

German Criminal Code (Excerpts)

Section 261

Money laundering; hiding unlawfully obtained financial benefits

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

1. felonies;

2. misdemeanours under

(a) sections 108e, 332 (1), (3) and 334, all also in conjunction with section 335a;

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

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

4. misdemeanours

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

(b) under section 96 of the Residence Act and section 84 of the Asylum Procedure Act and section 370 of the Fiscal Code, section 38(1) to (3) and (5) of the Securities Trading Act as well as sections 143, 143a and 144 of the Act on the Protection of Trade Marks and other Symbols, 106 to 108b of the Act on Copyright and Related Rights, 25 of the Utility Models Act, 51 and 65 of the Design Act, 142 of the Patent Act, 10 of the Semiconductor Protection Act and 39 of the Plant Variety Rights (Protection) Act,

which were committed on a commercial basis or by a member of a gang whose purpose is the continued commission of such offences; and

5. misdemeanours under section 89a and 89c and under section 129 and section 129a (3) and (5), all of which also in conjunction with section 129b (1), as well as misdemeanours committed by a member of a criminal or terrorist organisation (section 129 and section 129a, all of which also in conjunction with section 129b (1)).

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

(2) Whosoever

1. procures an object indicated in subsection (1) above for himself or a third person; or

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

shall incur the same penalty.

(3) The attempt shall be punishable.

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

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

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

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

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

(9) Whosoever

1. voluntarily reports the offence to the competent public authority or voluntarily causes such a report to be made, unless the act had already been discovered in whole or in part at the time and the offender knew this or could reasonably have known and

2. in cases under subsections (1) or (2) above under the conditions named in No 1 above causes the object to which the offence relates to be officially secured shall not be liable under subsections (1) to (5) above.

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

Section 331 Taking bribes

(1) A public official, a European public official or a person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for himself or for a third person for the discharge of an official duty shall be liable to imprisonment not exceeding three years or a fine.

(2) A judge, a member of a court of the European Union or an arbitrator who demands, allows himself to be promised or accepts a benefit for himself or a third person in return for the fact that he performed or will in the future perform a judicial act shall be liable to imprisonment not exceeding five years or a fine. The attempt shall be punishable.

(3) The offence shall not be punishable under subsection (1) above if the offender allows himself to be promised or accepts a benefit which he did not demand and the competent public authority, within the scope of its powers, either previously authorises the acceptance or the offender promptly makes a report to it and it authorises the acceptance.

Section 332

Taking bribes meant as an incentive to violating one's official duties

(1) A public official, a European public official or person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for himself or for a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be liable to imprisonment from six months to five years. In less serious cases the penalty shall be imprisonment not exceeding three years or a fine. The attempt shall be punishable.

(2) A judge or a member of a court of the European Union or an arbitrator, who demands, allows himