commits such an act by press, film, radio, television, publically accessible computer network or in another similarly effective way,
- c) causes substantial damage by such an act, or
- d) commits such an act with the intention to gain substantial profit for him-/herself or for another.

(4) An offender shall be sentenced to three to eight years, if he/she

- a) causes extensive damage by the act referred in sub-section (1) or (2),
- b) commits such an act with the intention to gain extensive profit for him/herself or for another.

## **Section 181 Infringement of Rights of Another**

- (1) Whoever causes a serious detriment on rights of another by
- a) misleads another person, or
  - b) uses error of another person,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for up to three years, if he/she
- a) causes by the act referred to in Sub-section (1) a substantial detriment on rights of another,
  - b) gains by such an act a substantial profit for him-/herself or for another,
  - c) impersonates a public official in such an act.
- (3) An offender shall be sentenced to imprisonment for six months to five years, if he/she
- a) causes by the act referred to in Sub-section (1) an extensive detriment on rights of another, or
  - b) gains by such an act an extensive profit for him-/herself or for another.

## **Section 182 Breach of Secrecy of Correspondence**

- (1) Who intentionally breaches the secret of
- a) closed letter or another document in providing postal service or in transfer by another transportation service or transportation device,
  - b) data, text, voice, audio or visual message sent by the means of a network of electronic communication and assigned to an identified participant or user who receives the message, or
  - c) a non-public transfer of computer data to a computer system, out of it or within it, including electromagnetic radiation from a computer system that transfers such computer data,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

- (2) The same sentence shall be imposed to anyone who with the intent to cause damage to another or to gain unlawful profit for him-/herself or for another
- a) discloses a secret he/she learned from correspondence, telegram, telephone call or transfer through a network of electronic communication that was not intended for him/her, or
  - b) uses such a secret.

- (3) An offender shall be sentenced to imprisonment for up to three years or to prohibition of activity, if he/she
- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,

- b) commits such an act out of a condemnable motive,
- c) causes substantial damage by such an act, or
- d) commits such an act with the intention to gain for him-/herself or for another substantial profit.

(4) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a public official,
- b) causes extensive damage by such an act,
- c) commits such an act with the intention to gain for him-/herself or for another extensive profit.

(5) An employee of a provider of postal services, telecommunication services or a computer system or anybody else performing communication occupation, who

- a) commits the act referred to in Sub-section (1) or (2),
- b) facilitates commission of such an act by another person, or
- c) modifies or suppresses a document contained in a postal consignment or conveyed by a transport device or a message submitted by a no-public data transfer, by telephone, telegraph or in another similar way,

shall be sentenced to imprisonment for one to five years, to a pecuniary penalty or to prohibition of activity.

(6) An offender shall be sentenced to imprisonment for three to ten years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (5), or
- b) commits such an act with the intention to gain for him-/herself or for another extensive profit.

### **Section 183 Breach of Confidentiality of Files and other Private Documents**

(1) Whoever without an authorisation breaches confidentiality of files or other documents, photographs, film or other recordings, computer data, or other private documents by another person by publishing, making them available to third parties, or otherwise uses them, shall be sentenced to imprisonment for up to one year, by prohibition of activity, or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for up to two years, to prohibition of activity, or to confiscation of items or other asset values, if he/she commits the act referred to in Sub-section (1) with the intention to obtain for him-/herself or for another material or other profit, to cause damage or other serious detriment to another, or to threaten his/her social status.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) commits such an act against another person for his/her true or presupposed race, belonging to an ethnical group, nationality, belonging to a certain social group, political or religious beliefs or for true or presupposed lack or religious faith,
  - c) causes substantial damage by committing such an act, or
  - d) commits such an act with the intention to gain substantial profit for him-/herself or for another.
- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) , or
  - b) commits such an act with the intention to gain substantial profit for him-/herself or for another.

### **Section 184 Defamation**

(1) Whoever makes a false statement about another capable of significantly threaten his/her reputation among fellow citizens, especially harm him/her in employment, disrupt his/her family relations or cause another serious detriment, shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for up to two years or to prohibition of activity, if he/she commits the act referred to in Sub-section (1) by press, film, radio, television, publically accessible computer network or in another similarly effective manner.

## **CHAPTER III**

### **CRIMINAL OFFENCES AGAINST HUMAN DIGNITY IN SEXUAL SPHERE**

#### **Section 185 Rape**

(1) Whoever forces another person to have sexual intercourse by violence or by a threat of violence, or a threat of other serious detriment, or whoever exploits the person's vulnerability for such an act, shall be sentenced to imprisonment for six months to five years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she commits the act referred to in Sub-section (1)

- a) by sexual intercourse or other sexual contact performed in a manner comparable with intercourse,
- c) on a child, or
- d) with a weapon.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) on a child under the age of fifteen,

- b) commits such an act on a person in detention, serving a prison sentence, in protective treatment, in security detention, in protective or institutional therapy or in another place where personal freedom is restricted, or
- c) causes grievous bodily harm by such an act.

(4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she cause death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 186 Sexual Duress**

(1) Whoever forces another person to masturbation, indecent exposure, or other comparable conduct by a threat of violence or a threat of another serious detriment, or whoever exploits the vulnerability of another for such conduct, shall be sentenced to imprisonment for six months to four years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who makes another person perform sexual intercourse, masturbation, indecent exposure, or other comparable conduct by exploiting his/her addiction or the offender's position and credibility or influence derived therefrom.

(3) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1) or (2)

- a) on a child, or
- b) with at least two persons.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) with a weapon,
- b) commits the act referred to in Sub-section (1) or (2) on a person in detention, serving a prison sentence, in a protective treatment, security detention, protective or institutional therapy or in another place where personal freedom is restricted, or
- c) commits such an act as a member of an organised group.

(5) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) on a child under the age of fifteen, or
- b) caused grievous bodily harm by such an act.

(6) An offender shall be sentenced to imprisonment for ten to sixteen years, if he/she causes death by the act referred to in Sub-section (1) or (2) .

(7) Preparation is criminal.

### **Section 187 Sexual Abuse**

(1) Whoever performs a sexual intercourse with a child under the age of fifteen, or whoever otherwise sexually abuses a child, shall be sentenced to imprisonment for one to eight years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she commits the act referred to in Sub-section (1) on a child under fifteen years of age entrusted to his/her supervision, while abusing their addiction or the offender's position and, their credibility or influence derived therefrom.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes grievous bodily harm by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 188 Intercourse among Relatives**

Whoever engages in intercourse with a relative in direct generation line or with a sibling, shall be sentenced to imprisonment for up to three years.

### **Section 189 Solicitation**

(1) Whoever induces, arranges, hires, allures, or entices another person to practice prostitution, or

whoever profits from prostitution practiced by others,

shall be sentenced to imprisonment for six months to four years, prohibition of activity, or confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1)

- a) with the intention to gain substantial profit for him-/herself or for another, or
- b) as a member of an organised group.

(3) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property, if he/she causes grievous bodily harm by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for eight to fifteen years or confiscation of property, if he/she causes death by the act referred to in Sub-section (1).



## **Section 190 Prostitution Threatening Moral Development of Children**

(1) Whoever practises prostitution near a school, educational or other similar facility or location which is reserved or designated for the residence or visiting of children, shall be sentenced to imprisonment for up to two years.

(2) Whoever organises, guards, or provides prostitution near a school, educational or other similar facility or location which is reserved or designated for the residence or visiting of children by any other means, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(3) An offender shall be punished sentenced to imprisonment for six months to five years or to confiscation of property, if he/she commits the act referred to in Sub-section (1) or (2)

- a) in at least two such locations, or
- b) repeatedly.

## **Section 191 Distribution of Pornography**

(1) Whoever produces, imports, exports, transits, offers, makes publicly available, arranges, puts into circulation, sells or otherwise procures photographic, film, computer, electronic or other pornographic works displaying violence or disrespect to human beings or that describes or depicts or otherwise displays sexual intercourse with an animal, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of a thing or other asset value.

(2) Whoever

- a) offers, makes available, or makes accessible for children, or
- b) at a place accessible to children, exhibits, or otherwise makes available written, photographic, film, computer, electronic, or other pornographic works,

shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(3) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) or (2)

- a) as a member of an organised group,
- b) by press, film, radio, television, publicly accessible computer network, or in another similarly effective way, or
- c) with the intention to gain substantial profit for him-/herself or for another.

(4) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1) or (2)

- a) as a member of an organised group operating in more states, or
- b) with the intention to gain extensive profit for him-/herself or for another.

## **Section 192 Production and other Disposal with Child Pornography**

(1) Whoever handles photographic, film, computer, electronic or other pornographic works, displaying or otherwise using a child, shall be sentenced to imprisonment for up to two years.

(2) Whoever produces, imports, exports, transports, offers, makes publicly available, provides, puts into circulation, sells or otherwise procures photographic, film, computer, electronic or other pornographic works that display or otherwise use a child or whoever exploits such pornographic works, shall be sentenced to imprisonment for six months to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(3) An offender shall be sentenced to imprisonment for two to six years or to confiscation of property, if he/she commits the act referred to in Sub-section (2)

- a) as a member of an organised group,
- b) by press, film, radio, television, publicly accessible computer network, or in other similarly effective way, or
- c) with the intention to gain substantial profit for him-/herself or for another.

(4) An offender shall be sentenced to imprisonment for three to eight years or to confiscation of property, if he/she commits the act referred to in Sub-section (2)

- a) as a member of an organised group operating in more states, or
- b) with the intention to gain extensive profit for him-/herself or for another.

## **Section 193 Abuse of a Child for Production of Pornography**

(1) Whoever persuades, arranges, hires, allures, entices, or exploits a child for production of pornographic works and exploits the child's participation in such pornographic works, shall be sentenced to imprisonment for one year to five years.

(2) An offender shall be sentenced to imprisonment for two to six years, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group, or
- b) with the intention to gain substantial profit for him-/herself or for another.

(3) An offender shall be sentenced to imprisonment for two three to eight years, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group operating in several States, or
- b) with the intention to gain extensive profit for him-/herself or for another.

## **CHAPTER IV**

### **CRIMES AGAINST FAMILY AND CHILDREN**

### **Section 194 Double Marriage**

(1) Whoever enters another marriage while being married, shall be sentenced for up to two years.

(2) The same sentence shall be imposed to anyone who enters marriage with a person that is already married.

### **Section 195 Abandoning a Child or Entrusted Person**

(1) Whoever abandons a child or another entrusted person who he/she is obliged to provide for and who is unable to obtain help by him/herself and thus exposes him/her to risk of death or bodily harm, shall be sentenced to imprisonment for six months to three years.

(2) An offender shall be sentenced to imprisonment for three to ten years, if he/she causes death by the act referred to in Sub-section (1).

### **Section 196 Negligence of Mandatory Support**

(1) Whoever fails, even out of negligence, to fulfil his/her legal obligation to support or provide for another person for a period longer than four months, shall be sentenced to imprisonment for up to two years.

(2) Whoever intentionally avoids fulfilling his/her legal obligation to support or provide for another person for a period longer than four months shall be sentenced to imprisonment for six months to three years.

(3) An offender shall be sentenced to imprisonment for one to five years, if he/she

- a) exposes the entitled person to risk of indigence by the act referred to in Sub-section (1) or (2), or
- b) was convicted and sentenced for such an act in past three years.

### **Section 197 Special Provision on Effective Regret**

Criminal liability for a criminal offence of negligence of mandatory support (Section 196) shall expire, if the criminal offense did not leave any detrimental consequences and the offender has fulfilled hi/her obligation *post facto* before the court of the first instance begun to enunciate the judgement.

### **Section 198 Maltreatment of Entrusted Person**

(1) Whoever maltreats a person who is in his/her care or custody, shall be sentenced to imprisonment for one year to five years.

- (2) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the crime referred to in Sub-section (1) in an especially cruel or agonising manner,
  - b) causes grievous bodily harm by such an act,
  - c) commits such an act on two or more persons, or
  - d) commits such an act for over an extended period of time.

- (3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes by the act referred to in Sub-section (1)
- a) grievous bodily harm to at least two persons, or
  - b) death.

### **Section 199 Maltreatment of a Person Living in Common Residence**

(1) Whoever maltreats a close person or another person living with him/her in a common place of residence, shall be sentenced to imprisonment for six months to four years.

- (2) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) in an especially cruel or agonising manner,
  - b) causes grievous bodily harm by such an act,
  - c) commits such an act on at least two persons, or
  - d) commits such an act over an extended period of time.

- (3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes by the act referred to in Sub-section (1)
- a) grievous bodily harm to at least two persons, or
  - b) death.

### **Section 200 Abduction of a Child and a Person Suffering from Mental Disorder**

(1) Whoever removes a child or a person suffering from a mental disorder from the custody of the person who, according to another legal regulation or to an official decision, is obliged to take care of him/her, shall be sentenced to imprisonment for up to three years or to a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for one to five years, if he/she
- a) commits the act referred to in Sub-section (1) with the intention to gain material profit for him-/herself or for another, or
  - b) by such an act threatens the moral development of the abducted person.

- (3) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- b) commits the act referred to in Sub-section (1) as a member of an organised group,
  - c) causes grievous bodily harm by such an act, or

- d) gain substantial profit for him-/herself or for another by such an act.
- (4) An offender shall be sentenced to imprisonment for three to ten years, if he/she
- a) causes death by the act referred to in Sub-section (1) , or
  - b) gains extensive profit for him-/herself or for another by such an act.
- (5) Preparation is criminal.

### **Section 201 Endangering a Child's Care**

- (1) Whoever, even out of negligence, endangers the intellectual, emotional, or moral development of a child by
- a) enticing them to an indolent or immoral life,
  - b) allowing them to lead an indolent or immoral life,
  - c) allowing them to obtain means for themselves or for others by a criminal activity or in another condemnable manner, or
  - d) seriously breaching his/her obligation to take care of them or another important obligation arising from parental responsibility,

shall be sentenced to imprisonment for up to two years.

- (2) Whoever allows, even out of negligence, a child to play on vending machines equipped with a technical device affecting the outcome of the game and which provides the possibility of monetary winnings, shall be sentenced to imprisonment for up to one year, to a pecuniary penalty, or to prohibition of activity.

- (3) An offender shall be sentenced to imprisonment for six months to five years, if he/she
- a) commits the act referred to in Sub-section (1) or (2) out of a condemnable motive,
  - b) continues in commission of such an act for a long period of time,
  - c) commits such an act repeatedly, or
  - d) gains substantial profit for him-/herself or for another by such act.

### **Section 202 Seduction to Sexual Intercourse**

- (1) Whoever offers, promises, or provides monetary reward, benefits or advantages to a child or to another person for sexual intercourse with a child, masturbation of a child, their indecent exposure, or other comparable conduct for the purpose of sexual satisfaction, shall be sentenced to imprisonment for up to two years or to a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for six months to five years, if he/she
- b) commits the act referred to in Sub-section (1) on a child under the age of fifteen years,
  - c) commits such an act out of a condemnable motive,
  - d) continues in commission of such an act for a long period of time, or
  - e) commits such an act repeatedly.

### **Section 203 Impunity of a Child**

A child who requests monetary reward, advantages or benefits for sexual intercourse with them, their masturbation, indecent exposure, or other comparable conduct, shall not be criminally liable for such an act, not even under the provisions on instigator and accessory.

### **Section 204 Serving Alcohol to a Child**

Whoever in larger amount or repeatedly sells, serves or provides alcohol to a child, shall be sentenced to imprisonment for up to one year.

## **CHAPTER V**

### **CRIMES AGAINST PROPERTY**

#### **Section 205 Theft**

- (1) Whoever misappropriates a thing of another by taking possession of it, and
- a) thus causes damage not insignificant on property of another,
  - b) commits the act by breaking and entering,
  - c) immediately after the act attempts to retain the thing by violence or by threat of immediate violence,
  - d) commits the act on a thing which has another person on him or in his/her possession, or
  - e) commits the act in an area, in which is or was performed evacuation of persons,

shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) Whoever misappropriates a thing of another by taking possession of it and was convicted or sentenced for the act referred to in Sub-section (1) in past three years, shall be sentenced to imprisonment for six months to three years.

(3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1) or (2).

- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
  - b) commits such an act in a state of national peril or state of war, during a natural disaster or another event seriously endangering lives or health of people, public order or property, or
  - c) causes substantial damage by such an act.

- (5) An offender shall be sentenced to imprisonment for five to ten years, if he/she
- a) causes by the act referred to in Sub-section (1) or (2) extensive damage, or
  - b) commits such an act with the intention to enable or facilitate commission of a criminal offence of treason (Section 309), terrorist attack (Section 311) or terror (Section 312).

(6) Preparation is criminal.

### **Section 206 Embezzlement**

(1) Whoever misappropriates a thing or other asset value of another that has been entrusted to him/her and thus causes damage not insignificant on the property of another, shall be sentenced to imprisonment for up to two years, prohibition of activity or confiscation of an item or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) and if he/she was condemned or sentenced for such an act in the past three years.

(3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1).

- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) commits such an act as a person who has a special obligation to protect interests of the aggrieved person,
  - c) commits such an act in a state of national peril or state of war, during a natural disaster or another event seriously endangering lives or health of people, public order or property, or
  - d) causes substantial damage by such an act.

- (5) An offender shall be sentenced to imprisonment for five to ten years, if he/she
- a) causes by the act referred to in Sub-section (1) extensive damage, or
  - b) commits such an act with the intention to enable or facilitate commission of a criminal offence of treason (Section 309), terrorist attack (Section 311) or terror (Section 312).

(6) Preparation is criminal.

### **Section 207 Unauthorised Use of a Thing of Another**

(1) Whoever takes possession of a thing of another of a not small value or a motor vehicle with the intention to temporarily use it, or

whoever causes damage not small on property of another by temporarily using such an item that was entrusted to him/her without authorisation,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to three years or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) as a person who has a special obligation to protect interests of the aggrieved person,
- b) commits such an act as a member of an organised group, or
- c) causes substantial damage by such an act.

(3) An offender shall be sentenced to imprisonment for one year to five years or pecuniary penalty, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1), or
- b) commits such an act with the intention to enable or facilitate commission of a criminal offence of treason (Section 309), terrorist attack (Section 311) or terror (Section 312).

### **Section 208 Unauthorised Interfering with a Right to a House, Apartment or Non-residential Premises**

(1) Whoever unlawfully occupies or uses a house, apartment or non-residential premises of another, shall be sentenced to imprisonment for up to two years or to a pecuniary penalty.

(2) The same sentence shall be imposed to anyone who prevents the entitled person from using a house, apartment or non-residential premises.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group, or
- b) causes extensive damage by such an act.

### **Section 209 Fraud**

(1) Whoever enriches him-/herself or another by inducing error in someone, by using someone's error, or by concealing material facts and thus causing damage not insignificant to property of another, shall be sentenced to imprisonment for up to two years, to prohibition of activity, or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) and has been convicted or punished for such an act in the past three years.



(3) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) commits such an act as a person having a particular obligation to defend the interests of the aggrieved person,
- c) committed such an act in a state of national emergency or a state of war, natural disaster or during another event seriously threatening the life or health of people, public order or property, or
- d) causes substantial damage by such an act.

(5) An offender shall be sentenced to imprisonment for five to ten years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1), or
- b) commits such an act in order to facilitate or enable commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312).

(6) Preparation is criminal.

### **Section 210 Insurance Fraud**

(1) Whoever presents false or grossly distorted data or conceals material information

- a) in connection to concluding or amending of an insurance contracts,
- b) in connection with liquidation of insurance claims, or
- c) during exercise of the right for a claim arising from an insurance or for another similar performance,

shall be shall be sentenced to imprisonment for up to two years, to prohibition of activity, or to confiscation of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who, with the intention to obtain profit for him-/herself or for another, initiates or feigns an event connected with the right to claim for a claim arising from insurance or for other similar performance, or maintains a state caused by an insurance event and thus causes damage not insignificant to property of another.

(3) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) or (2) and has been previously convicted or punished for such an act in the past three years.

(4) An offender shall be sentenced to imprisonment for one to five years or a to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1) or (2).

(5) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
  - b) commits such an act as a person having a particular obligation to defend the interests of the aggrieved person, or
  - c) causes substantial damage by such an act.
- (6) An offender shall be sentenced to imprisonment for five to ten years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) or (2) , or
  - b) commits such an act in order to facilitate or enable commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312).
- (7) Preparation is criminal.

### **Section 211 Credit Fraud**

- (1) Whoever states false or grossly distorted information, or conceals material information when concluding a loan contract or when drawing credit, shall be sentenced to imprisonment for up to two years or to prohibition of activity.
- (2) The same sentence shall be imposed to anyone who, without the consent of the creditor, uses funds in an amount not small, obtained by a fixed purpose loan for other than the stated purpose.
- (3) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) or (2) and he/she has previously been convicted or sentenced for commission of such an act in the past three years.
- (4) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1) or (2).
- (5) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
  - b) commits such an act as a person having a particular obligation to defend the interests of the aggrieved person, or
  - c) causes substantial damage by such an act.
- (6) An offender shall be sentenced to imprisonment for five to ten years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) or (2), or
  - b) commits such an act in order to facilitate or enable commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312).
- (7) Preparation is criminal.

## **Section 212 Subvention Fraud**

(1) Whoever states false or grossly distorted information, or conceals material information in an application for administration of a grant, subvention, returnable financial help or contribution, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who uses funds in an amount not small, obtained by a fixed purpose grant, subvention, returnable financial help or contribution for other than the stated purpose.

(3) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) or (2) and he/she has previously been convicted or sentenced for commission of such an act in the past three years.

(4) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she causes larger damage by the act referred to in Sub-section (1) or (2).

(5) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) commits such an act as a person having a particular obligation to defend the interests of the aggrieved person, or
- c) causes substantial damage by such an act.

(6) An offender shall be sentenced to imprisonment for five to ten years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1) or (2), or
- b) commits such an act in order to facilitate or enable commission of a criminal offence of Treason (Section 309), Terrorist attack (Section 311) or Terror (Section 312).

(7) Preparation is criminal.

## **Section 213 Practise of Unfair Games and Wagers**

(1) Whoever practises a monetary or similar game or wager, rules of which do not guarantee even possibilities of winning to all participants, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1) and if he/she was convicted or sentenced for such a criminal offence in past three years.

(3) An offender shall be sentenced to imprisonment for one year to five years, if he/she

- a) causes by the act referred to in Sub-section (1) larger damage, or
- b) gains for him-/herself or for another larger profit.

- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
  - a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) causes by such an act substantial damage, or
  - c) gains by such an act for him-/herself or for another substantial profit.
  
- (5) An offender shall be sentenced to imprisonment for five to ten years, if he/she
  - a) causes by the act referred to in Sub-section (1) extensive damage, or
  - b) gains for him-/herself or for another extensive profit.

### **Section 214 Participation**

- (1) Whoever conceals, transfers to him-/herself or to another person, or uses
  - a) a thing or other asset value acquired by a criminal offence committed in the Czech Republic or abroad by another person or as a reward for such criminal offence, or
  - b) a thing or other asset value acquired for an item or other asset value referred to in Paragraph a),

shall be sentenced to imprisonment for up to four years, to a pecuniary penalty, to prohibition of activity, or to confiscation of items or other asset values; however, if he/she commits the act in relation to an item that derived from a criminal offence for which the law stipulates a lighter punishment, he/she shall be sentenced to this lighter punishment.

- (2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she
  - a) commits the act referred to in Sub-section (1) in relation to an item or other asset value that has a larger value, or
  - b) gains larger profit for him-/herself or for another.
  
- (3) An offender shall be sentenced to imprisonment for two to six years or to confiscation of property, if he/she
  - a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) commits such an act in relation to an item or other asset value derived from a especially serious felony,
  - c) commits such an act in relation to an item or other asset value of a substantial value, or
  - d) gains substantial profit for him-/herself or for another by such act.
  
- (4) An offender shall be sentenced to imprisonment for three to eight years or to confiscation of property, if he/she
  - a) commits the act referred to in Sub-section (1) in relation to an item or other asset value of an extensive value, or
  - b) gains extensive profit for him-/herself or for another by such act.

## **Section 215 Negligent Participation**

(1) Whoever conceals or transfers to him-/herself or to another person, even out of negligence, an item or other asset value of a not small value, which was acquired by a criminal act committed in the Czech Republic or abroad by another person or as a reward for such an act, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she

- a) commits the act referred to in Sub-section (1) by violating an important obligation arising from their employment, profession, position or function, or imposed to him/her by law, or
- b) gains substantial profit for him-/herself or for another by such act.

(3) An offender shall be sentenced to imprisonment for one to five years, if he/ she

- a) commits the act referred to in Sub-section (1) in relation to an item or other asset value derived from an especially serious felony, or
- b) gains extensive profit for him-/herself or for another by such act.

## **Section 216 Money Laundering**

(1) Whoever conceals the origin or otherwise attempts to substantially complicate or render impossible to establish the origin of

- a) items or other asset values acquired by a criminal offence committed in the Czech Republic or abroad, or as a reward for such a criminal offence, or
- b) items or other asset values obtained for an item or other asset value referred to in Paragraph a), or

whoever allowed the commission of such an act to another person,

shall be sentenced to imprisonment for up to four years, to a pecuniary penalty, to prohibition of activity, or to confiscation of items or other asset values; however, if he/she commits such an act in relation to an item or other asset value derived from a criminal offence for which the law stipulates a lighter punishment, he/she shall be sentenced to this lighter punishment.

(2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) in relation to an item or other asset value of a larger value, or
- b) gains larger profit for him-/herself or for another by such act.

(3) An offender shall be sentenced to imprisonment for two to six years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) commits such an act in relation to an item or other asset value derived from an especially serious felony,
- c) commits such an act in relation to an item or other asset value of a substantial value,
- d) gains substantial profit for him-/herself or for another by such act, or
- d) exploits his/her occupation status or position to commit such an act.

(4) An offender shall be sentenced to imprisonment for three to eight years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) in connection to an organised group operating in several States,
- b) commits such an act in relation to an item or other asset value of an extensive value, or
- c) gains extensive profit for him-/herself or for another by such act.

### **Section 217 Money Laundering out of Negligence**

(1) Whoever allows another person, even out of negligence, to conceal the origin or to render it impossible to find the origin of an item or other asset value of a larger value, which were acquired by a criminal act committed in the Czech Republic or abroad or as a reward for such an act, shall be sentenced to imprisonment for up to one year, to prohibition of activity, or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she

- a) commits the act referred to in Sub-section (1) by violating an important obligation arising from their employment, profession, position or function, or imposed to him/her by law, or
- b) gains substantial profit for him-/herself or for another by such act.

(3) An offender shall be sentenced to imprisonment for one to five years, if he/she

- a) commits the act referred to in Sub-section (1) in relation to an item or other asset value derived from an especially serious felony, or
- b) gains extensive profit for him-/herself or for another by such act.

### **Section 218 Usury**

(1) Whoever, while taking advantage mental weakness, distress, inexperience, carelessness or distraction of another, gets promised to him-/herself or to another performance, value of which is grossly disproportional to the value of mutual performance, or

whoever claims such a debt or transfers it to him-/herself with the intention to claim it,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1),
- b) commits such an act as a member of an organised group,
- c) causes a state of severe distress to another by such an act.

(5) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) commits the act referred to in Sub-section (1) in a state of national peril or state of war, during a natural disaster or another event seriously endangering lives or health of people or property, or
- b) gains for him-/herself or for another extensive profit by such an act.

### **Section 219 Concealment of Things**

(1) Whoever misappropriates a thing of another or other asset value of not insignificant value that came to his/her possession by finding, mistake or in another way without the consent of the entitled person, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1).

(3) An offender shall be sentenced imprisonment for two to eight years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

### **Section 220 Breach of Duty in Administration of Property of Another**

(1) Whoever breaches a duty to procure or administer property of another imposed by law or assumed by contract, and thus causes damage not small on to another, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years or to pecuniary penalty, if he/she

- a) commits the act referred to in sub-section (1) as a person who has a special duty to defend interests of the aggrieved person, or
- b) causes substantial damage by such an act.

(3) An offender shall be sentenced to imprisonment for two years to eight years if he/she causes substantial damage by the act referred to in sub-section (1).

## **Section 221 Negligent Breach of Duty in Administration of Property of Another**

(1) Whoever by gross negligence breaches an important duty to procure or administer property imposed by law or assumed by contract and so causes substantial damage to another, shall be sentenced to imprisonment for up to six months or by prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for up to three years, if he/she
- a) commits the act referred to in sub-section (1) as a person who has a special duty to protect interests of the aggrieved person, or
  - b) causes extensive damage by such an act.

## **Section 222 Damnification of Creditors**

- (1) Whoever, even partially, thwarts satisfaction of his/her creditor by
- a) destroying, damaging, concealing, alienating, rendering useless or disposing of even a part of his/her property,
  - b) transferring his/her claim or assuming a debt of another,
  - c) encumbering the thing that is the object of the obligation, or renting it,
  - d) pretending or recognising a non-existing right or a claim,
  - e) pretending or recognising a right or claim in larger extent than it is in reality,
  - f) pretending fulfilment of an obligation, or
  - g) pretending bankruptcy or putatively diminishes his/her property or pretends its destruction,

and thus causing damage not small on property of another, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

- (2) The same sentence shall be imposed to anyone who, even partially, thwarts satisfaction of creditor of another person by
- a) destroying, damaging, concealing, alienating, rendering useless or disposing of event a part of property of the debtor, or
  - b) exercises a non-existing right or claim to the property of the debtor, or an existing right or claim in higher value or in better order than it actually has,

and thus causes damage not small on property of another.

- (3) An offender shall be sentenced to imprisonment for six months to five years, if he/she
- a) causes substantial damage by the act referred to in Sub-section (1) or (2), or
  - b) gains for him-/herself or for another substantial profit by such an act.
- (4) An offender shall be sentenced to imprisonment for three to eight years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) or (2),
  - b) gains for him-/herself or for another extensive profit by such an act,
  - c) causes bankruptcy of another by such an act.



### **Section 223 Favouring Creditors**

(1) Whoever as a debtor in bankruptcy thwarts, even partially, satisfaction of his/her creditor by favouring another creditor and thus causes damage not small on property of another, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she causes substantial damage by the act referred to in Sub-section (1).

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1), or
- b) causes bankruptcy of another by such an act.

### **Section 224 Causing Bankruptcy**

(1) Whoever, even out of gross negligence, causes bankruptcy to him-/herself by

- a) making expenses grossly disproportional to his/her property relations,
- b) administering his/her property in a way contrary to his/her legally imposed on contractually assumed obligations or in a way grossly disproportional to them.
- c) using a granted credit contrary or in gross disproportion to its purpose,
- d) making loans or credits out of his/her property to other persons, though it is grossly disproportional to his/her property relations,
- e) conducting beyond the usual entrepreneur risk a transaction or business that does not belong to his/her regular enterprise activities or is grossly disproportional to his/her property relations,

shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who, even out of gross negligence, undertakes a new obligation or sets a collateral, even though he/she knows that he/she is in bankruptcy, and thus aggravates the position of existing creditors.

(3) An offender shall be sentenced to imprisonment for up to three years, if he/she causes substantial damage by the act referred to in Sub-section (1) or (2).

(4) An offender shall be sentenced to imprisonment for six months to five years, if he/she causes extensive damage by the act referred to in Sub-section (1) or (2).

### **Section 225 Breach of Duty in Insolvency Proceedings**

Whoever thwarts or grossly impedes performance of duties of insolvency administrator in insolvency proceedings, and thus endangers the purpose of insolvency proceedings, shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

## **Section 226 Machinations in Insolvency Proceedings**

(1) Whoever as a creditor in relation to vote of creditors in insolvency proceedings accepts or gets promised material or other profit contrary to the principles and rules of insolvency proceedings, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who provides, offers or promises a creditor in relation to a vote in insolvency proceedings material profit contrary to the principles and rules of insolvency proceedings.

(3) An offender shall be sentenced to imprisonment for up to two years, if he/she as an insolvency administrator, member of creditor committee or a representative of creditors in insolvency proceedings accepts, gets promised for him-/herself or for another to a detriment of the creditors material or other profit that does not pertain to him/her.

(4) An offender shall be sentenced to imprisonment for six months to three years, if he/she

- a) causes substantial damage by the act referred to in Sub-section (1), (2) or (3), or
- b) gains for him-/herself or for another substantial profit by such an act.

(5) An offender shall be sentenced to imprisonment for two to six years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1), (2) or (3), or
- b) gains for him-/herself or for another extensive profit by such an act.

## **Section 227 Breach of Duty to Make a True Declaration of Property**

Whoever refuses in proceedings before a court or another public authority to fulfil the legal obligation to declare his/her property or property of a legal entity on whose behalf is he/she entitled to act, or avoids such an obligation or states false or grossly distorted data, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

## **Section 228 Damage to a Thing of Another**

(1) Whoever destroys, damages or renders useless a thing of another and thus causes damage not insignificant on property of another, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to forfeiture of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who damages a thing of another by spraying, covering with drawing or text by paint or another substance.

(3) An offender shall be sentenced to imprisonment for six months to three years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) on a thing of a witness, expert or interpreter for performance of their duties,

- b) commits such an act on a thing of another for his/her true or presupposed race, belonging to an ethnical group, nationality, belonging to a certain social group, political or religious beliefs or for true or presupposed lack or religious faith,
- c) commit such an act on a thing that enjoys special protection according to another legal regulation,
- d) causes substantial damage by such an act.

(4) An offender shall be sentenced to imprisonment for two to six years, if he causes extensive damage by the act referred to in Sub-section (1) or (2).

### **Section 229 Misuse of Property**

Whoever harms an important cultural, scientific, environmental interest, interest on protection of nature or landscape, or an interest protected by another legal regulation by damaging, rendering useless or misplacing an own thing of a larger value that enjoys protection according to another legal regulation, shall be sentenced to imprisonment for up to two years, to prohibition of activity, or to confiscation of a thing or other asset value.

### **Section 230 Unauthorised Access to Computer Systems and Information Media**

(1) Whoever overcomes security measures and thus gains access to a computer system or a part thereof without an authorisation, shall be sentenced to imprisonment for up to one year, to prohibition of activity, or to confiscation of items or other asset values.

- (2) Whoever gains access to a computer system or information medium and
- a) uses data stored in a computer system or information media without an authorisation,
  - b) erases or otherwise destroys, damages, modifies, suppresses, or corrupts the quality of data stored in a computer system or information media, or renders them unusable without an authorisation,
  - c) forges or alters data stored in a computer system or information media so as to be considered authentic, or and according to them was proceeded as if it was it was authentic data, notwithstanding whether the data is directly readable and comprehensible, or
  - d) inserts data into a computer system or information media or performs any other intervention into the software or hardware of the computer or other technical data processing equipment without an authorisation,

shall be shall be sentenced to imprisonment for up to two years, prohibition of activity, or confiscation of items or other asset values.

(3) An offender shall be sentenced to imprisonment for six months to three years, prohibition of activity, or confiscation of items or other asset values, if he/she commits the act referred to in Subsection (1) or (2)

- a) with the intention to cause damage to another person or to obtain an illicit profit for him-/herself or for another, or
- b) with the intention to limit the functionality of a computer system or other technical equipment for data processing without an authorisation.

(4) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) causes substantial damage by committing such an act,
- c) causes serious disturbance in the activities of a body of state administration, local self-administration, court or another public authority by committing such an act,
- d) gains for him-/herself or for another substantial profit by such an act, or
- e) causes serious disturbance in the activity of a legal entity or natural person who is an entrepreneur by such an act.

(5) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1) or (2) , or
- b) gains for him-/herself or for another substantial profit by such an act.

### **Section 231 Obtaining and Possession of Access Device and Computer System Passwords and other such Data**

(1) Whoever with the intent to commit a criminal offence of Breach of secrecy of correspondence under Section 182(1) b), c) or a criminal offence of Unauthorised access to computer systems and information media under Section 230(1), (2) produces, puts into circulation, imports, exports, transits, offers, provides, sells, or otherwise makes available, obtains for him/herself or for another, or handles

- a) a device or its component, process, instrument or any other means, including a computer programme designed or adapted for unauthorised access to electronic communications networks, computer system or a part thereof, or
- b) a computer password, access code, data, process or any other similar means by which it is possible to gain access to a computer system or a part thereof,

shall be sentenced to imprisonment for up to one year, to confiscation of items or other asset values, or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for up to three years, to prohibition of activity, or to confiscation of items or other asset values, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group, or
- b) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for six months to five years, if he/she gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1).

## **Section 232 Damage to Computer Systems and Information Media Records and Interference with Computer Equipment out of Negligence**

(1) Whoever violates out of gross negligence by violating obligation arising from his/her employment, occupation, position or function or imposed to him/her by law or assumed by a contract,

- a) destroys, damages, alters or renders unusable data stored in a computer system or information media, or
- b) interferes with the hardware or software of a computer or other technical data processing equipment,

and thus causes substantial damage to property of another, shall be sentenced to imprisonment for up to six months, to prohibition of activity, or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for up to two years, to prohibition of activity, or to confiscation of items or other asset values, if he/she causes extensive damage by the act referred to in Sub-section (1).

## **CHAPTER VI**

### **ECONOMICAL CRIMINAL OFFENCES**

#### **Division 1**

#### **Criminal Offenses against Currency and Means of Payment**

### **Section 233 Forgery and Alteration of Money**

(1) Whoever gains for another or keeps forged or altered money or components of money designed for protection from their forgery, shall be sentenced to imprisonment for one to five years.

(2) Whoever forges or alters money with the intention to utter them as genuine or valid or as money of greater value, or

whoever passes utters or altered money as genuine or valid or as money of greater value,

shall be sentenced to imprisonment for three to eight years.

(3) An offender shall be sentenced to five to ten years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group, or
- b) commits such an act in a considerable extent.

- (4) An offender shall be sentenced to imprisonment for eight to twelve years or to confiscation of property if he/she
- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group operating in several states, or
  - b) commits such an act in a large extent.

(5) Preparation is criminal.

### **Section 234 Unauthorised Obtaining, Forgery and Alteration of Means of Payment**

(1) Whoever without the consent of an entitled person obtains, accesses, accepts or keeps for him-/herself or for another means of payment of another, especially a non-transferable payment card identifiable according to the name or number, electronic money, payment order, travel cheque or a guarantee cheque card, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) Whoever obtains, accesses, accepts or keeps a forged or altered means of payment for him-/herself or for another, shall be sentenced to imprisonment for one to five years.

(3) Whoever forges or alters means of payment with the intention of using it as genuine or valid, or

whoever uses forged or altered means of payment as genuine or valid,

shall be sentenced to imprisonment for three to eight years.

(4) An offender shall be sentenced to imprisonment for five to ten years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1), (2) or (3) as a member of an organised group, or
- b) commits such an act in a considerable extent.

(5) An offender shall be sentenced to imprisonment for eight to twelve years or to confiscation of property if he/she

- a) commits the act referred to in Sub-section (1), (2) or (3) as a member of an organised group operating in several states, or
- b) commits such an act in a large extent.

(6) Preparation is criminal.

### **Section 235 Uttering Forged and Altered Money**

Whoever utters as genuine forged or altered money that was paid to him/her as genuine, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of an item or other asset value.

### **Section 236 Manufacture and Possession of Forgery Equipment**

(1) Whoever manufactures, offers, sells, mediates or otherwise accesses or keeps for him-/herself or for another equipment, device or a part thereof, procedure, instrument or any other means, including computer software designed or adapted for forgery or modification of money or components designed for protection of money against forgery, or designed or adapted for forgery or modification of means of payment, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to one to five years of imprisonment or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1) in performance of his/her profession.

### **Section 237 Unauthorised Production of Money**

(1) Whoever produces money or components designed for protection from forgery without authorisation with use of equipment or materials designated and kept for production of money in conformity with the law, or

whoever obtains for him-/herself or for another money or components designed for protection of money from forgery produced without authorisation, or sends into circulation or keeps such items,

shall be sentenced to imprisonment for one year to five years.

(2) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group, or
- b) commits such an act in a considerable extent.

(3) An offender shall be sentenced to imprisonment for five to ten years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group operating in several states, or
- b) commits such an act in a large extent.

(4) Preparation is criminal.

## **Section 238 Common Provision**

Protection according to Section 233 to 237 shall be provided also to money and means of payment other than domestic and to domestic and foreign securities.

## **Section 239 Impeding Circulation of Domestic Money**

(1) Whoever manufactures or issues imitations of domestic money without authorisation, or whoever sends such imitations to circulation without authorisation,

shall be sentenced to imprisonment for up to six months, to prohibition of activity or to confiscation of an item or other asset value.

(2) The same sentence shall be imposed to anyone who

- a) without a legal ground refuses domestic money, or
- b) damages domestic money.

## **Division 2**

### **Tax, Fees and Foreign Currency Criminal Offenses**

## **Section 240 Evasion of Taxes, Fees and Similar Compulsory Payments**

(1) Whoever in larger extent evades a tax, customs duty, social security insurance fee, state policy of employment fee, casualty insurance fee, health insurance fee, elicits a fee or another similar payment or elicits a privilege on payment on any of these compulsory payments, shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) with at least two persons,
- b) breaches an official enclosure to facilitate commission of such an act, or
- c) commits such an act in a considerable extent.

(3) An offender shall be sentenced to imprisonment for five to ten years, if he/she commits the act referred to in Sub-section (1) in a large extent.

## **Section 241 Evasion of Tax, Social Security Insurance Fee and Similar Compulsory Payment**

(1) Whoever as an employer or payer of tax in larger extent fails to fulfil his/her legal obligation to pay tax, social security insurance fee, state policy of employment fee or health insurance fee for an employee or other person, shall be sentenced to imprisonment for up to three years or to prohibition of activity.



(2) The same sentence shall be imposed to anyone who as an employer in larger extent fails to fulfil his/her legal obligation to pay casualty insurance of employees.

(3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1) or (2).

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2).

### **Section 242 Special Provision on Effective Regret**

Criminal liability for criminal act of evasion of tax, social security insurance fee and similar compulsory payment (Section 241) shall expire, if the offender fulfils his/her obligation additionally before the court of the first instance begun to enunciate the judgement.

### **Section 243 Breach of Information Duty in Tax Proceedings**

(1) Whoever breaches his/her legal information duty to the administrator of tax and thus imperils in larger extent timely and regular assessment of tax to another or excise of tax from another, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to four years or to pecuniary penalty, if he/she commits the act referred to in Sub-section (1) in considerable extent.

### **Section 244 Breach of Regulations on Labels and other Items for Labelling Goods**

(1) Whoever disposes with labels, control tapes or other items for labelling goods for tax purposes in a way contrary to other legal regulations with the intention to cause damage to another or to gain unjustified profit for him-/herself or for another, or

whoever contrary to other legal regulations imports, stores, transits or sends to circulation goods without labels, control tapes or other items for its labelling for tax purposes,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to five years, if he/she

- a) commits the act referred to in Sub-section (1) with at least two persons, or
- b) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains for him-/herself extensive profit by the act referred to in Sub-section (1).

## **Section 245 Forfeiture and Modification of Items for Labelling Goods for Tax Purposes and Items Proving Fulfilment of Fee Duty**

(1) Whoever forges or alters postal or revenue stamp with the intention to cause damage to another or to gain unjustified profit for him-/herself or for another, or

whoever intentionally sends such stamps to circulation or uses them as genuine,

shall be sentenced to imprisonment for up to one year, to prohibition of activity or confiscation of a thing or other asset value.

(2) An offenders shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) in a substantial extent,
- b) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

## **Section 246 Forgery and Alteration of Stamps**

(1) Whoever forges or alters postal stamps or duty stamps with the intention to cause damage to another person or to gain illicit profit for him-/herself or for another, or

whoever deliberately puts such stamps into circulation or uses them as authentic,

shall be sentenced to imprisonment for up to one year, to prohibition of activity, or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) in a large extent, or
- b) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

## **Section 247 Breach of Prohibitions during Emergency State in Foreign Exchange Economy**

Whoever during an emergency state in foreign exchange economy breaches prohibitions set by the Law on Foreign Exchange for emergency state in foreign exchange economy that apply to the proclaimed emergency state, shall be sentenced to imprisonment for one year to six years, to a pecuniary penalty or to prohibition of activity.

### **Division 3**

## **Criminal Acts against Mandatory Rules of Market Economy and Circulation of Goods in Dealing with Foreign States**

### **Section 248 Breach of Regulations on Rules of Economic Competition**

- (1) Whoever breaches another legal regulation on unfair competition by committing
- a) false advertising,
  - b) false labelling of goods and services,
  - c) causing threat of confusion,
  - d) Exploiting reputation of enterprise, products or services of another competitor,
  - e) bribery,
  - f) demeaning,
  - g) comparative advertising,
  - h) breach of business secret, or
  - i) endangering the health of consumers and environment,

during participation in economic competition and thus causing in larger extent detriment to other competitors consumers or gaining for him-/herself or for another in larger extent unjustified advantages,

shall be sentenced to imprisonment for up to three years, to prohibition of activity or confiscation of a thing or other asset value.

- (2) The same sentence shall be imposed to

anyone who contrary to legal regulations on protection of economic competition enters an agreement on determination of price, division of market or another agreement impeding economic competition with another competitor,

anyone who contrary to another legal regulation on public contracts significantly breaches mandatory rules of commission proceedings, or

anyone who contrary to other legal regulations on performing functions of banks and other legal persons entitled to conduct financial activities, trading investment tools, collective investment, pension supplementary insurance and insurance, significantly breaches mandatory rules for cautious enterprising, administering property, professional care or prohibition to perform actions, services or other activities determined by the law or by an administrative decision,

and thus causes in larger extent detriment to other competitors or consumers, commissioner or another supplier or obtains in larger extent for him-/herself or for another unjustified advantages.

- (3) An offender shall be sentenced to imprisonment for six months to five years, to a pecuniary penalty or to confiscation of an item or other asset value, if he/she
- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
  - b) commits such an act repeatedly,
  - c) causes substantial damage by such an act, or
  - d) gains for him-/herself or for another substantial profit by such an act.
- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) or (2),
  - b) gains for him-/herself or for another extensive profit by such an act, or
  - c) causes bankruptcy to another by such an act.

### **Section 249 Unauthorised Issue of Securities**

(1) Whoever sends to circulation a document as securities with the intention to cause damage to another or to gain for him-/herself or for another unjustified advantage or profit, without the conditions stipulated by the law for its issue being fulfilled, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who with the intention referred to in Sub-section (1) has a record on issue of booked securities entered into a register established by the law, without the legal conditions for such a record being fulfilled.

### **Section 250 Manipulation with Foreign Exchange Rates**

(1) Whoever with the intention to affect the price or exchange rate of investment tools that are accepted for trading in regulated market or that have been applied for trading in regulated market,

- a) disseminates false or grossly distorted information that significantly affect price or rate of such investment tools, or
- b) completes a trade or issues an instruction capable of inducing a false idea about offer, demand, price or exchange rate of an investment tool,

shall be sentenced to imprisonment for six months to five years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains substantial profit by the act referred to in Sub-section (1).

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she gains extensive profit by the act referred to in Sub-section (1).

### **Section 251 Unauthorised Business Activities**

- (1) Whoever provides services or conducts production, trade or another business in larger extent, shall be sentenced to imprisonment for up to two years or to prohibition of activity.
- (2) An offender shall be sentenced to imprisonment for six months to five years, if he/she
  - a) causes substantial damage by the act referred to in Section (1), or
  - a) gains for him/herself or for another substantial profit by such an act.
- (3) An offender shall be sentenced to imprisonment for two to eight years, if he/she
  - b) causes extensive damage by the act referred to in Section (1), or
  - c) gains for him/herself or for another extensive profit by such an act.

### **Section 252 Unauthorised Operation of Lottery and other Similar Gambling**

- (1) Whoever operates, organises, promotes, or arranges a lottery or other similar gambling without an authorisation, be sentenced to imprisonment for up to three years, or to prohibition of activity.
- (2) An offender shall be sentenced to imprisonment for one to six years, if he/she
  - a) commits the act referred to in Sub-section (1) as a member of an organised group, or
  - b) gains for him/herself or for another extensive profit by such an act.
- (3) An offender shall be sentenced to imprisonment for three to ten years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

### **Section 253 Harming Consumers**

- (1) Whoever causes damage not insignificant on property of another by harming consumers, particularly by cheating on quality, quantity or weight of goods, or

whoever introduces goods, services or labour in larger extent to market and conceals their substantial flaws,

shall be sentenced to imprisonment for up to one year, to prohibition of activity or to forfeiture of a thing or other asset value.

- (2) An offender shall be sentenced to imprisonment for up to five years or to a pecuniary penalty, if he/she
  - a) commits the act referred to in Sub-section (1) as a member of an organised group,
  - b) gains for him-/herself or for another substantial profit y such an act, or
  - c) was sentenced for such an act or discharged from execution of a sentence of imprisonment imposed for such an act in past five years.

(3) An offender shall be sentenced to imprisonment for two to eight years of imprisonment, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

### **Section 254 Distortion of Data on Status of Management and Assets**

(1) Whoever does not keep accounting books, records or other documentation serving as an overview of the status of management and assets or for auditing thereof, even though he/she is legally obliged so,

whoever enters false or grossly distorted data in such accounting books, records or other documentation, or

whoever alters, destroys, damages, renders unusable or conceals such accounting books, records or other documentation,

and so endangers material rights of another or timely and regular assessment of tax, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who

states false or grossly distorted data in documents serving for entry of records to the commercial register, endowment fund register, register of publically beneficial companies or register of apartment owners associations, or conceals substantial data in such documents,

states false or grossly distorted data in documents serving for elaboration of an expert opinion that is to be enclosed to a petition for entry of a record to the commercial register, endowment fund register, register of publically beneficial companies or register of apartment owners associations, or conceals substantial data in such documents, or

endangers or limits another person on his/her rights by failing to submit a petition for entry of a record stipulated by law to the commercial register, endowment fund register, register of publically beneficial companies or register of apartment owners associations without undue delay, or fails to deposit a document to the collection of documents, even though he/she is legally or contractually obliged to do so.

(3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she causes substantial damage on property of another by the act referred to in Sub-section (1) or (2).

(4) An offender shall be sentenced to imprisonment for two to eight years of imprisonment, if he/she causes extensive damage on property of another by the act referred to in Sub-section (1) or (2).

## **Section 255 Abuse of Information and Status in Business Relations**

(1) Whoever uses, with the intention obtain for him-/herself or for another advantage or profit, information so far not available to the public without authorisation that he/she acquired in relation to his/her occupation, profession, position or function and publication of which significantly affects decision making in business relations, and realizes or gives incentive for realisation of a contract or operation on regulated market with investment tools or on organised market with commodities, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who as an entrepreneur, associate, member of a board, employee or participant in business of two or more entrepreneurs with identical or similar object of activity, with the intention referred to in Sub-section (1) enters or gives an incentive to enter a contract to the detriment of one or more entrepreneurs or their enterprises.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2).

## **Section 256 Arranging Advantage in Commission of Public Contract, Public Contest and Public Auction**

(1) Whoever arranges in relation to appointment of a public contract, public contest or public auction an advantage of priority or preferential conditions for a supplier, contestant or auction participant to the detriment of other suppliers or contestants with the intention to cause damage to another or to gain profit for him-/herself or for another, shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an evaluation committee, promoter or organiser of the public contest or public auction, auctioneer or as a member of an organised group,
- b) causes substantial damage by such an act, or
- c) gains for him-/herself substantial profit by such an act.

(3) The same sentence as in Sub-section (2) shall be imposed to anyone who under the circumstances referred to in Sub-section (1) asks for, accepts or gets promised material or other profit.

## **Section 257 Machinations in Commission of Public Contract and Public Contest**

(1) Whoever commits machinations in relation to commission of a public contract or public contest by

- a) making another person refrain from participation on submitting propositions in auction by trick or threat of violence or other severe detriment,

- b) providing, offering or promising material or other profit for refraining from participation in submitting propositions in auction, or
- c) asking or accepting material or other profit for refraining from participation in submitting propositions in auction,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1)

- a) with the intention to gain for him-/herself or for another substantial profit, or
- b) as a public official.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1)

- a) with the intention to gain for him-/herself or for another extensive profit, or
- a) as a public official with the intention to gain for him-/herself substantial profit.

### **Section 258 Machinations in Public Auction**

(1) Whoever commits machinations in a public auction, by

- a) deception or threat of violence or other severe harm causes another person to refrain from participation in submitting proposals at an auction,
- b) providing, offering, or promising another person property or other benefits for refraining from participation in submitting proposals at an auction, or
- c) requesting or accepting material or other profit for refraining from the submission of proposals at an auction,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to five years or a to a pecuniary penalty, if he/she commits the act referred to in Subsection (1)

- a) with the intention to gain substantial profit for him-/herself or for another, or
- b) as a public official.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Subsection (1)

- a) with the intention to gain for him-/herself or for another extensive profit, or
- b) as a public official with the intention to gain substantial profit for him-/herself or for another.



## **Section 259 Issue of False Certificate and Report**

Whoever in the name of a bank or other entrepreneur entitled to conduct financial activity according to another legal regulation issues a false certificate to another person of his/her financial situation or property relations, or

whoever as an auditor issues a false auditor report or false statement to another person on financial situation or property relations,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

## **Section 260 Harming Financial Interests of European Communities**

(1) Whoever produces, uses or presents false, incorrect or incomplete documentation or states in such documentation false or grossly distorted data related to income or expenses of summary budget of European Communities or to budgets administered by European Communities or on their behalf or conceals such documentation or data and thus facilitates incorrect use or withholding of financial resources from any such budget or diminishing of funds of any such budget, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who diminishes or uses without authorisation financial resources that form income or expenses of summary budget of the European Communities or budgets administered by European Communities or on their behalf.

(3) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she cause larger damage by the act referred to in Sub-section (1) or (2).

(4) An offender shall be sentenced to imprisonment for two to eight years , if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) commits such an act as a person who has a special obligation to protect the interests of European Communities, or
- c) causes substantial damage by such an act.

(5) An offender shall be sentenced to five to ten years of imprisonment, if he/she causes extensive damage by the act referred to in Sub-section (1) or (2)

## **Section 261 Breach of Regulations on Circulation of Goods in Relation with Foreign States**

(1) Whoever seriously impairs a public interest by breaching proscription, restriction or another important obligation stipulated for import, export or transit of goods, shall be

sentenced to imprisonment for up to two years, to prohibition of activity or confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) with at least two persons,
- b) causes substantial damage by such an act, or
- c) causes or elevates a risk of importation or spreading of a contagious animal disease in interest stock-breeding, among livestock or wild animals or contagious disease or parasite of productive vegetation.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) causes extensive damage by the act referred to in Sub-section (1), or
- b) causes or elevates a risk of importation or spreading of a contagious human disease.

### **Section 262 Breach of Regulations on Export Control of Goods and Technologies of Dual Use**

Whoever exports goods or technologies of dual use without a valid permit shall be sentenced to imprisonment for three to eight years, to a pecuniary penalty or to confiscation of property.

### **Section 263 Breach of Duty in Export of Goods and Technologies of Dual Use**

(1) Whoever breaches or fails to fulfil an important duty arising from his/her employment, profession, position or function and thus causes that a permit for export of goods or technologies is issued unlawfully, or that such goods avoids registration, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years, if

- a) the goods have been exported due to the act referred in Sub-section (1),
- b) he/she commits such an act with the intention to gain for him-/herself or for another substantial profit, or
- c) he/she causes substantial damage by such an act.

(3) An offender shall be sentenced to imprisonment for three to eight years or to confiscation of property, if he/she

- a) commits such an act with the intention to gain for him-/herself or for another extensive profit, or
- b) causes extensive damage by such an act.

## **Section 264 Distortion of Data and Non-keeping of Records of Exporting Goods and Technologies of Dual Use**

(1) Whoever achieves issuing of a permit for export of goods or technologies of double use on the basis of false or incomplete information shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who destroys, damages, renders unusable or conceals documentation necessary for keeping records or does not keep records, or who interferes with technical or software equipment of a computer in which are the records of these goods and technologies kept.

## **Section 265 Conducting Foreign Business with Military Material without Licence or Permit**

(1) Whoever conducts foreign business with military material without a permit or licence shall be sentenced to imprisonment for one year to eight years, to a pecuniary penalty or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) in connection to a criminal group,
- b) causes by such an act that the military material got abroad,
- c) commits such an act with the intention to gain for him-/herself or for another substantial profit,
- d) causes substantial damage by such an act, or
- e) commits such an act in relation to significant military material.

(3) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) in relation to an organised group active in several states,
- b) commits such an act with the intention to gain for him-/herself or for another extensive profit,
- c) causes extensive damage by such an act, or
- d) causes by such an act that the military material gets to an area of war or another armed conflict or to a state where is an elevated danger of war or another armed conflict.

## **Section 266 Violation of Obligations in Connection to Issue of Permits and Licenses for Foreign Trade with Military Material**

(1) Whoever violates or fails to fulfil an important obligation arising from their employment, profession, position or function, and thus causes an unauthorised issue of a permit to perform foreign trade with military material or a licence for a specific trade with military material, or

he/she issues a false or incomplete document based on which such a permit or licence is illegally issued, shall be sentenced to imprisonment for six months to three years, or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) in connection to an organised group,
- b) by such an act causes that the military material got into a foreign state,
- c) commits such an act with the intention to gain substantial profit for him-/herself or for another,
- d) causes substantial damage by such an act, or
- e) commits such act in relation to significant military material.

(3) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) in connection to an organised group operating in several states,
- b) commits such an act with the intention to gain extensive profit for him-/herself or for another,
- c) causes extensive damage by such an act, or
- d) by such an act causes that the military material got to a war or other armed conflict area or to a state where is an increased risk of war or another armed conflict.

### **Section 267 Distortion of Data and Non-keeping of Records of Foreign Trade with Military Material**

(1) Whoever substantiates a request for a permit or licence for foreign trade with military material by false or incomplete documentation or whoever conceals matters important for issuing a permit or licence, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone,

who destroys, damages, renders unusable , conceals or does not keep documentation for register of foreign trade with military material, or

who interferes with technical or software equipment of a computer in which is the register of foreign trade with military material kept.

## **Division 4**

### **Criminal Offenses against Industrial rights and Copyright**

## **Section 268 Infringement of Trademark Rights and Rights to other Marks**

(1) Whoever sends to circulation products or offers services illegally labelled by a trademark, exclusive right to which belongs to another person, or by a trademark confusable with such a trademark, or whoever offers, mediates, manufactures, imports, exports or otherwise obtains or handles for him-/herself or for another for this purpose, or offers or arranges such a service, shall be sentenced to imprisonment for up to two years or to confiscation of a thing or other asset value.

(2) The same penalty shall be imposed to anyone who for the purpose of achieving economical profit illegally uses a trade name or any mark confusable with it or who sends to circulation products or services illegally marked by a mark of origin or geographical mark or by a mark confusable with it, or who for this purpose offers, mediates, manufactures, imports, exports or otherwise handles for him-/herself or for another such products or services.

(3) An offender shall be sentenced to imprisonment for six months to five years, to a pecuniary penalty or to confiscation of a thing or another asset value, if he/she

- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1) or (2),
- b) commits such an act in considerable extent.

(4) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2),
- b) commits such an act in large extent.

## **Section 269 Infringement of Protected Economical Rights**

(1) Whoever illegally interferes not insignificantly with rights to a protected invention, industrial design, utility design or topography of semi-conductor product, shall be sentenced to imprisonment for up to two years, prohibition of activity or confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to five years, to a pecuniary penalty or to confiscation of a thing or other asset value, if

- a) the act referred to in Sub-section (1) has attributes of business activity or another enterprising,
- b) he/she gains for him-/herself or for another substantial profit by such an act, or
- c) he/she commits such an act in considerable extent.

(3) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1),
- b) commits such an act in large extent.

## **Section 270 Infringement of Copyright, Rights Related to Copyright and Rights to Databases**

(1) Whoever wrongfully interferes not insignificantly with legally protected right to a author work, artistic performance, sound or audiovisual record, radio or television broadcast or database, shall be sentenced to imprisonment for up to two years or to prohibition of activity or confiscation of an item or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to five years, to a pecuniary penalty or to confiscation of a thing or other asset value, if

- a) the act referred to in Sub-section (1) has attributes of business activity or another enterprising,
- b) he/she gains for him-/herself him-/herself or for another substantial profit or causes substantial damage by such an act, or
- c) he/she commits such an act in considerable extent.

(3) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) gains for him-/herself or for another extensive profit or causes extensive damage to another by the act referred to in Sub-section (1), or
- b) commits such an act in large extent.

## **Section 271 Counterfeiting and Imitation of Work of Creative Art**

(1) Whoever counterfeits a work of creative art or imitates a creative expression of another author with the intention to make the new work be considered as the original work of such author, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for one year to six years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) gains for him-/herself or for another substantial profit by such an act, or
- c) commits such an act in considerable extent.

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she

- a) gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1), or
- b) commits such an act in large extent.

## **CHAPTER VII**

### **GENERALLY DANGEROUS CRIMINAL ACTS**

## **Division 1**

### **Publically Menacing Criminal Acts**

#### **Section 272 Public Menace**

(1) Whoever intentionally causes public menace by exposing people to a hazard of death or grievous bodily harm or property of another to a hazard of extensive damage by causing fire or flood or detrimental effect of explosives, gas, electricity or another similarly dangerous substances or powers or commits other similar dangerous conduct, or

elevates such public menace or aggravates its averting or mitigation,,

shall be sentenced to imprisonment for three to eight years.

(2) An offender shall be sentenced to imprisonment for eight to fifteen years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) commits such an act repeatedly within a short period of time,
- c) causes extensive damage by such an act, or
- d) causes grievous bodily harm to at least two persons or death by such an act.

(3) An offender shall be sentenced to imprisonment for twelve to twenty years or to exceptional sentence of imprisonment, is he/she

- a) intentionally causes death by the act referred to in Sub-section (1), or
- b) commits such an act during a state of national peril or state of war.

(4) Preparation is criminal.

#### **Section 273 Negligent Public Menace**

(1) Whoever causes public menace out of negligence by exposing people to a hazard of death or grievous bodily harm or property of another to a hazard of extensive damage by causing fire or flood or detrimental effect of explosives, gas, electricity or another similarly dangerous substances or powers or commits other similar dangerous conduct, or

elevates such public menace or aggravates its averting or mitigation,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years or to prohibition of activity, if he/she

- a) causes grievous bodily harm by the act referred to in Sub-section (1),
- b) commits such an act because he/she has breached an important duty arising from his/her occupation, profession, position or function or imposed by law, or

c) causes substantial damage by such an act.

(3) An offender shall be sentenced to two to eight years of imprisonment or to a pecuniary penalty, if he/she

- a) causes death by the act referred to in Sub-section (1), or
- b) causes extensive damage or grievous bodily harm by the act referred to in Sub-section (2)(b).

(4) An offender shall be sentenced to imprisonment for three to ten years, if he/she causes death by the act referred to in Sub-section (2)(b).

### **Section 274 Menace under Influence of Addictive Substance**

(1) Whoever performs his/her occupation or another activity that could endanger lives or health of people or cause substantial damage on property in a state excluding competence which he/she incurred to him-/herself by an addictive substance, shall be sentenced to imprisonment for up to one year, to a pecuniary penalty or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to three years, to a pecuniary penalty or to prohibition of activity, if he/she

- a) causes a crash, a traffic or other accident, bodily harm to another or larger damage to property of another or another serious consequence,
- b) commits such an act in performance of his/her occupation or another activity where the influence of an addictive substance is particularly dangerous, especially when driving a vehicle, or
- c) has been sentenced for such an act or discharged from a sentence of imprisonment imposed for such an act in past two years.

### **Section 275 Breach of Duty in Imminent Distress**

Whoever thwarts or aggravates aversion or mitigation of imminent distress directly affecting a group of people by that he/she without a compelling reason

- a) denies help he/she is legally obliged or has undertaken to provide, or
- b) thwarts providing such help by another person,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.

### **Section 276 Damage and Compromise of Operation of Publicly Beneficial Facility**

(1) Whoever intentionally damages a publicly beneficial facility or compromises its operation or use shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to six years or to a pecuniary penalty, if he/she



- a) destroys, removes or renders unusable a publicly beneficial facility
- b) causes malfunction of operation of a publicly beneficial facility by the act referred to in Sub-section (1), or
- c) causes substantial damage by such an act.

- (3) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1) or (2), or
  - b) commits such an act in a state of national peril or a state of war.

### **Section 277 Negligent Damage and Compromise of Operation of Publicly Beneficial Facility**

(1) Whoever destroys, damages, removes or renders unusable a publicly beneficial facility or endangers operation of a publicly beneficial facility out of gross negligence, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for up to three years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1), or
  - b) commits such an act in a state of national peril or a state of war.

### **Section 278 Damage of Trigonometrical Point**

- (1) Whoever intentionally destroys, damages or renders unusable a mark of
- a) trigonometrical point of basis geodynamic network,
  - b) trigonometrical point of reference network of zero level,
  - c) trigonometrical point of reference network of complemented zero level,
  - d) base levelling geodetic point, or
  - e) absolute gravity trigonometrical point,

shall be sentenced to imprisonment for up to two years or to a pecuniary penalty.

(2) The same sentence shall be imposed to anyone who intentionally destroys, damages or renders unusable a equipment of a station for reception of signals of global positioning systems of the Czech network of permanent stations for global positioning.

### **Section 279 Unlicensed Arming**

(1) Whoever manufactures, obtains for him-/herself or for another or handles a firearm or its main components or parts or ammunition in larger amount or a prohibited accessory of a firearm, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who

reactivates into shooting condition a deactivated weapon or performs construction modifications aimed at reactivating it into shooting condition or performs construction modifications on a weapon aimed at elevating its efficiency, or

counterfeits, modifies, expunges or removes unique markings of a firearm that enable its identification.

(3) Whoever without a licence

- a) manufactures, obtains for him/herself or handles explosives in larger than small amount, a weapon of mass effect or components necessary for using such a weapon, or
- b) accumulates, manufactures or obtains for him-/herself or for another weapons or ammunition in considerable amount,

shall be sentenced to imprisonment for six months to five years.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (3) as a member of an organised group,
- b) commits such an act in larger extent, or
- c) commits such an act in a state of national peril or a state of war.

### **Section 280 Development, Manufacture and Possession of Prohibited Means of Combat**

(1) Whoever manufactures, imports, exports, transits, develops, handles or accumulates weapons, means of combat or explosives prohibited by the law or international treaty or otherwise disposes therewith, shall be sentenced to imprisonment for two to eight years or to confiscation of property.

(2) The same sentence shall be imposed to anyone who designs, builds or uses production units designated for development, manufacture or storing weapons, means of combat or explosives referred to in Sub-section (1)

(3) An offender shall be sentenced to imprisonment for five to twelve years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) commits such an act in larger extent, or
- c) commits such an act in a state of national peril or a state of war.

(4) Preparation is criminal.

## **Section 281 Unauthorised Production and Possession of Radioactive Substances and Highly Dangerous Substances**

(1) Whoever manufactures, imports, exports, transports, handles or obtains for another person highly radioactive substances or hazardous substances or objects intended for production thereof without an authorisation, shall be sentenced to imprisonment for one year to five years, to a pecuniary penalty, or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for two to ten years or to confiscation of property, if he/she

- a) causes grievous bodily harm by the act referred to in Sub-section (1),
- b) commits such an act in a large extent, or
- c) gains substantial profit for him-/herself or for another by such an act

(3) An offender shall be sentenced to imprisonment for eight to sixteen years or to confiscation of property, if he/she

- a) causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1),
- b) gains extensive profit for him-/herself or for another by such an act
- c) commits such an act as a member of an organised group, or
- d) commits such an act during a state of national peril or state of war.

(4) Preparation is criminal.

## **Section 282 Unauthorised Production and Possession of Nuclear Material and Special Fissionable Material**

(1) Whoever manufactures, imports, exports, transports, handles, or obtains for another person base nuclear material, or articles intended for production thereof without an authorisation, shall be sentenced to imprisonment for two to ten years.

(2) Whoever manufactures, imports, exports, transports, handles, or obtains for another person special nuclear material, or articles intended for production thereof without an authorisation, shall be sentenced to imprisonment for eight to fifteen years.

(3) Preparation is criminal.

## **Section 283 Unauthorised Production and other Disposal with Narcotic and Psychotropic Substances and Poisons**

(1) Whoever produces, imports, exports, transports, offers, provides or sells or otherwise arranges for another or handles for another narcotic or psychotropic substances, products containing narcotic or psychotropic substances, precursors or poisons without an

authorisation, shall be sentenced to imprisonment for one to five years or to a pecuniary penalty.

(2) An offender shall be sentenced to imprisonment for two to ten years or to confiscation of property, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group,
- b) even though he/she has been convicted or sentenced for such an act in the past three years,
- c) in a considerable extent, or
- d) in a larger extent against a child, or in an amount larger than small against a child under fifteen years of age.

(3) An offender shall be sentenced to imprisonment for eight to twelve years or to confiscation of property, if he/she

- a) causes grievous bodily harm by the act referred to in Sub-section (1),
- b) commits such an act with the intention to gain substantial profit for him-/herself or for another,
- c) commits such an act in a large extent, or
- d) commits such an act in a larger extent against a child under fifteen years of age.

(4) An offender shall be sentenced to imprisonment for ten to eighteen years or to confiscation of property, if he/she

- a) causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1),
- b) commits such an act with the intention to gain extensive profit for him-/herself or for another, or
- c) commits such an act in connection to an organised group operating in several states.

(5) Preparation is criminal.

## **Section 284 Possession of Narcotic and Psychotropic Substances and Poisons**

(1) Whoever possesses for own use a narcotic substance of cannabis, cannabis resin, or any psychotropic substance containing tetrahydrocannabinol, isomer, or its stereochemical variant (THC) in an amount larger than small without an authorisation, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of items or other asset values.

(2) Whoever possesses for own use another narcotic or psychotropic substance other than referred to in Sub-section (1) or a poison in an amount larger than small without an authorisation, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of items or other asset values.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1) or (2) in a larger extent.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1) or (2) in a considerable extent.

### **Section 285 Unauthorised Growing of Plants Containing Narcotic or Psychotropic Substance**

(1) Whoever grows for own use cannabis in an amount larger than small without an authorisation, shall be sentenced to imprisonment for up to six months, to a pecuniary penalty or to confiscation of items or other asset values.

(2) Whoever grows in an amount larger than small for own use a mushroom or another plant other than referred to in Sub-section (1) containing narcotic or psychotropic substances without an authorisation, shall be sentenced to imprisonment for up to one year, to a pecuniary penalty or confiscation of items or other asset values.

(3) An offender shall be sentenced to imprisonment for up to three years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1) or (2) in a larger extent.

(4) An offender shall be sentenced to imprisonment for six months to five years, if he/she commits the act referred to in Sub-section (1) or (2) in a considerable extent.

### **Section 286 Production and Possession of Items for Illegal Production of Narcotic and Psychotropic Substances and Poisons**

(1) Whoever produces, obtains for him-/herself or for another person, or handles a precursor or another item intended for illegal production of narcotic or psychotropic substances, products containing narcotic or psychotropic substances or poisons, shall be sentenced to imprisonment for up to five years, to a pecuniary penalty, to prohibition of activity or to confiscation of items or other asset values.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) commits such an act in a considerable extent,
- c) commits such an act in a larger extent against a child, or
- d) gains substantial profit for him-/herself or for another by such an act.

### **Section 287 Spreading of Drug Addiction**

(1) Whoever entices another person to abuse addictive substances other than alcohol or supports him-/her therein, or whoever otherwise encourages abuse of such substances or

distributes them, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group,
- b) against a child, or
- c) by press, film, radio, television, publically accessible computer network, or in another similarly effective way.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1) against a child under fifteen years of age.

### **Section 288 Manufacture and other Disposal with Substances with Hormonal Effect**

(1) Whoever in larger amount manufactures, handles, imports, exports, transits, offers, sells, provides or administers to another a substance with anabolic or other hormonal effect for other than medical purpose, or whoever applies on another a method consisting in increasing oxygen transfer in human organism or another method with a doping effect for other than medical purposes, shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for one year to three years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group, or
- b) commits such an act in larger extent against a child or in larger than small amount against a child under fifteen years of age.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) causes grievous bodily harm by the act referred to in Sub-section (1),
- b) commits such an act with the intention to gain for him-/herself or for another substantial profit,
- c) commits such an act in larger extent against a child under fifteen years of age,
- d) commits such an act as a doctor or another competent medical person.

(4) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) causes grievous bodily harm of at least two persons or death by the act referred to in Sub-section (1),
- b) commits such an act with the intention to gain for him-/herself or for another extensive profit, or
- c) commits such an act in relation to an organised group active in several states.

## **Section 289 Common Provisions**

(1) The law shall stipulate what is considered narcotics and psychotropic substances, products containing narcotic or psychotropic substances and precursors used for illegal production of narcotic drugs or psychotropic substances.

(2) The Government shall stipulate by a regulation what is considered poisons within the meaning of Section 283, 284 and 286, and what amount of narcotic substances, psychotropic substances and products containing poisons is larger than small.

(3) The Government shall stipulate by a regulation which plants and mushrooms are considered to be plants and mushrooms containing narcotic or psychotropic substance according to Section 285 and what amount thereof is larger than small according to Section 285.

(4) The Government shall stipulate by a regulation what is considered substances with anabolic and other hormonal effects and what amount thereof is larger than small according to Section 288, and what is considered to be a method consisting in increasing oxygen transfer in human organism and other methods with a doping effect according to Section 288.

## **Division 2**

### **Criminal Offences Endangering an Aircraft, Civilian Vessel and Fixed Platform**

#### **Section 290 Gaining Control over an Aircraft, Civilian Vessels and Fixed Platform**

(1) Whoever on board of an aircraft, civilian vessel, or a fixed platform on a continental shelf with the intention to gain or exercise control over the aircraft, civilian vessel, or fixed platform

- a) uses violence against other persons or a threat of imminent violence,
- b) threatens another person with death, bodily harm, or causing extensive damage, or
- c) exploits vulnerability of another person,

shall be sentenced to imprisonment for eight to fifteen years or to confiscation of property.

(2) An offender shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment, eventually in parallel to this sentence also to confiscation of property, if he/she

- a) causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1),
- b) commits such an act during a state of national emergency or state of war.

(3) Preparation is criminal.

### **Section 291 Endangering the Safety of an Aircraft and Civilian Vessel**

Whoever communicates false information that may endanger the safety or operation of an aircraft in flight or a civilian vessel at sail, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

### **Section 292 Dragging Aircraft to Abroad**

(1) Whoever hijacks or illegally uses an aircraft that was entrusted to him/her for the purpose of dragging the aircraft to abroad, shall be sentenced to imprisonment for three to ten years or to confiscation of property.

(2) An offender shall be sentenced to imprisonment for eight to fifteen years, eventually in parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment, if he/she causes grievous bodily harm by the act referred to in Sub-section (1).

(3) An offender shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment, eventually in parallel to these sentences also to confiscation of property, if he/she

- a) causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1), or
- b) commits such an act in the state of national peril or a state of war.

(4) Preparation is criminal.

## **CHAPTER VIII**

### **CRIMINAL OFFENSES AGAINST ENVIRONMENT**

#### **Section 293 Environmental Damage and Environmental Hazard**

(1) Whoever intentionally pollutes or otherwise damages soil, water, air, forest or another component of the environment by breaching laws on protection of the environment or its components or laws on protection and use of natural resources or laws on chemical substances or chemical products, in especially protected territory, in Euro-significant area, in bird area or in water source, at which is set a protective zone, or in larger territory outside these places, and thus imperils communities or populations of wild animals or herbs, or

whoever intentionally increases such damage to environment or aggravates its aversion or mitigation,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.



(2) An offender shall be sentenced to imprisonment for one year to five years or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) repeatedly,
- b) commits such an act as a person who has a special imposed duty to protect the environment,
- c) causes permanent or long-term damage to the environment, or
- d) causes damage to the environment, for removing of which is necessary to expend costs in considerable extent.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she causes by the act referred to in Sub-section (1)

- a) damage to especially protected territory, in Euro-significant area, in bird area or in water source, at which is set a protective zone, in a way that the reason for the special protection of such area is considerably extenuated, or
- b) damage to the environment, for removing of which is necessary to expend costs in large extent.

#### **Section 294 Negligent Environmental Damage and Environmental Hazard**

(1) Whoever intentionally pollutes or otherwise damages soil, water, air, forest or another component of the environment by breaching laws on protection of the environment or its components or laws on protection and use of natural resources or laws on chemical substances or chemical products, in especially protected territory, in Euro-significant area, in bird area or in water source, at which is set a protective zone, or in larger territory outside these places, and thus imperils communities or populations of wild animals or herbs, or

whoever intentionally increases such damage to environment or aggravates its aversion or mitigation,

shall be sentenced to imprisonment for up to six months or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for up to two years or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) because he/she breached an important duty arising from his/her occupation, profession, position or function or imposed to him/her by law,
- b) causes permanent or long-term damage to the environment, or
- c) causes damage to the environment, for removing of which is necessary to expend costs in considerable extent.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she causes by the act referred to in Sub-section (1)

- a) damage to especially protected territory, in Euro-significant area, in bird area or in water source, at which is set a protective zone, in a way that the reason for the special protection of such area is considerably extenuated, or
- b) damage to the environment, for removing of which is necessary to expend costs in large extent.

### **Section 295 Damage of Forest**

(1) Whoever, even negligently, causes by harvesting forest crop or other activity contrary to another legal regulation creation of a cleared cutting, even by joining to an existing cleared are, or causes serious damage to forest on larger forest area or thins the forest crop below the crop density limit stipulated by another legal regulation on larger forest area, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to four years or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) repeatedly, or
- b) creates by harvesting or another activity referred to in Sub-section (1) a clear cutting or thinning of forest crop on considerable forest area.

### **Section 296 Common Provision**

(1) A larger area according to Section 293 and 294 shall be understood as a territory of total area of at least three hectare and in case of surface waters in water bodies, with the exception of streams, at least one hectare of water surface and in case of stream at least two kilometres of its length; individual areas and lengths of stream shall be summarized.

(2) Larger forest area according to Section 295 shall be understood as an area larger than one and half hectare and considerable forest area shall be understood as an area larger than three hectares.

### **Section 297 Wrongful Discharge of Polluting Substances**

(1) Whoever, even out of gross negligence, discharges or fails to prevent discharge of petroleum, poisonous liquid or similar polluting substance from a boat or other navy marine vessel contrary to an international treaty, shall be sentenced to imprisonment for six months to three years, to prohibition of activity or forfeiture of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group,
- b) repeatedly.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she causes

- a) grievous bodily harm,
- b) serious and extensive harm to quality of water, animal or herbal species or parts thereof, or
- c) damage to the environment for removing of which is necessary to expend costs in large extent.

### **Section 298 Unauthorised Waste Disposal**

(1) Whoever, even negligently, breaches another legal regulation on disposal with waste by transporting waste across state border without a notification or request for consent or states false or grossly distorted information or conceals substantial information, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) Anyone who, even negligently, contrary to another legal regulation stores waste or deposits, transits or otherwise disposes therewith and thus causes environmental damage or hazard, for removing of which is necessary to expend costs in considerable extent, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(3) An offender shall be sentenced to imprisonment for six months to three years or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) gains substantial profit for him-/herself or for another by such an act, or
- c) commits such an act repeatedly.

(4) An offender shall be sentenced to imprisonment for one year to five years, if

- a) he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2), or
- b) such an offence concerns dangerous waste.

### **Section 299 Unauthorised Disposing with Protected Wild Animals and Herbs**

(1) Whoever contrary to another legal regulation kills, destroys, processes, imports, exports, transits, handles, offers, mediates, obtains for him-/herself or for another a subject of an especially protected animal or herbal species or an exemplar of a protected species and commits such an act on more than twenty five subjects of animals, herbs or exemplars, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who to another legal regulation kills, destroys, processes, imports, exports, transits, handles, offers, mediates, obtains for him-/herself or for another a subject of a critically endangered animal or herbal species or an exemplar of a species directly endangered by extinction or extermination.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1) or (2)

- a) as a member of an organised group, or
- b) with the intention to gain for him-/herself or for another substantial profit.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1) or (2)

- a) in connection to an organised group operating in several states, or
- b) with the intention to gain for him-/herself or for another extensive profit.

### **Section 300 Negligent Unauthorised Disposal with Protected Wild Animals and Herbs**

Whoever negligently breaches another legal regulation by killing, destroying, repeatedly importing , exporting or transiting, or obtaining for him/herself subject of an especially protected animal or herbal species or an exemplar of a protected species and commits such an act on more than twenty five subjects of animals, herbs or exemplars, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to forfeiture of a thing or other asset value.

### **Section 301 Removing or Destroying Animals and Herbs**

Whoever, even negligently, breaches another legal regulation or decision of a public authority by removing from nature or destroying wild animals or herbs in such an amount that it threatens the local population of these animals or herbs, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

### **Section 302 Maltreatment of Animals**

(1) Whoever maltreats an animal

- a) in an especially cruel or agonising manner, or
- b) in a cruel or agonising manner publically or in a publically accessible area,

shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a ting or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to three years or to prohibition of activity, if he/she

- a) has been sentenced or convicted for the act referred in Sub-section (1) in past three years, or
- b) causes the maltreated animal permanent consequences to health or death.

(3) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1) on larger amount of animals.

### **Section 303 Negligent Omission of Animal Care**

(1) Whoever, out of gross negligence, omits necessary care of an animal he/she owns or that he/she is obliged to take care of for another reason, and thus causes permanent consequences to health or death, shall be sentenced to imprisonment for up to six months, to prohibition of activity or confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for up to two years, if he/she causes death or permanent consequences to health to larger amount of animals by the act referred to in Sub-section (1).

### **Section 304 Poaching**

(1) Whoever hunts game or fish of a value not insignificant or conceals, transfers to him-/herself or to another or handles hunted game or fish of not insignificant value without an authorisation, shall be sentenced to imprisonment for up to two years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to five years, to a pecuniary penalty or to confiscation of a thing or other asset value, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) gains for him-/herself or for another larger profit by such an act,
- c) commits such an act as a person who has a special obligation to protect the environment,
- d) commits such an act in especially condemnable manner, in mass effective way or in the time of closed season, or
- e) has been sentenced or condemned for such an act in the past three years.

### **Section 305 Wrongful Manufacture, Possession and other Disposal with Pharmaceuticals and other Substances Affecting Efficiency of Livestock**

(1) Whoever manufactures, imports, exports, transits, offers, mediates, sells or otherwise obtains or handles a substance of thyreostatic, gestagenous, androgenic, estrogenic or other hormonal effects, beta-agonists or another substance designed for stimulation of efficiency of livestock or a preparatory containing such a substance without an authorisation, shall be sentenced to imprisonment for up to one year, to prohibition of activity or forfeiture of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who contrary to other legal regulation uses pharmaceuticals for the purpose of increasing efficiency of livestock or manufactures, imports, exports, transits, offers, mediates, sells or otherwise obtains or handles such a substance for this purpose.

- (3) An offender shall be sentenced to imprisonment for up to three years, if he/she commits the act referred to in Sub-section (1) or (2)
- a) as a member of an organised group ,
  - b) repeatedly,
  - c) with the intention to gain for him-/herself or for another substantial profit, or
  - d) in considerable extent.

### **Section 306 Spreading Contagious Animal Disease**

(1) Whoever, even negligently, causes or increases a risk of bringing or spreading of contagious animal disease in interest stock-breeding or wild animals, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she causes spreading of such a disease by the act referred to in Sub-section (1).

### **Section 307 Spreading of Contagious Disease and Parasites of Utility Herbs**

(1) Whoever, even negligently, causes or increases a risk of bringing or spreading of contagious disease or parasite of utility herbs, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she causes spreading of such a disease or parasite by the act referred to in Sub-section (1).

### **Section 308 Common Provision**

The government shall determine by a regulation which diseases of animals and herbs are considered as contagious within the meaning of Section 306 and 307 and to which parasites applies Section 307.

## **CHAPTER IX**

### **CRIMINAL OFFENCES AGAINST THE CZECH REPUBLIC, FOREIGN STATES AND INTERNATIONAL ORGANISATIONS**

#### **Division 1**

#### **Criminal Offences against the Foundations of the Czech Republic, Foreign States and International Organisations**

### **Section 309 High treason**

(1) A citizen of the Czech Republic who in connection with a foreign power or foreign agent commits a criminal act of Subversion of Republic (Section 310), Terrorist Attack (Section 311), Terror (Section 312) or Sabotage (Section 314), shall be sentenced to imprisonment for fifteen to twenty years, eventually in parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment.

(2) Preparation is criminal.

### **Section 310 Subversion of the Republic**

(1) Whoever participates in violent actions against the Czech Republic or its authorities with the intention to subvert the constitutional system, territorial integrity or defence capability of the Czech Republic or to destroy its sovereignty, shall be sentenced to imprisonment for eight to twelve years, eventually in parallel to this sentence also to confiscation of property.

(2) An offender shall be sentenced to imprisonment for twelve to twenty years, eventually in parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) causes grievous bodily harm to at least two persons or death by such an act,
- c) causes extensive damage by such an act,
- d) causes serious threat to the international position of the Czech Republic by such an act, or
- e) commits such an act in a state of national peril or a state of war.

### **Section 311 Terrorist Attack**

(1) Whoever with the intention to impair the constitutional system or defence capabilities of the Czech Republic, disrupt or destroy the base political, economic or social structure of the Czech Republic or an international organisation, seriously terrify the population or illegally make the government or another public authority or an international organisation to act, omit or tolerate something,

- a) performs an attack threatening human life or health with the intention to cause death or grievous bodily harm,
- b) seizes hostages or commits kidnapping,
- c) destroys or damages in larger extent a public facility, transportation or communication system including an information system, a fixed platform on continental shelf, energetic, water-work, medical or other important facility, public area or property with the intention to jeopardise human lives, security of such a facility, system or area or to expose property to risk of extensive damage,

- d) disrupts or interrupts supply of water, electricity or other fundamental natural resource with the intention to jeopardise human lives or to expose property to risk of extensive damage,
- e) hijacks an aircraft, ship or another means of personal or cargo transportation or exercises control over it, or destroys or seriously damages navigation device or in larger extent interferes with its operation or communicate a false important information by which he/she jeopardises life or health of people, security of such means of transportation, or exposes property to risk of extensive damage,
- f) wrongfully manufactures or otherwise obtains, handles, imports, transports, exports or otherwise supplies or uses explosives, nuclear, biological, chemical or other weapon or means of combat or explosives prohibited by law or international treaty, or
- g) exposes people to general risk of death or grievous bodily harm or property of another to risk of extensive damage by causing fire or flood or detrimental effect of explosives, gas, electricity or other similarly dangerous substances or powers or commits other similarly dangerous conduct, or increases such a risk or aggravates its aversion or mitigation,

shall be sentenced to imprisonment for five to fifteen years, eventually in parallel to this sentence also to confiscation of property.

(2) The same sentence shall be imposed to anyone who threatens with conduct referred to in Sub-section (1), or whoever supports such a conduct, terrorist or terrorist group, materially or otherwise.

(3) An offender shall be sentenced to imprisonment for twelve to twenty years, eventually in parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) causes grievous bodily harm or death by such an act,
- c) causes that a larger amount of people remained without shelter by such an act,
- d) causes disruption of transportation in larger extent by such an act,
- e) causes extensive damage by such an act,
- f) gains for him/herself or for another extensive profit by such an act,
- g) by such an act seriously jeopardises the international position of the Czech Republic or position of an international organisation which the Czech Republic is a member of,  
or
- h) commits such an act in a state of national peril or state of war.

(4) Preparation is criminal.

## **Section 312 Terror**

(1) Whoever kills another person with the intention to harm the constitutional order of the Czech Republic, shall be sentenced to imprisonment for fifteen to twenty years, eventually in



parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment.

(2) Preparation is criminal.

### **Section 313 Common Provisions**

Protection according to Section 311 and 312 is also provided to a foreign state.

### **Section 314 Sabotage**

(1) Whoever abuses his/her occupation, profession, position or function with the intention to impair the constitutional system or defence capability of the Czech Republic or to impair an international organisation or commits another action in order to

- a) thwart or aggravate fulfilment of an important goal of an international organisation, public authority, armed forces or security corps, economic organisation or another institution, or
- b) causes failure in function of such an authority or organisation or institution or another serious damage,

shall be sentenced to imprisonment for three to ten years, eventually in parallel to this sentence also to confiscation of property.

(2) An offender shall be sentenced to imprisonment for eight to twelve years, eventually in parallel to this sentence also to confiscation of property, if he/she

- a) commits such an act as a member of an organised group, or
- b) commits such an act in a state of national peril or state of war.

(3) An offender shall be sentenced to imprisonment for ten to twenty years, eventually in parallel to this sentence also to confiscation of property, or to an exceptional sentence of imprisonment, if he/she

- a) causes grievous bodily harm to at least two persons or death by the act referred to in Sub-section (1),
- b) causes extensive damage by such an act,
- c) by such an act seriously threatens the international position of the Czech Republic or position of an international organisation which is the Czech Republic a member of, or
- d) organises such an act in a state of national peril or a state of war.

(4) Preparation is criminal.

### **Section 315 Abuse of Representation of State or International Organisation**

(1) Whoever abuses his/her competence to act on behalf of the Czech Republic or stated international organisation in dealing with a person who is representing interests of foreign

power with the intention to impair the constitutional system, territorial integrity or defence capability, or to destroy its sovereignty or to impair an international organisation, even though he/she is authorised to represent the Czech Republic or an international organisation which is the Czech Republic a member of, or to negotiate with a foreign power or otherwise protect interests of the Czech Republic or an international organisation which is the Czech Republic a member of, shall be sentenced to imprisonment for three to ten years.

(2) The same sentence shall be imposed to anyone who with such an intention pretends he/she is an authorised person and enters negotiations about an important matter of the Czech Republic or an international organisation which is the Czech Republic a member of, with a person representing interests of a foreign power.

(3) An offender shall be sentenced to imprisonment for eight to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) as a member of an organised group,
- b) seriously endangers the international position of the Czech Republic or position of an international organisation which is the Czech Republic a member of, or
- c) commits such an act in a state of national peril or a state of war.

(4) Preparation is criminal.

## **Division 2**

### **Criminal Acts Against Security of the Czech Republic, Foreign State or International Organisation**

#### **Section 316 Espionage**

(1) Whoever spies secret information classified according to another legal regulation, abuse of which may seriously endanger or impair constitutional system, sovereignty, territorial integrity, defence capability and security of the Czech Republic or another state or defence capability and security of an international organisation, whose interests in stated areas has the Czech Republic undertaken to protect, with the intention to disclose it to a foreign power,

whoever collects data containing secret information for such a purpose, or

whoever intentionally discloses such a confidential information,

shall be sentenced to imprisonment for two to eight years.

(2) The same sentence shall be imposed to anyone who enables or facilitates activity of a perpetrator of the act referred to in Sub-section (1) or an organisation, whose objective is to spy such secret information.

- (3) An offender shall be sentenced to imprisonment for eight to fifteen years, if
- a) he/she commits the act referred to in Sub-section (1) or (2) as a member of an organisation, whose objective is to spy secret information,
  - b) he/she commits such an act, even though protection of secret information has been especially imposed to him/her,
  - c) he/she gains for him-/herself or for another substantial profit or commits such an act in considerable extent, or
  - d) such an act concerns secret information classified as “Top secret” by another legal regulation.

(4) An offender shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) or (2) in a state of national peril or a state of war.

(5) Preparation is criminal.

### **Section 317 Endangering Classified Information**

(1) Whoever spies information classified according to another legal regulation with the intention to disclose it to unauthorised person, whoever collects data containing concealed information with such an intention or whoever intentionally discloses confidential information to unauthorised person, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) intentionally discloses information classified according to another legal regulation as “Top secret” or “Secret” to an unauthorised person.
  - b) commits the act referred to in Sub-section (1), even though protection of classified information was especially imposed to him/her, or
  - c) gains for him-/herself or for another substantial profit or causes substantial damage or another especially serious consequence by such an act.

- (3) An offender shall be sentenced to imprisonment for five to twelve years, if
- a) the act referred to in Sub-section (1) concerns information from the area of securing defence capabilities of the Czech Republic classified according to another legal regulation as “Top secret”, or
  - b) he/she commits such an act in a state of national peril or state of war.

(4) Preparation is criminal.

## **Section 318 Negligent Jeopardising Classified Information**

Whoever negligently causes disclosing of information classified according to another legal regulation as “Top secret” or Secret”, shall be sentenced to imprisonment for up to three years or to prohibition of activity.

### **Division 3**

#### **Criminal Acts Against Defence of State**

##### **Section 319 Collaboration**

(1) Whoever provides profit to the enemy or in any way supports him, shall be sentenced, unless a more severely punishable criminal offence is concerned, to imprisonment for one year to ten years.

##### **Section 320 War Treason**

(1) Citizen of the Czech Republic, who in a state of national peril or a state of war performs services in enemy military forces, shall be sentenced to imprisonment for ten to twenty years or to an exceptional sentence of imprisonment.

(2) Preparation is criminal.

##### **Section 321 Service in Foreign Armed Forces**

(1) Citizen of the Czech Republic, who contrary to another legal regulation performs a service in army or armed forces of another state, shall be sentenced to imprisonment for up to five years.

(2) An offender shall be sentenced to imprisonment for three to ten years, if he/she commits the act referred to in Sub-section (1) in a state of national peril or state of war.

##### **Section 322 Breach of Personal and Material Duty to Defend the State**

(1) Whoever fails to fulfil, even negligently, his/her personal or material duty to defend the state,

whoever intentionally avoids fulfilment of such a duty, or

whoever, even negligently, thwarts or aggravates fulfilment of such a duty by another person,

shall be sentenced to imprisonment for six months to three years.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she jeopardises the interests of defending the State in considerable extent by the act referred to in Sub-section (1).

### **Section 322 Violation of Personal and Material Duty for Defence of State**

(1) Whoever fails, even out of negligence, to comply with their personal or material duty for defence of state,

whoever deliberately avoids performance of such a duty, or

whoever, even out of negligence, thwarts or aggravates performance of such a duty by another person,

shall be sentenced to imprisonment for six months to three years.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she substantially endangers the interests of defence of state by the act referred to in Sub-section (1).

## **CHAPTER X**

### **CRIMINAL OFFENCES AGAINST ORDER IN PUBLIC MATTERS**

#### **Division 1**

#### **Criminal Acts Against Exercising Competence of Public Authority and Public Official**

### **Section 323 Violence against Public Authority**

(1) Whoever uses violence with the intention to affect exercise of competence of a body of state administration, local self-administration, court or another public authority, shall be sentenced to imprisonment for six months to five years.

(2) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) commits the act referred to in Sub-section (1) with a weapon,
- b) harms another person on health, or
- c) causes substantial damage by such an act.

(3) An offender shall be sentenced to imprisonment for four to twelve years, if he/she causes by the act referred to in Sub-section (1)

- a) grievous bodily harm,
- b) extensive damage, or
- c) disruption of activity of such an authority.

(4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 324 Threatening with Intention to Affect Public Authority**

- (1) Whoever threatens another with death, bodily harm or causing substantial damage
- a) with the intention to affect exercise of competence of a body of state administration, local self-administration, court or another public authority,
  - b) because of exercise of competence of such an authority,

shall be sentenced to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for up to five years, if he/she commits the act referred to in Sub-section (1) with a weapon.

### **Section 325 Violence against Public Official**

- (1) Whoever uses violence
- a) with the intention to affect exercise of competence of a public official, or
  - b) because of exercise of competence of a public official,

shall be sentenced to imprisonment for up to four years.

- (2) An offender shall be sentenced to imprisonment for six months to six years, if he/she
- a) commits the act referred to in Sub-section (1) with a weapon,
  - b) harms another on health by such an act, or
  - c) causes larger damage by such an act.

(3) An offender shall be sentenced to imprisonment for three to twelve years of imprisonment, if he/she causes by the act referred to in Sub-section (1)

- a) grievous bodily harm, or
- b) extensive damage.

(4) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 326 Threatening with Intention to Affect Public Official**

- (1) Whoever threatens another with death, bodily harm or causing substantial damage
- a) with the intention to affect exercise of competence of a public official, or

b) because of exercise of competence of a public official,

shall be sentenced to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for up to five years, if he/she commits the act referred to in Sub-section (1) with a weapon.

### **Section 327 Common Provision**

(1) Protection according to Section 323 to 326 shall be provided also to a person, who stood up for support or protection of a body of state administration, local self-administration, court or another public authority or a public official.

(2) Protection according to Section 323 to 326 shall be provided also to an internationally protected person, who shall be understood as a public official of a foreign state or an international organisation, enjoying diplomatic or other privileges and immunities according to international law, or a person holding an office or employed or working in an international judicial body.

### **Section 328 Assuming Competence of Public Authority**

Whoever wrongfully performs actions reserved for a body of state administration, local self-administration, court or another public authority, or

whoever performs an action that may be performed only *ex officio* by a body of state administration, local self-administration, court or another public authority,

shall be sentenced to imprisonment for up to two years.

## **Division 2**

### **Criminal Acts of Public Officials**

#### **Section 329 Abuse of Competence of Public Official**

(1) A public official, who with the intention to cause damage or another serious detriment or to obtain for him/herself or for another unjustified profit,

- a) performs his/her competence in a way contrary to another legal regulation,
- b) exceeds his/her competence, or
- c) fails to fulfil a duty arising from his/her competence,

shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for two to ten years, if he/she
- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1),
  - b) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith,
  - c) causes a serious disruption of activity of a body of state administration, local self-administration, court or another public authority,
  - d) causes a serious disruption of activity of a natural or legal person who is an entrepreneur,
  - e) commits such an act while taking advantage of defencelessness, dependency, distress, mental weakness or inexperience of another, or
  - f) causes extensive damage by such an act.

(4) Preparation is criminal.

### **Section 330 Negligent Obstruction of Duty of Public Official**

(1) A public official, who in performance of his/her competence negligently obstructs or considerably aggravates completion of an important duty, shall be sentenced to imprisonment for up to one year to prohibition of activity.

- (2) An offender shall be sentenced to imprisonment for up to three years or to prohibition of activity, if he/she
- a) causes a serious disruption in activity of body of state administration, local self-administration, court or another public authority by the act referred in Sub-section (1),
  - b) causes a serious disruption of activity of a natural or legal person who is an entrepreneur by such an act,
  - c) causes substantial damage by such an act, or
  - d) secures substantial profit for another person by such an act.

- (3) An offender shall be sentenced to imprisonment for one year to five years, if he/she
- a) causes extensive damage by the act referred to in Sub-section (1), or
  - b) secures extensive profit for another person by such an act.

## **Division 3**

### **Corruption**

#### **Section 331 Accepting Bribes**

(1) Whoever him-/herself or through another person accepts a bribe or a promise of a bribe for him-/herself or for another in relation to procuring matters of of general interest, or



whoever him-/herself or through another person accepts a bribe or a promise of a bribe for him-/herself or for another in relation to conducting own business or business of another,

shall be sentenced to imprisonment for up to three years or to prohibition of activity.

(2) Whoever, under the circumstances referred to in Sub-section (1) requests a bribe, shall be sentenced to imprisonment for six months to five years.

(3) An offender shall be sentenced to imprisonment for two to eight years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) or (2) with the intention to gain substantial profit for him-/herself or for another, or
- b) commits such an act as a public official.

(4) An offender shall be sentenced to imprisonment for five to twelve years, if he/she

- a) commits the act referred to in Sub-section (1) or (2) with the intention to gain extensive profit for him-/herself or for another, or
- b) commits such an act as a public official with the intention to gain substantial profit for him-/herself or for another.

### **Section 332 Bribery**

(1) Whoever provides, offers, or promises a bribe for another person in relation to procuring matters of of general interest, or

whoever provides, offers, or promises a bribe to another person or for another person in relation to conducting own business or business of another,

shall be sentenced to imprisonment for up to two years or to a pecuniary penalty.

(2) An offender shall be sentenced to imprisonment for one year to six years or to a pecuniary penalty , if he/she

- a) commits the act referred to in Sub-section (1) with the intention to gain substantial profit for him-/herself or for another, or to cause substantial damage to another person, or another especially serious consequence, or
- b) commits such an act against a public official.

### **Section 333 Indirect Corruption**

(1) Whoever requests or accepts a bribe for that he/she will use his/her influence or influence of another to affect the exercise of powers of a public officialn, for or that he/she has already done so, shall be sentenced to imprisonment for up to three years.

(2) Whoever provides, offers, or promises a bribe to another person for reasons referred to in Sub-section (1), shall be sentenced to imprisonment for up to two years.

### **Section 334 Common Provisions**

(1) A bribe shall be understood as an unauthorised advantage consisting in direct asset enrichment or another profit that is to be given to the bribed person or with his/her consent to another person and to which he/she is not entitled.

(2) A public official according to Section 331 to 333 shall be understood, in addition to the persons referred to in Section 127, also as any person

- a) holding an office at the legislative body, judicial authority, or another public authority of a foreign state,
- b) holding an office or employed or working at an international judicial body,
- c) holding an office or employed or working at an international or multinational organisation established by states or other subjects of international public law or within a body or institution thereof, or
- d) holding an office at an enterprising legal entity in which the Czech Republic or a foreign state has a decisive influence,

if performance of such functions, employment, or work is connected to a competence in procuring matters of general interest, and the criminal offence was committed in connection to such a competence.

(3) Procuring matters of general interest shall be understood also as maintaining an obligation imposed by a legal regulation or assumed by contract, the purpose of which is to ensure that damage or unjust enrichment of parties to business relationships or persons acting on their behalf is avoided in such relationships.

## **Division 4**

### **Other Interference with Activity of Public Authority**

#### **Section 335 Interfering with Independence of Courts**

(1) Whoever influences a judge to breach his/her duty in proceedings before court, shall be sentenced to imprisonment for six months to three years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she commits the act referred to in Sub-Section (1) with the intent to

- (a) obtain for him-/herself or for another substantial profit,
- (b) cause substantial damage, or
- (c) seriously harm another at work, disrupt his/her family relations or cause another serious detriment.

- (3) An offender shall be sentenced to five to twelve years of imprisonment, if he/she commits the act referred to in Sub-section (1) with the intent to
- (a) obtain for him-/herself or for another extensive profit,
  - (b) cause extensive damage.

### **Section 336 Contempt of Court**

Whoever repeatedly

- (a) seriously disturbs proceeding of court,
- (b) behaves insultingly or disrespectfully towards the court in such proceedings, or
- (c) fails to obey an order or notice of the court without an adequate justification or thwarts proceeding of court,

shall be sentenced to imprisonment for up to two years or to confiscation of a thing or other asset value.

### **Section 337 Obstruction of Justice and Obstruction of a Sentence of Banishment**

(1) Whoever interferes or considerably aggravates execution of a decision of court or another public authority by

- (a) performing an activity prohibited by such a decision or activity for which was withdrawn a relevant licence according to a special legal regulation.
- (b) remaining in the territory of the Czech Republic, even though a sentence of banishment was imposed to him/her, or a decision on his/her administrative banishment was made,
- (c) remaining without an authorisation and without a serious reason in a place or district to which applies a sentence of prohibition of stay, or failing to comply with restrictions imposed by the court in connection to execution of this sentence,
- (d) attending an event to which applies a sentence of prohibition of entering sport, cultural and other social events, or by commission of another serious conduct to thwart the purpose of this sentence,
- (e) failing without a serious reason to enter execution of a sentence of imprisonment upon a notice of a court or by resisting to enter execution of this sentence in another way.
- (f) committing serious conduct to thwart execution or purpose of the sentence,
- (g) committing serious conduct to thwart execution or purpose of custody,
- (h) committing serious conduct to thwart execution or purpose of security detention, or
- (i) committing serious conduct to thwart execution or purpose of protective therapy or protective education imposed by the court, or in other way, especially by escaping from the institution or assisting in escape seriously aggravates execution of such decisions, or thwarts supervision imposed upon termination of the protective therapy,

shall be sentenced to imprisonment for up to three years.

(2) The same sentence shall be imposed to anyone who commits serious or repeated conduct to thwart banishment executed in accordance to another legal regulation or a decision of court on preliminary measure by which is imposed an obligation to temporarily leave common habitation and its immediate surroundings and to refrain from entering it, or an obligation to refrain from contact with the petitioner and engaging in communications with him/her.

(3) Whoever thwarts or considerably aggravates execution of a decision of court or another public authority by

- (a) destroying, damaging, rendering unusable, concealing, alienating or removing a thing or other asset value concerned by such a decision, or
- (b) escapes a guard, from custody, from execution of a sentence of imprisonment or protective detention,

shall be sentenced to imprisonment for up to five years or to a pecuniary penalty.

(4) Whoever, after futile utilisation of measures in civil court proceedings against him/her aimed at execution of a court decision or agreement approved by the court on education of minor children, including contact with children, thwarts execution of such a decision or agreement, or

whoever commits serious conduct to thwart execution of a decision of another public authority related to education of minor children,

shall be sentenced to imprisonment for up to one year.

### **Section 338 Freeing Prisoners**

(1) Whoever frees a prisoner or an inmate in execution of protective detention, organises his/her escape, incites him/her to escape or prepares his/her escape, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1)

- (a) with a weapon, or
- (b) as a public official.

### **Section 339 Violent Crossing of State Border**

(1) Whoever crosses a state border with use of violence or threat of imminent violence, shall be sentenced to imprisonment for one year to five years.

(2) An offender shall be sentenced to imprisonment for three to ten years or to confiscation of property, if he/she

- (a) organises the act referred to in Sub-section (1),
- (b) commits such an act with a weapon or with at least two persons,
- (c) commits such an act with the intent to conceal or facilitate commission of another criminal act,
- (d) causes grievous bodily harm by such an act,
- (e) causes substantial damage by such an act, or
- (f) commits such an act in a state of national peril or state of war.

(3) An offender shall be sentenced to imprisonment for eight to fifteen years, eventually in parallel to this sentence also to confiscation of property, if he/she

- a) causes death by the act referred to in Sub-section (1),
- b) causes grievous bodily harm to at least two persons by such an act,
- c) causes extensive damage by such an act, or
- d) commits such an act as a soldier in a state of national peril or a state of war.

(4) Preparation is criminal.

### **Section 340 Organising and Facilitation of Unauthorised Crossing of State Border**

(1) Whoever organises for another unauthorised crossing of a state border or whoever facilitates or enables another to cross a state border without authorisation or facilitates or assists another after crossing a state border in transportation through the territory of the Czech Republic or whoever organises such transportation, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to five years, to confiscation of property or to a pecuniary penalty, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) exposes another person to inhumane or humiliating treatment by such an act,
- c) commits such an act for payment,
- d) commits such an act repeatedly, or
- e) commits such an act with the intention to conceal or facilitate commission of another criminal act.

(3) An offender shall be sentenced to imprisonment for two to eight years or to confiscation of property, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group in for payment,
- b) exposes another person to risk of death by such an act,
- c) causes grievous bodily harm by such an act,
- d) gains for him-/herself or for another substantial profit by such an act,
- e) commits such an act with a weapon, or
- f) commits such an act in a state of national peril or a state of war.

(4) An offender shall be sentenced to imprisonment for five to twelve years, eventually in parallel to this sentence also to confiscation of property, if he/she

- a) causes death by the act referred to in Sub-section (1),
- b) causes grievous bodily harm of at least two persons by such an act,
- c) gains for him-/herself or for another extensive profit by such an act,
- d) commits such an act as a soldier in a state of national peril or a state of war.

(5) Preparation is criminal.

### **Section 341 Assisting in Unauthorised Stay in the Territory of the Czech Republic**

(1) Whoever assists another person in unauthorised stay in the territory of the Czech Republic with the intention to gain material or other profit, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she

- a) organises the act referred to in Sub-section (1),
- b) commits such an act as a member of an organised group,
- c) commits such an act repeatedly, or
- d) commits such an act with the intention to conceal or facilitate commission of another criminal act.

(3) An offender shall be sentenced to imprisonment for six months to five years, to confiscation of property or to a pecuniary penalty, if he/she

- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1), or
- b) commits such an act in a state of national peril or a state of war.

(4) An offender shall be sentenced to imprisonment for two to eight years, eventually in parallel to this sentence also to confiscation of property, if he/she

- a) gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1), or
- b) commits such an act as a soldier in a state of national peril or a state of war.

### **Section 342 Illicit Employment of Foreigners**

(1) Whoever in larger extent illicitly employs or arranges employment of foreigners staying in the territory of the Czech Republic without authorisation, or

whoever in larger extent illicitly employs or arranges employment of foreigners that do not have valid permit for employment according to another legal regulation,

shall be sentenced to imprisonment for up to six months, to confiscation of a thing or other asset value or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for up to one year, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group,
- b) for payment, or
- c) repeatedly.

(3) An offender shall be sentenced to imprisonment for six months to three years, if he/she gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1).

(4) An offender shall be sentenced to imprisonment for one year to five years, eventually in parallel to this sentence also to confiscation of property, if he/she gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1).

### **Section 343 Breach of Regulations on International Flights**

Whoever breaches laws on international flights by penetrating into the territory of the Czech Republic by an aircraft, shall be sentenced to imprisonment for six months to three years.

### **Section 344 Mutiny of Prisoners**

(1) Whoever participates in revolt or resistance of a group of prisoners or inmates in execution of protective detention against supervising authority, its order, against prison rules or rules of execution of protective detention, shall be sentenced to imprisonment for one year to five years.

(2) An offender shall be sentenced to imprisonment for three to ten years, if he/she

- a) organises the act referred to in Sub-section (1),
- b) commits such an act with a weapon,
- c) commits such an act with the intention to conceal or facilitate commission of another criminal act,
- d) causes grievous bodily harm by such an act,
- e) causes substantial damage by such an act, or
- f) commits such an act in a state of national peril or state of war.

(3) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes by the act referred to in Sub-section (1)

- a) death,
- b) grievous bodily harm to at least two persons, or
- c) extensive damage.

(4) Preparation is criminal.

### **Section 345 False Accusation**

(1) Whoever falsely accuses another of a criminal act, shall be sentenced to imprisonment for up to two years.

(2) Whoever falsely accuses another of a criminal act with the intention to cause his/her criminal prosecution, shall be sentenced to imprisonment for up to three years.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) causes substantial damage by the act referred to in Sub-section (1) or (2),
- b) commits such an act by press, film, radio, television, publically accessible computer network or in another similarly effective way,
- c) commits such an act with the intention to seriously harm another in his/her occupation, to disrupt his/her family relations or to cause another serious detriment,
- d) commits such an act with the intention to conceal or demean his/her own criminal act, or
- e) commits such an act on another who has fulfilled his/her duty to him/her arising from his/her occupation, profession, position or function or imposed to him/her according to law.

(4) An offender shall be sentenced to imprisonment for three to ten years, if he/she causes extensive damage by the act referred to in Sub-section (1) or (2).

### **Section 346 False Testimony**

(1) Whoever gives as an expert a false, grossly distorted or incomplete expert opinion, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) Whoever as a witness before court or international judicial authority, before a public notary as a judicial commissioner, public prosecutor or a police authority conducting pre-trial proceedings according to the Code of Criminal Procedure, or before the investigative committee of the Chamber of Deputies of the Parliament of the Czech Republic

- a) states untrue about a circumstance that has essential relevance for decision making or for findings of the investigative committee of the Chamber of Deputies of the Parliament of the Czech Republic,
- b) conceals such a circumstance,

shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

(3) An offender shall be sentenced to imprisonment for two to ten years, if he/she

- a) causes substantial damage by the act referred to in Sub-section (1) or (2), or
- b) commits such an act with the intention to seriously harm another in his/her occupation, to disrupt his/her family relations or to cause another serious detriment.



### **Section 347 False Translation**

(1) Whoever as an interpreter incorrectly, with gross distortion or incompletely interprets or translates in writing in proceedings before a public authority or in connection to such proceedings matters of fact or circumstances that have essential importance for decision making of a public authority, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) Whoever as an interpreter before a court or international judicial authority, public prosecutor or a police authority that conducts pre-trial proceedings according to the Code of Criminal Procedure, or before the investigative committee of the Chamber of Deputies of the Parliament of the Czech Republic incorrectly, with gross distortion or incompletely interprets or translates in writing, shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

(3) An offender shall be sentenced to imprisonment for two to ten years, if he/she

- a) causes substantial damage by the act referred to in Sub-section (1) or (2), or
- b) commits such an act with the intention to seriously harm another in his/her occupation, to disrupt his/her family relations or to cause another serious detriment.

### **Section 348 Forgery and Alteration of Public Documents**

(1) Whoever forges a public document or substantially alters its contents with the intention to use it as genuine, or uses such a document as genuine,

whoever obtains such a document for him-/herself or for another or handles it with the intention to use it as genuine, or

whoever manufactures, offers, sells, mediates or otherwise makes accessible, obtains for him-/herself or for another or handles an instrument, device or a part thereof, procedure, utility or any other means, including a computer programme designed or adapted for forgery or alteration of public documents,

shall be sentenced to imprisonment for one year to six years or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for one year to six years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group,
- b) causes substantial damage by such an act, or
- c) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she

- a) commits the act referred to in Sub-section (1) as a member of an organised group operating in several states,

- b) commits such an act with the intention to enable or facilitate commission of a criminal act of treason (Section 309), terrorist attack (Section 311), or terror (Section 312),
- c) causes extensive damage by such an act, or
- d) gains for him-/herself or for another substantial profit by such an act.

### **Section 349 Unauthorised Manufacture and Possession of Stamp of State Seal and Official Stamp**

Whoever manufactures, obtains for him-/herself or for another or handles a stamp of state seal or a stamp of a public authority with an image of the national emblem or a stamp, print of which is a mandatory part of public documents, or an item capable of fulfilling functions thereof, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

### **Section 350 Forgery and Issue of False Medical Report, Opinion and Finding**

(1) Whoever forges a medical report, opinion or finding or substantially alters its content with the intention to use it in proceedings before an authority of social security or before another public authority, in criminal, civil or other trial proceedings, or

whoever uses in proceedings before an authority of social security or before another public authority in criminal, civil or other trial proceedings such a report, opinion or finding as genuine,

shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who

as a doctor or another competent medical person issues a false or grossly distorted medical report, opinion or finding or therein conceals significant matters of fact about his/her medical condition or medical condition of another for the purpose of using it in proceedings before an authority of social security or another public authority, in criminal, civil or other trial proceedings, or

whoever uses such a medical report, opinion or finding in proceedings before an authority of social security or another public authority, in criminal, civil or other trial proceedings.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she

- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1) or (2), or
- b) causes substantial damage by such an act.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) gains for him-/herself or for another extensive profit by the act referred to in Sub-section (1) or (2), or
- b) causes extensive damage by such an act.

### **Section 351 Obstruction of Preparation and Course of Elections and Referendum**

Whoever obstructs another by threat of violence or deceit in exercising the election right or voting right in referendum , or whoever forces another in such a way to exercise the election right or voting right in referendum,

whoever counterfeits information in evidence on the number of members of a political party or on a petition for election purposes or in another document related to elections or referendum or whoever knowingly uses such a document as genuine,

whoever knowingly incorrectly counts votes or breaches the secrecy of voting, or whoever grossly obstructs preparations or course of elections to a legislative body or representative body of a local self-administration community or preparations or course of referendum, until enunciation of their results,

shall be sentenced to imprisonment for six months to three years.

## **Division 5**

### **Criminal Acts Disturbing Cohabitation of People**

#### **Section 352 Violence Against Group of People and Individuals**

(1) Whoever threatens a group of people with death, bodily harm or causing extensive damage, shall be sentenced to imprisonment for up to one year.

(2) Whoever uses violence against a group of people or against an individual or threatens them with death, bodily harm or causing extensive damage for their true or presupposed race, belonging to an ethnic group, nationality, political or religious beliefs or because they are truly or supposedly without religion, shall be sentenced to imprisonment for six months to three years.

(3) The same sentence as in Sub-section (2) shall be imposed to anyone who conspires or assembles for the purpose of committing such an act.

#### **Section 353 Dangerous Threatening**

(1) Whoever threatens another with death, grievous bodily harm another serious detriment in such a way that it can raise a reasonable fear, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for up to three years or to prohibition of activity, if he/she commits the act referred to in Sub-section (1)

- a) as a member of an organised group,
- b) against a child or a pregnant woman,
- c) with a weapon,
- d) on a witness, expert or interpreter in connection to performance of their duties, or
- e) on a medical worker in performance of medical occupation or a profession aimed at saving lives or protection of health or on another person who was fulfilling his/her similar duty in protection of lives, health or property arising from his/her occupation, profession, position or function or imposed to him/her according to law.

### **Section 354 Dangerous Pursuing**

(1) Whoever pursues another in long term by

- a) threatening with bodily harm or another detriment to him/her or to persons close to him/her ,
- b) seeks his/her personal presence or follows him/her,
- c) persistently contacts him/her by the means of electronic communications, in writing or in another way,
- d) abuses his/her personal data for the purpose of gaining personal or other contact,

and this conduct is capable of raising reasonable fear for his/her life or health or lives or health of persons close to him/her, shall be sentenced to imprisonment for up to one year or to prohibition of activity.

(2) An offender shall be sentenced to imprisonment for six months to three years, if he/she commits the act referred to in Sub-section (1)

- a) against a child or a pregnant woman,
- b) with a weapon, or
- c) with at least two persons.

### **Section 355 Defamation of Nation, Race, Ethnic or other Group of People**

(1) Whoever publically defames

- a) any nation, its language, any race of ethnic group, or
- b) a group of people for their true or presupposed race, belonging to an ethnic group, nationality, political or religious beliefs or because they are truly or supposedly without religion,

shall be sentenced to imprisonment for up to two years

(2) An offender shall be sentenced to imprisonment for up to two years, if he/she commits the act referred to in Sub-section (1)

- a) with at least two persons, or
- b) by press, film, radio, television, publically accessible computer network or in another similarly effective way.

### **Section 356 Instigation of Hatred towards a Group of People or of Suppression their Rights and Freedoms**

(1) Whoever publically instigates hatred towards any nation, race, ethnic group, religion, class or another group of people or instigates suppression of rights and freedoms of their members, shall be sentenced to imprisonment for up to two years.

(2) The same sentence shall be imposed to anyone who conspires or assembles to commit the act referred to in Sub-section (1).

- (3) An offender shall be sentenced to imprisonment for six months to three years, if he/she
- a) commits the act referred to in sub-section (1) by press, film, radio, television, publically accessible computer network or in another similarly effective way, or
  - b) actively participates in activities of a group, organisation or association that promotes discrimination, violence or race, ethnical, class, religious or other hatred by such an act.

## **Division 6**

### **Other Disturbance of Public Order**

#### **Section 357 Spreading of Alarming News**

(1) Whoever intentionally causes a threat of serious concernment of at least a portion of population of a certain area by spreading alarming news that is untrue, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) Whoever communicates the news referred to in Sub-section (1) or other untrue news capable of causing precautions leading to a risk of serious concernment of at least a portion of population of a certain place or an unfounded rescue operation of the integrated emergency system to court or to a police authority of the Czech Republic, to a state administration authority, local self-administration authority or another public authority, to a legal person, natural person who is an entrepreneur or a mass communication media, shall be sentenced to imprisonment for six months to three years or to prohibition of activity.

(3) An offender shall be sentenced to imprisonment for one year to five years or to prohibition of activity, if he/she

- a) commits the act referred to in Sub-section (1) or (2) repeatedly,
- b) commits such an act as a member of an organised group,
- c) causes substantial damage by such an act,

- d) causes serious disruption in activity of body of state administration, local self-administration, court or another public authority by such an act, or
- e) causes serious disruption in activity of a legal person or natural person who is an entrepreneur by such an act.

- (4) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) or (2) in a state of national peril or state of war, during a natural disaster or another event seriously endangering lives and health of people, public order or property, or
  - b) causes extensive damage by such an act.

### **Section 358 Disorderly Conduct**

(1) Whoever commits publically or in a publically accessible place gross indecency or disorderly conduct especially by attacking another, disgracing a grave, historical or cultural memorial or grossly interferes with preparation or course of an organised sport event, congregation or ceremony of people, shall be sentenced to imprisonment for up to two years.

- (2) An offender shall be sentenced to imprisonment for up to three years, if he/she commits the act referred to in Sub-section (1)
- a) repeatedly, or
  - b) as a member of an organised group.

### **Section 359 Desecration of Human Remains**

(1) Whoever opens a grave or vault with human remains without authorisation, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who wilfully removes human remains from a burial site or treats human remains contrary to the law shall be similarly punished.

- (3) An offender shall be sentenced to imprisonment for up to three years, if he/she commits the act referred to in Sub-section (1) or (2)
- a) as a member of an organised group,
  - b) with the intention to gain for him/herself or for another material profit, or
  - c) with the intention to conceal or facilitate another criminal act.

### **Section 360 Insobriety**

(1) Whoever induces to him-/herself, even negligently, a state of irresponsibility by ingestion or application of addictive substances, in which he/she commits an otherwise punishable criminal act, shall be sentenced to imprisonment for three to ten years; however, if he/she commits a criminal act for which the law stipulates a lighter punishment, he/she shall be sentenced to this lighter punishment.

(2) Sub-section (1), as well as Section 26 shall not apply if an offender goes into a state of irresponsibility with the intention of committing a criminal offence, or if he/she committed a criminal offence out of negligence consisting in inducing a state of irresponsibility to him-/herself.

## **Division 7**

### **Organised Criminal Group**

#### **Section 361 Participation in Organised Criminal Group**

(1) Whoever establishes an organised criminal group,

whoever is an accessory to activities of a criminal group, or

whoever supports an organised criminal group,

shall be sentenced to imprisonment for two to ten years or to confiscation of property.

(2) An offender shall be sentenced to imprisonment for three to twelve years or to forfeiture of property, if he/she commits the act referred to in Sub-section (1) in relation to an organised criminal group intended to or aimed at committing treason (Section 309), terrorist attack (Section 311), or terror (Section 312).

(3) An offender shall be sentenced to imprisonment for five to fifteen years or to confiscation of property, if he/she the leader or a representative of an organised criminal group intended to or aimed at committing treason (Section 309), terrorist attack (Section 311), or terror (Section 312).

(4) Section 107 and 108 shall not apply to an offender of the act referred to in Sub-Section (1) to (3).

#### **Section 362 Special Provision on Effective Regret**

Whoever commits the act referred to in Section 361 shall not be criminally liable, if he/she reported the organised criminal group to the public prosecutor or police authority at a time when the danger caused to an interest protected by this Act by an organised criminal group other than the one referred to in Section 361, could still be eliminated. A soldier may report to their superior officer.

### **Section 363 Impunity of Agent**

(1) A police officer performing tasks as an agent according to another legal regulation (hereinafter referred to as "agent"), who participates in activities of an organised criminal group or supports an organised criminal group, shall not be criminally liable for being an accessory to an organised criminal group according to Section 361(1) and (2), if he/she committed such an act with the aim to uncover the offender of the criminal activity committed in favour of an organised criminal group.

(2) A police officer performing tasks as an agent participating in activities of an organised criminal group or as a member of an organised group or supporting such an organised criminal group, shall not be criminally liable for criminal offences of Trafficking with human beings (Section 168), Entrusting a child to another person (Section 169), Breach of secrecy of correspondence (Section 182), Solicitation (Section 189), Distribution of pornography (Section 191), Production and other disposing with child pornography (Section 192), Abuse of a child for production of pornography (Section 193), Practise of unfair games and wagers (Section 213), Participation (Section 214), Money laundering (Section 216), Breach of duty to make a true declaration of property (Section 227), Forgery and alteration of money (Section 233), Unauthorised obtaining, forgery and alteration of means of payment (Section 234), Uttering forged and altered money (Section 235), Manufacture and possession of forgery equipment (Section 236), Unauthorised production of money (Section 237), Breach of regulations on labels and other items for labelling goods (Section 244), Forgery and alteration of items for labelling goods for tax purposes and items proving fulfilment of payment obligations (Section 245), Breach of prohibitions during emergency state in foreign exchange economy (Section 247), Conducting unauthorised business (Section 251), Unauthorised practise of lottery and other similar gambling (Section 252), Breach of regulations on circulation of goods in relations with foreign states (Section 261), Breach of regulations on export control of goods and technologies of dual use (Section 262), Breach of duty in export of goods and technologies of dual use (Section 263), Conducting foreign business with military material without licence or permit (Section 265), Breach of duty related to issuing permits and licenses for foreign trade with military material (Section 266), Distortion of data and non-keeping of records of foreign trade with military material (Section 267), Unlicensed arming (Section 279), Development, manufacture and possession of prohibited means of combat (Section 280), Unauthorised production and possession of radioactive substances and highly dangerous substances (Section 281), Unauthorised production and possession of nuclear material and special fission material (Section 282), Unauthorised production and other disposal with narcotic and psychotropic substances and poisons (Section 283), Possession of narcotic and psychotropic substances and poisons (Section 284), Unauthorised growing of plants containing narcotic or psychotropic substance (Section 285), Manufacture and possession of items for illegal production of narcotic and psychotropic substances and poisons (Section 286), Unauthorised waste disposal (Section 298), Unauthorised disposal with protected wild animals and herbs (Section 299), Accepting bribes (Section 331), Bribery (Section 332), Indirect corruption under Section 333 (2), Organising and facilitation of unauthorised crossing of state borders (Section 340), Facilitation of unauthorised stay in the



territory of the Czech Republic (Section 341), Forgery and alteration of public documents (Section 348), if he/she committed such an act with the purpose to uncover the offenders of the criminal activity committed in favour of an organised criminal group.

(3) An agent who established or concocted an organised criminal group or an organised group shall be exempt from impunity.

## **Division 8**

### **Other Forms of Criminal Cooperation**

#### **Section 364 Incitement to Criminal Offence**

Whoever publically incites to commit a criminal offence shall be sentenced to imprisonment for up to two years.

#### **Section 365 Approval of Criminal Offence**

(1) Whoever publically approves of a committed criminal offence or whoever publically extols an offender for his/her crime, shall be sentenced to imprisonment for up to one year.

(2) The same sentence shall be imposed to anyone who with the intention to demonstrate a consent with a criminal offence

(a) rewards or compensates an offender or a person close to him/her for the imposed sentence, or

(b) organises a collection for such reward or compensation.

#### **Section 366 Favouritism**

(1) Whoever assists an offender of a crime with the intention to facilitate his/her evasion of criminal prosecution, punishment or protective measure or execution thereof, shall be sentenced to imprisonment for up to four years; however, if he/she assists an offender of a criminal offence, for which the Criminal Code stipulates a lighter punishment, he/she shall be sentenced to this lighter punishment.

(2) Whoever commits the act referred to in Sub-section (1) in the favour of a close person shall not be criminally liable, unless he/she did so with the intention to

(a) assist a person who committed a criminal offence of Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Genocide (Section 400), Attacks against humanity (Section 401), Apartheid and discrimination against a group of people (Section 402), Preparation for aggressive war (Section 406), Use of forbidden means and methods of combat (Section 411), War cruelty (Section 412), Persecution of population (Section 413),

Pillage in the area of military operations (Section 414) or Abuse of internationally and state recognised symbols (Section 415), or  
(b) obtain material profit for him-/herself or for another.

### **Section 367 Non-obstruction of Criminal Offence**

(1) Whoever gains credible knowledge that another person is preparing to commit or is committing a criminal act of Murder (Section 140), Manslaughter (Section 141), Grievous bodily harm (Section 145), Torture and other cruel and inhumane treatment (Section 149), Illicit abortion of pregnancy without the consent of the pregnant woman (Section 159), Unauthorised extraction of tissues and organs (Section 164), Trafficking in human beings (Section 168), Illegal confinement (Section 170), Abduction under Section 172 (3) and (4), Robbery (Section 173), Hostage taking (Section 174), Extortion under Section 175 (3) and (4), Unauthorised use of personal data under Section 180 (4), Rape (Section 185), Sexual abuse (Section 187), Abuse of a child for production of pornography (Section 193), Maltreatment of entrusted person (Section 198), Theft under Section 205 (5), Embezzlement under Section 206 (5), Fraud under Section 209 (5), Insurance fraud under Section 210 (6), Credit fraud under Section 211 (6), Subvention fraud under Section 212 (6), Participation under Section 214 (3) and (4), Money laundering under Section 216 (4), Forgery and alteration of money (Section 233), Unauthorised obtaining, forgery and alteration of means of payment (Section 234), Unauthorised production of money (Section 237), Evasion of taxes, fees and similar compulsory payments under Section 240 (3), Abuse of information and status in commerce under Section 255 (4), Harming financial interests of European Communities under Section 260 (5), Breach of regulations on control of export of goods and technologies of dual use (Section 262), Breach of duty in export of goods and technologies of dual use (Section 263), Conducting foreign business with military material without licence or permit (Section 265), Breach of duty related to issuing permits and licenses for foreign trade with military material (Section 266), Public menace (Section 272), Development, manufacture and possession of prohibited means of combat (Section 280), Unauthorised production and possession of radioactive substances and highly dangerous substances (Section 281), Unauthorised production and possession of nuclear material and special fission material (Section 282), Unauthorised production and other disposal with narcotic and psychotropic substances and poisons (Section 283), Gaining control over aircraft, civil vessel and fixed platform (Section 290), Hijacking of aircraft to abroad (Section 292), Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Espionage (Section 316), Endangering classified information (Section 317), Military treason (Section 320), Violence against a public authority under Section 323 (3) and (4), Violence against a public official under Section 325 (3) and (4), Accepting bribes (Section 331), Bribery (Section 332), Violent crossing of state borders under Section 339 (2) and (3), Organising and facilitation of unauthorised crossing of state borders under Section 340 (4), Mutiny of prisoners (Section 344), Participation in an organised criminal group under Section 361 (2) and (3), Disobeying orders under Section 375 (2) and (3), Resisting and coercion to violate military duty under Section 377 (2) and (3), Breach of rights and protected interests of soldiers of equal rank under Section 382 (3) and (4), Breach

of rights and protected interests of subordinate or lower rank soldiers under Section 383 (3) and (4), Desertion (Section 386), Endangering the moral status of soldiers under Section 392 (2), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Preparation of offensive war (Section 406), Relations threatening peace (Section 409), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of the population (Section 413), Pillage in the area of military operations (Section 414) or Abuse of internationally and state recognised symbols under Section 415 (3), and does not try to obstruct commission or completion of such a criminal offence, shall be sentenced to imprisonment for up to three years; if this Act stipulates a lighter punishment for any of these criminal offences, he/she shall be sentenced to such a lighter punishment.

(2) Whoever commits an act referred to in Sub-section (1) shall not be criminally liable, if he/she could not contravene the criminal act without exposing him-/herself or a close person to danger of death, bodily harm, other serious detriment or criminal prosecution. However, stating a close person does not exclude the offender from criminal liability, if the non-obstruction concerns a criminal offence of Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Espionage (Section 316), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Preparation of offensive war (Section 406), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of the population (Section 413), (Section 414) or Abuse of internationally and state recognised symbols under Section 415 (3).

(3) A criminal offense may also be contravened by a timely report to the public prosecutor or police authority; a soldier may report to their superior officer.

### **Section 368 Non-reporting of Criminal Offense**

(1) Whoever gains credible knowledge that another person committed a criminal act of Murder (Section 140), Grievous bodily harm (Section 145), Torture and other cruel and inhumane treatment (Section 149), Illegal confinement (Section 170), Hostage taking (Section 174), Abuse of a child for production of pornography (Section 193), Maltreatment of entrusted person (Section 198), Forgery and alteration of money (Section 233), Unauthorised obtaining, forgery and alteration of means of payment (Section 234), Unauthorised production of money (Section 237), Breach of regulations on control of export of goods and technologies of dual use (Section 262), Breach of duty in export of goods and technologies of dual use (Section 263), Conducting foreign business with military material without licence or permit (Section 265), Breach of duty related to issuing permits and licenses for foreign trade with military material (Section 266), Public menace (Section 272), Development, manufacture and possession of prohibited means of combat (Section 280), Unauthorised production and possession of radioactive substances and highly dangerous substances (Section 281), Unauthorised production and possession of nuclear material and special fission material (Section 282), Gaining control over aircraft, civil vessel and fixed platform (Section 290),

Hijacking of aircraft to abroad (Section 292), Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Sabotage (Section 314), Espionage (Section 316), Endangering classified information (Section 317), Military treason (Section 320), Accepting bribes (Section 331), Bribery (Section 332), Participation in an organised criminal group under Section 361 (2) and (3), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Preparation of offensive war (Section 406), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of the population (Section 413), (Section 414) or Abuse of internationally and state recognised symbols under Section 415 (3), and fails to immediately report such a criminal act to the public prosecutor or police authority, or if a soldier is concerned, to their superior, shall be sentenced to imprisonment for up to three years; if this Act stipulates a lighter punishment for any of these criminal offences, he/she shall be sentenced to such a lighter punishment.

(2) Whoever commits an act referred to in Sub-section (1) shall not be criminally liable, if he/she could not report the criminal act without exposing him-/herself or a close person to danger of death, bodily harm, other serious detriment or criminal prosecution.

(3) The report duty according to Sub-section (1) does not apply to an attorney or his/her employee, who learns about commission of a criminal act in relation to performance of his/her legal profession or practice. The report duty also does not apply to clergymen of a registered church or religious society authorised to exercise special rights when they learn about a criminal offence in relation to performing a confession, or in connection with practice of similar confessional secrets.

## **CHAPTER XI**

### **CRIMINAL OFFENCES AGAINST CONSCRIPTION**

#### **Section 369 Obstruction of Military Service Capacity**

(1) Whoever renders him-/herself or another permanently or temporarily incapable or less capable to perform compulsory military service in time of peace, shall be sentenced to imprisonment for up to two years.

(2) An offender shall be sentenced to one year to ten years of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril or a state of war.

#### **Section 370 Non-compliance with Conscription Duty**

Whoever fails to appear at military enlistment procedure during a state of national peril or a state of war with the intention not to comply with his/her conscription duty or to postpone its compliance, shall be sentenced to imprisonment for six months to three years.

### **Section 371 Bypassing Conscription Duty**

(1) Whoever commits intrigues during a state of national peril or a state of war with the intention to achieve reliefs from conscription duty, shall be sentenced to imprisonment for six months to three years.

(2) Whoever commits intrigues during a state of national peril or a state of war with the intention

- a) to fully or partially avoid performing conscription duty, or
- b) to fully or partially relieve another of performing conscription duty,

shall be sentenced to imprisonment for three to five years.

### **Section 372 Non-commencing Service in Armed Forces**

Whoever fails to commence service in armed forces upon a duly served draft notice during a state of emergency or a state of war within 24 hours after lapse of the time limit stipulated in such a draft notice, even though no legally assumed obstacle prevented him/her from it, shall be sentenced to imprisonment for up to one year.

### **Section 373 Non-commencing Emergency Service in Armed Forces**

(1) Whoever fails to commence emergency service in armed forces upon a duly served draft notice during a state of emergency or a state of war within 24 hours after lapse of the time limit stipulated in such a draft notice, even though no legally assumed obstacle prevented him/her from it, shall be sentenced to imprisonment for one year to five years.

(2) Whoever fails to commence emergency service in armed forces in case he/she has not received a draft notice during a state of emergency or a state of war upon a public notice or a mobilisation call, even though no legally assumed obstacle prevented him/her from it, shall be sentenced to imprisonment for up to three years.

### **Section 374 Negligent Non-commencing Emergency Service in Armed Forces**

(1) Whoever negligently fails to commence emergency service in armed forces upon a duly served draft notice during a state of emergency or a state of war within 24 hours after lapse of the time limit stipulated in such a draft notice, even though no legally assumed obstacle prevented him/her from it, shall be sentenced to imprisonment for up to three years.

(2) Whoever negligently fails to commence emergency service in armed forces in case he/she has not received a draft notice during a state of emergency or a state of war upon a public notice or a mobilisation call, even though no legally assumed obstacle prevented him/her from it, shall be sentenced to imprisonment for up to one year.

## CHAPTER XII

### MILITARY CRIMINAL OFFENCES

#### Division 1

#### Criminal Offences against Military Subordination and Military Honour

##### Section 375 Disobeying Orders

- (1) Whoever refuses to or intentionally fails to carry out an order shall be sentenced to imprisonment for up to five years.
- (2) An offender shall be sentenced to three to ten years of imprisonment, if he/she
- a) commits the act referred to in Sub-section (1) with a group of soldiers,
  - b) commits such an act with a weapon,
  - c) commits such an act under such circumstances, that he/she may thwart or substantially aggravate fulfilment of an important service task,
  - d) by such an act causes compromise of combat readiness of a military unit, military facility, military rescue unit or another organisational unit within the competence of the Ministry of Defence,
  - e) by such an act causes extensive damage or damage to the environment, for removing of which is necessary to expend costs in at least large extent,
  - f) causes grievous bodily harm by such an act, or
  - g) causes death by such an act.
- (3) An offender shall be sentenced to eight to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril, a state of war or a combat situation.
- (4) Preparation is criminal.

##### Section 376 Negligent Disobeying Orders

- (1) Whoever fails to carry out an order out of negligence, and thus thwarts or substantially aggravates fulfilment of an important service task, shall be sentenced to imprisonment for up to one year.
- (2) An offender shall be sentenced to imprisonment for six months to five years, if he/she causes by the act referred to in Sub-section (1):
- a) serious compromise of combat readiness of a military unit, military facility, military rescue unit or another organisational unit within the competence of the Ministry of Defence,
  - b) extensive damage or damage to the environment, for removing of which is necessary to expend costs in at least large extent,

- c) grievous bodily harm by such an act, or
- d) death.

(3) An offender shall be sentenced to imprisonment for three to ten years, if he/she commits the act referred to in Sub-section (1) during a state of national emergency or a state of war.

### **Section 377 Resisting and Coercion to Violate Military Duty**

(1) Whoever resists a soldier, who fulfils his/her military duty or forces him/her to breach his/her military duty, shall be sentenced to imprisonment for up to three years.

- (2) An offender shall be sentenced to imprisonment for two to ten years, if he/she
- a) commits the act referred to in Sub-section (1) with a group of persons,
  - b) commits such an act with a weapon,
  - c) commits such an act in a combat situation, or
  - d) causes grievous bodily harm by such an at.

- (3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment if he/she
- a) causes death by the act referred to in Sub-section (1), or
  - b) commits the act referred to in Sub-section (2) during a state of national peril or a state of war.

(4) Preparation is criminal.

### **Section 378 Insult between Soldiers**

- (1) Whoever insults
- a) a superior or higher ranking soldier,
  - b) subordinate or lower ranking soldier, or
  - c) a soldier of equal rank during the time he/she or the insulted soldier stands guard, supervision or another duty,

shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for up to three years, if he/she commits the act referred to in Sub-section (1) on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith.

### **Section 379 Insult between Soldiers by Violence or by Threat of Violence**

- (1) Whoever insults by violence or by a threat of imminent violence
- a) a superior or higher ranking soldier,

- b) subordinate or lower ranking soldier,

shall be sentenced to imprisonment for up to three years.

- (2) An offender shall be sentenced to imprisonment for one year to five years, if he/she
  - a) commits the act referred to in Sub-section (1) during the time he/she or the insulted soldier stands guard, supervision or another duty,
  - b) commits such an act against a military guard,
  - c) commits such an act with a weapon or with at least two persons,
  - d) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith, or
  - e) causes bodily harm by such an act.

### **Section 380 Insult of a Soldier of Equal Rank by Violence or by Threat of Violence**

(1) Whoever insults a soldier of equal rank by violence or by a threat of imminent violence during the time he/she or the insulted soldier stands guard, supervision or another duty, shall be sentenced to imprisonment for up to two years.

- (2) An offender shall be sentenced to imprisonment for six months to five years, if he/she
  - a) commits the act referred to in Sub-section (1) against a military guard,
  - b) commits such an act with a weapon or with at least two persons,
  - c) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith, or
  - d) causes bodily harm by such an act.

### **Section 381 Violence against Superior Officer**

- (1) Whoever uses violence against a superior officer
  - a) with the intention to affect performance of his/her military duties, or
  - b) for performance of his/her military duties,

shall be sentenced to imprisonment for six months to five years.

- (2) An offender shall be sentenced to imprisonment for three to ten years, if he/she
  - a) causes grievous bodily harm by the act referred to in Sub-section (1), or
  - b) commits such an act with at least two persons.

- (3) An offender shall be sentenced to imprisonment for ten to twenty years or to an exceptional sentence of imprisonment, if he/she
  - a) causes death by the act referred to in Sub-section (1), or



- b) commits such an act during a state of national emergency, state of war or combat situation.

(4) Preparation is criminal.

### **Section 382 Breach of Rights and Protected Interests of Soldiers of Equal Rank**

(1) Whoever forces a soldier of equal rank to perform personal favours, limits their rights, or wilfully aggravates performance of his/her duty, shall be sentenced to imprisonment for up to two years.

- (2) An offender shall be sentenced to imprisonment for six months to five years, if he/she
- a) commits the act referred to in Sub-section (1) by violence or by a threat of imminent violence or by a threat or another serious detriment,
  - b) commits such an act with at least two persons,
  - c) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith, or
  - d) causes bodily harm by such an act.

- (3) An offender shall be sentenced to imprisonment for two to eight years, if he/she
- a) commits the act referred to in Sub-section (1) in an especially cruel or with a weapon,
  - b) causes grievous bodily harm by such an act, or
  - c) commits such an act during a state of national peril, state of war or during a combat situation.

(4) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

### **Section 383 Breach of Rights and Protected Interests of Subordinate or Lower Rank Soldiers**

(1) Whoever forces a subordinate soldier or a soldier of lower rank to perform personal favours or limits his/her rights or aggravates performance of his/her service or imposes a disciplinary penalty to him/her contrary to another legal regulation, shall be sentenced to imprisonment for six months to three years.

- (2) An offender shall be sentenced to imprisonment for one year to five years, if he/she
- a) commits the act referred to in Sub-section (1) by violence, by threat of violence or by a threat of another serious detriment,
  - b) commits such an act with at least two persons,

- c) commits such an act on another for his/her true or presupposed race, belonging to an ethnical group, nationality, political beliefs, religion or because of his/her true or presupposed lack of religious faith, or
  - d) causes bodily harm by such an act.
- (3) An offender shall be sentenced to imprisonment for three to ten years, if he/she
- a) commits the act referred to in Sub-section (1) in an especially cruel or with a weapon,
  - b) causes grievous bodily harm by such an act, or
  - c) commits such an act during a state of national peril, state of war or during a combat situation.
- (4) An offender shall be sentenced to imprisonment for eight to sixteen years, if he/she causes death by the act referred to in Sub-section (1).
- (5) Preparation is criminal.

## **Division 2**

### **Criminal Offences against the Duty to Perform Military Service**

#### **Section 384 Evasion of Military Service**

- (1) Whoever, with the intention to avoid service during a state of emergency, harms his/her health, feigns an illness, counterfeits a document, abuses addictive substances, or uses another deceit, shall be sentenced to imprisonment for up to three years.
- (2) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril, state of war or during a combat situation.

#### **Section 385 Negligent Evasion of Military Service**

Whoever renders him-/herself incapacitated out of negligence during a state of emergency by abusing addictive substances, shall be sentenced to imprisonment for one year to five years.

#### **Section 386 Desertion**

- (1) Whoever wilfully departs him-/herself with the intention to avoid military service, shall be sentenced to imprisonment for one year to six years.
- (2) An offender shall be sentenced to three to ten years of imprisonment, if he/she commits the act referred to in Sub-section (1) with a weapon.

(3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril or state of war.

(4) Preparation is criminal.

### **Section 387 Wilful Abandonment**

(1) Whoever wilfully departs him-/herself by not appearing in time for a departure of a military transport, shall be sentenced to imprisonment for up to one year.

(2) Whoever wilfully departs him-/herself for more than three days,

whoever wilfully departs him-/herself for more than 24 hours, even though he/she has been sentenced for such a disciplinary offence in the past year,

whoever wilfully departs him-/herself for more than two days during a time of fulfilling especially important tasks, or

whoever wilfully departs during a service in abroad for more than 24 hours,

shall be sentenced to imprisonment for up to three years.

(3) Whoever wilfully departs him-/herself for more than fourteen days,

whoever wilfully departs him-/herself for more than six days during a time of fulfilling especially important tasks,

whoever wilfully departs for more than three days during a service in abroad,

shall be sentenced to imprisonment for six months to five years.

## **Division 3**

### **Criminal Offences against Guard, Supervisory or other Service**

#### **Section 388 Avoiding Performance of Guard, Supervisory or other Duty**

(1) Whoever, with the intention to avoid the performance of guarding, supervisory duties or other services, harms his/her health, feigns an illness, counterfeits documents, abuses addictive substances, or uses another deceit, shall be sentenced to imprisonment for up to two years.

(2) An offender shall be sentenced to imprisonment of one year to ten years or to an exceptional sentence of imprisonment if he/she commits the act referred to in Sub-section (1) during a state of national peril, state of war, or combat situation.

### **Section 389 Breach of Guard Duty**

(1) Whoever breaches, even negligently, regulations or rules of a guard or similar duty or special regulations issued according to them during performance of such a duty, shall be sentenced to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she

- a) commits the act referred to in Sub-section (1) during performance of a guard duty of an especially important state or military significance,
- b) commits such an act by a gross violation of his/her duty,
- c) by such an act causes a harmful effect, prevention of which was the aim of the guard or other similar duty, or
- d) commits such an act during a state of national peril or state of war.

(3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she intentionally commits the act referred to in Sub-section (1) during a combat situation and if there is any of the circumstances referred to in Sub-section (2) present.

(4) Preparation is criminal.

### **Section 390 Breach of Supervisory or another Duty**

(1) Whoever breaches, even negligently, regulations or rules of a supervisory or other duty during performance of such a duty, shall be sentenced to imprisonment for up to one year.

(2) An offender shall be sentenced to imprisonment for up to two years, if he/she causes an especially serious consequence by the act referred to in Sub-section (1), he/she was obliged to prevent.

(3) An offender shall be sentenced to imprisonment for one to five years, if he/she commits the act referred to in Sub-section (1) during a combat situation.

### **Section 391 Breach of Duty during Air Space Defence**

(1) Whoever breaches, even negligently, the rules of service in facilities designed for securing protection of air space, shall be sentenced to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she causes an especially serious consequence by the act referred to in Sub-section (1), which he/she was obliged to prevent.

(3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril or state of war and if he/she thus causes an especially serious consequence he/she was obliged to prevent.

#### **Division 4**

### **Criminal Offences Endangering Combat Capacity or Armed Forces**

#### **Section 392 Endangering the Moral Status of Soldiers**

(1) Whoever turns soldiers against military service or against their superior officer, or whoever seriously or systematically disrupts military discipline, shall be sentenced to imprisonment for up to three years.

(2) An offender shall be sentenced to imprisonment for three to twenty years or to an exceptional sentence of imprisonment, if he/she commits the act referred to in Sub-section (1) during a state of national peril, state of war or during a combat situation.

(3) Preparation is criminal.

#### **Section 393 Breach of Service Duty of a Soldier**

(1) Whoever, even negligently, substantially reduces usability of military material by failing to fulfil service duties imposed to him/her according to his/her service classification, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) Whoever, even negligently, uses military material of a larger value without authorisation for a purpose which it is not designated for, or whoever gives consent to such use, or whoever misuses or facilitates abuse of subordinates to tasks beyond their service duties, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) gains for him-/herself or for substantial profit by the act referred to in Sub-section (1),  
or
- b) intentionally causes reducing of combat capacity of armed forces or causes substantial damage by such an act.

- (4) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she
- a) intentionally commits the act referred to in Sub-section (1) or (2) during a state of national peril, state of war or during a combat situation, or
  - b) causes extensive damage by such an act.

(5) Preparation is criminal.

### **Section 394 Cowardice before Enemy**

Whoever surrenders into captivity out of cowardice or despondency during a combat situation, shall be sentenced to imprisonment for ten to twenty years.

### **Section 395 Non-fulfilment of Combat Mission**

(1) Whoever departs without permission from a place of service during a combat situation, shall be sentenced to imprisonment for five to twenty years.

(2) Whoever avoids his/her duty to fulfil a combat mission during a combat situation or refuses to use a weapon, shall be sentenced to imprisonment for ten to twenty years.

(3) Preparation is criminal.

### **Section 396 Abandoning Military Material**

(1) Whoever drops, abandons or renders unusable military equipment or other military machinery, shall be sentenced to imprisonment for five to twelve years.

(2) An offender shall be sentenced to eight to twenty years, if he/she causes reduction of combat capability of armed forces or causes substantial damage by the act referred to in Sub-section (1).

(3) Preparation is criminal.

### **Section 397 Surrendering Soldiers and Military Material to Enemy**

(1) A commander, who surrenders to an enemy, even negligently, without it being caused by a combat situation, military machinery or technical equipment, shall be sentenced to imprisonment for five to twenty years, provided that he/she did not act with the intention to support the enemy.

(2) Preparation is criminal.

## **Division 5**

### **Criminal Offences against Duties of Members of Security Forces**

#### **Section 398 Breach of Service Duties of a Member of Security Forces**

(1) Whoever, even negligently, significantly reduces the applicability of military equipment or other material means to the detriment of the security forces by failing to fulfil a service duty imposed to him/her, shall be sentenced to imprisonment for up to two years or to prohibition of activity.

(2) Whoever uses material means referred to in Sub-section (1) of a larger value for a purpose for which it is not intended without authorisation, or whoever gives consent to such use, or whoever abuses or facilitates abuse of subordinates or low ranks to tasks beyond their duty, shall be sentenced to imprisonment for up to three years, to prohibition of activity or confiscation of a thing or other asset value.

(3) An offender shall be sentenced to imprisonment for two to eight years, if he/she

- a) gains for him-/herself or for another substantial profit by the act referred to in Sub-section (1), or
- b) causes by intentionally committed act referred to in Sub-section (1) or (2) significant damage.

(4) An offender shall be sentenced to three to ten years, if he/she causes by intentionally committed act referred to in Sub-section (1) or (2) extensive damage.

(5) Preparation is criminal.

#### **Section 399 Common Provisions**

Provisions on criminal offences of Disobeying orders (Section 375), Negligent disobeying orders (Section 376), Insults among soldiers (Section 378), Insult among soldiers by violence or by threat of violence (Section 379), Insult of a Soldier of Equal Rank by Violence or by Threat of Violence (Section 380), Violence against a superior (Section 381), Breach of guard duty (Section 389) Breach of supervisory or other service duty (Section 390), shall also apply to members of security forces.

## **CHAPTER XIII**

### **CRIMINAL OFFENCES AGAINST HUMANITY, PEACE AND WAR CRIMES**

#### **Division 1**

#### **Criminal Offences Against Humanity**

## **Section 400 Genocide**

(1) Whoever with the intention to completely or partially eradicate a racial, ethnic, national, religious, class, or other similar group of people

- a) brings members of such a group to such living conditions that are to cause their complete or partial physical annihilation,
- b) takes measures to prevent birth of children within such a group,
- c) causes death or grievous bodily harm to a member of such group,

shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment.

(2) The same sentence shall be imposed to anyone who publically incites commission of the act referred to in Sub-section (1).

(3) Preparation is criminal.

## **Section 401 Attack against Humanity**

(1) Whoever commits within an extensive and systematic attack aimed against civilians

- a) extermination of people,
- b) enslavement,
- c) deportation or forced transfer of a group of civilians,
- d) rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation or other forms of sexual violence,
- e) persecution of a group of civilians on political, race, national, ethnic, cultural or religious grounds, on sex or another similar grounds,
- f) apartheid or another similar segregation or discrimination,
- g) illegal restraint, kidnapping to an unknown location or any other restriction of personal freedom with following involuntary disappearance of persons,
- h) torture,
- i) murder, or
- j) another inhumane act of similar nature,

shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment.

(2) Preparation is criminal.

## **Section 402 Apartheid and Discrimination against a Group of People**

(1) Whoever practises apartheid or racial, ethnic, national, religious or class segregation or discrimination against other similar groups of people, shall be sentenced to imprisonment for five to twelve years.



- (2) An offender shall be sentenced to imprisonment for ten to twenty years or to an exceptional sentence of imprisonment, if he/she
- a) exposes such a group of people to difficult life conditions by the act referred to in Sub-section (1),
  - b) exposes such a group of people to inhumane or humiliating treatment by such an act.
- (3) Preparation is criminal.

### **Section 403 Establishment, Support and Promotion of Movements Aimed at Suppression of Human Rights and Freedoms**

- (1) Whoever establishes, promotes or supports movements that is provably aimed at suppression of human rights or that proclaims racial, ethnic, national, and religious or class hatred or hatred against another group of people, shall be sentenced to imprisonment for one year to five years.
- (2) An offender shall be sentenced to imprisonment for three to ten years, if he/she
- a) commits the act referred to in Sub-section (1) by press, film, radio, television, publically accessible computer network or in another similarly effective way,
  - b) commits such an act as a member of an organised group,
  - c) commits such an act as a soldier, or
  - d) commits such an act during a state on national peril or a state of war.
- (3) Preparation is criminal.

### **Section 404 Expressing Sympathies for Movements Seeking to Suppress Human Rights and Freedoms**

Whoever publicly expresses sympathy for the movements referred to in Section 403 (1) shall be sentenced to imprisonment for six months to three years.

### **Section 405 Denial, Impugnation, Approval and Justification of Genocide**

Whoever publicly denies, impugns, approves, or attempts to justify Nazi, Communist or any other genocide, or other crimes of the Nazis and Communists against humanity, shall be sentenced to imprisonment for six months to three years.

## **Division 2**

### **Criminal Offences against Peace and War Crimes**

## **Section 406 Preparation of Offensive War**

Whoever is preparing an offensive war, in which the Czech Republic is to participate, and thus exposes the Czech Republic to a risk of war, shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment.

## **Section 407 Incitation of Offensive War**

(1) Whoever publicly incites an offensive war, in which the Czech Republic is to participate, promotes such a war, or otherwise supports the war propaganda, shall be sentenced to imprisonment for up to five years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she

- a) commits the act referred to in Sub-section (1) at a congregation that is subject to reporting obligation, or
- b) commits such an act by the press, film, radio, television, publicly accessible computer networks, or other similarly effective means.

(3) Preparation is criminal.

## **Section 408 Common Provisions**

As preparation and incitation of an offensive war shall not be considered conduct related to

- a) declaration of war, if there is a risk that the Czech Republic will be attacked or if it is necessary to comply with obligations of an international treaty concerning common defence against aggression,
- b) participation of the Czech Republic in the defence systems of an international organisation which the Czech Republic is a member of,
- c) ending the armed forces of the Czech Republic outside the territory of the Czech Republic or stationing of foreign military forces in the territory of the Czech Republic, which the Parliament of the Czech Republic or the Government of the Czech Republic expresses their consent with.

## **Section 409 Relations Endangering Peace**

(1) a citizen of the Czech Republic or a person without nationality who has their permanent residency in its territory, who with the intention to cause a war or military action against the Czech Republic or another State establishes or maintains contact with a foreign power on his/her own or through another person, shall be sentenced to imprisonment for three to twelve years.

(2) An offender shall be sentenced to imprisonment for ten to twenty years to an exceptional sentence of imprisonment, if he/she causes by the act referred to in Sub-section (1)

- a) serious threat to the international status of the Czech Republic or another state, or

- b) serious threat to the existence of the Czech Republic or another state.

(3) Preparation is criminal.

#### **Section 410 Breach of International Penalties**

(1) Whoever in larger extent breaches an order, prohibition or restriction laid down in order to maintain or restore international peace and security, the protection of human rights, or the fight against terrorism to a greater extent, to compliance with which is the Czech Republic bound by its membership in the United Nations or the European Union, shall be sentenced to imprisonment for up to three years or to a pecuniary penalty.

(2) An offender shall be sentenced to imprisonment for six months to five years, if he/she

- a) causes substantial damage by the act referred to in Sub-section (1), or
- b) gains for him-/herself or for another substantial profit by such an act.

(3) An offender shall be sentenced to imprisonment for three to eight years, if he/she

- a) commits the act referred to in Sub-section (1) in connection to an organised criminal group operating in several states,
- b) commits such an act with the intention to gain for him-/herself or for another extensive profit,
- c) causes extensive damage by such an act,
- d) causes serious threat to the international status of the Czech Republic by such an act, or
- e) significantly contributes to disruption of international peace and security, measures aimed to protect human rights, or the fight against terrorism by such an act.

#### **Section 411 Use of Forbidden Means and Methods of Combat**

(1) Whoever, during a time of war or another armed conflict, or a combat situation

- a) orders use of means of combat or material of a similar nature or uses such means or material, or
- b) orders waging of combat in a forbidden way or wages combat in such a way by him/herself,

shall be sentenced to imprisonment for two to ten years.

(2) The same sentence shall be imposed to anyone who contrary to provisions of international law on means and methods of waging war or another armed conflict intentionally

- a) by a military operation harms civilian population or persons on their lives, health or property or attacks them for retaliation reasons,
- b) leads an attack against an unprotected place or demilitarized zone,
- c) destroys a river dam, nuclear power plant or a similar facility that contains dangerous powers, or

- d) destroys or damages an object designated for humanitarian purposes or an internationally recognised cultural or natural monument, or exploit such object or monument for military purposes.

(3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she causes by the act referred to in Sub-section (1) or (2)

- a) grievous bodily harm, or
- b) death.

(4) Preparation is criminal.

### **Section 412 War Cruelty**

(1) Whoever violates regulations of international law by inhumane treatment of civilian population, refugees, wounded, sick, members of the armed forces who surrendered, or prisoners of war during a war or another armed conflict, shall be sentenced to imprisonment for five to twelve years.

(2) The same sentence shall be imposed to anyone who violates regulations of international law during war or another armed conflict by

- a) failing to implement effective measures for protection of persons who need such assistance, particularly children, women, wounded and sick, or prevents such measures, or
- b) preventing or impeding organizations of civil defence of the enemy, a neutral State, or another State in the performing their humanitarian tasks.

(3) An offender shall be sentenced to imprisonment for eight to twenty years or to an exceptional sentence of imprisonment, if he/she causes by the act referred to in Sub-section (1) or (2)

- a) grievous bodily harm, or
- b) death.

### **Section 413 Persecution of Population**

(1) Whoever is responsible for apartheid during a war or another armed conflict or commits other inhumane acts resulting from racial, ethnic, national, religious, class or similar discrimination, or terrorises the civilian population with violence or threat of its use, shall be sentenced to imprisonment for five to fifteen years.

(2) The same sentence shall be imposed to anyone who during a war or another armed conflict

- a) destroys or seriously disrupts supply of basic living needs of the civilian population in the occupied territory or the contact zone, or wilfully fails to provide necessary assistance to the population for their survival,

- b) unjustifiably delays the return of the civilian population or prisoners of war,
- c) unjustifiably relocates or deports the civilian population from the occupied territory,
- d) settles the occupied territory with a population from his/her own state,
- e) drafts children for service with weapons, or
- f) wilfully makes it impossible for the civilian population or prisoners of war to be judged on their offence by an impartial court trial.

(3) An offender shall be sentenced to imprisonment for ten to twenty years or to an exceptional sentence of imprisonment, if he/she causes by the act referred to in Sub-section (1) or (2)

- a) grievous bodily harm, or
- b) death.

(4) Preparation is criminal.

#### **Section 414 Pillage in the Area of Military Operations**

(1) Whoever, in the area of military operations, on the battlefield, in places affected by military operations, armed conflict, or in the occupied territory

- a) steals from the dead or otherwise misappropriates items or other assets of a stranger, or
- b) wilfully destroys, damages, removes, conceals, or abuses the property of a stranger,

shall be sentenced to imprisonment for eight to twenty years to to an exceptional sentence of imprisonment.

#### **Section 415 Abuse of internationally and State Recognised Symbols**

(1) Whoever abuses the Red Cross or other distinguishing marks or colours recognised by international law for marking medical institutions or means of transport of medical assistance or evacuation during a state of national peril, state of war, or war or another armed conflict, shall be sentenced to imprisonment for two to eight years.

(2) The same sentence shall be imposed to anyone who abuses the symbol of the United Nations or a flag or state or military symbols, insignia or uniforms of a neutral or another state that is not a party to the conflict during the war or another armed conflict.

(3) An offender shall be sentenced to imprisonment for five to twenty years or to an exceptional sentence of imprisonment, if he/she causes by the act referred to in Sub-section (1) or (2)

- a) death or grievous bodily harm,
- b) extensive damage, or
- c) retaliation measures of the second party of the war or armed conflict of the same or similar nature.

(4) Preparation is criminal.

### **Section 416 Abuse of Flag and Armistice**

(1) Whoever abuses the flag, State or military symbols, insignia or uniforms of another State, which is a party to the conflict during the war or another armed conflict, shall be sentenced to imprisonment for one year to five years.

(2) Whoever abuses the declared armistice or an armistice flag during the war or another armed conflict shall be sentenced to imprisonment for two to eight years.

### **Section 417 Harming a Conciliator**

Whoever offends a conciliator or member of their procession, or  
whoever detains such person without authorisation,  
shall be sentenced to imprisonment for up to five years.

## **Division 3**

### **Common Provisions**

### **Section 418 Liability of a Superior**

(1) A military or another superior is criminally liable for the crime of Genocide (Section 400), Attack against humanity (Section 401), Preparation of offensive war (Section 406), Incitation of offensive war (Section 407), Use of forbidden means and methods of combat (Section 411), War cruelty (Section 412), Persecution of population (Section 413), Pillage in the area of military operations (Section 414), Abuse of internationally and state recognised symbols (Section 415), Abuse of flag and armistice (Section 416) Harming a conciliator (Section 417) committed by their subordinates, over whom they exercised their power and control, even out negligence, if he/she did not prevent them from committing such a criminal offence, failed to prevent the commission of such criminal offence, or failed to penalize them for the commission of such a criminal offence, or failed to refer them to the relevant authority for imposing such penalty.

(2) Provisions regulating the criminal liability and culpability of a subordinate offender shall apply to criminal liability and culpability of a military or another superior.

## **PART THREE**

### **TRANSITIONAL AND FINAL PROVISIONS**

## **Section 419 Transitional Provisions**

Sentence imposed before the effective date of this Act which is not a criminal offence under this Act, or its remaining part that is not executed, shall remain unexecuted. The provisions on aggregate sentence shall not apply in such a case. If a cumulative or an aggregate sentence was imposed for such an act and a concurring criminal offence, the court shall proportionately reduce the sentence; therein shall it take into consideration the respective proportion of severity of each act that is not criminal since the effective date of this Act, and the concurring criminal offences.

## **Section 420 Repealing Provisions**

The following shall be repealed:

1. Act No. 140/1961 Coll., Penal Code.
2. Act No. 53/1963 Coll., amending Section 203 of the Penal Code.
3. Act No. 56/1965 Coll., amending and supplementing the Penal Code.
4. Act No. 148/1969 Coll., amending and supplementing the Penal Code, as amended under Act No. 45/1973 Coll.
5. Act No. 45/1973 Coll., amending and supplementing the Penal Code, as amended under Act No. 175/1990 Coll., and Act No. 290/1993 Coll.
6. Act No. 175/1990 Coll., amending and supplementing the Penal Code, as amended under Act No. 265/2001 Coll.
7. Act No. 545/1990 Coll., amending and supplementing the Penal Code.
8. Act No. 557/1991 Coll., amending and supplementing the Penal Code.
9. Act No. 253/1997 Coll., amending and supplementing Act No. 140/1961 Coll., Penal Code, as amended.
10. Act No. 92/1998 Coll., amending and supplementing Act No. 140/1961 Coll., Penal Code, as amended.
11. Act No. 96/1999 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
12. Act No. 327/1999 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
13. Act No. 405/2000 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.

14. Act No. 139/2001 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
15. Act No. 134/2002 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
16. Act No. 91/2004 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
17. Act No. 692/2004 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
18. Act No. 320/2006 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
19. Act No. 343/2006 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
20. Act No. 271/2007 Coll., amending Act No. 140/1961 Coll., Penal Code, as amended.
21. Act No. 165/1950 Coll., on Protection of peace, as amended under Act No. 140/1961 Coll.
22. Act No. 120/1962 Coll., on Fight against alcoholism, as amended under Act No. 37/1989 Coll.
23. Act No. 482/2002 Coll., on Strengthening the protection of air space of the Czech Republic at the time of the NATO summit in Prague, and amending the Penal Code.
24. Government Regulation No. 72/1997 Coll., stipulating what is considered to be anabolic and other substances with an anabolic effect under the Penal Code.
25. Government Regulation No. 10/1999 Coll., repealing Government Regulation No. 192/1988 Coll., on Poisons and other harmful substances, as amended, and which, for the purposes of the Penal Code stipulates what is considered as poisons, as amended under Government Regulation No. 114/1999 Coll.
26. Government Regulation No. 114/1999 Coll., which for the purposes of the Penal Code stipulates what is considered as poisons, contagious diseases and pests, as amended under Government Regulation No. 40/2002 Coll., and Government Regulation No. 444/2003 Coll.

### **Section 421 Effectiveness**

This Act comes into force on 1 January 2010.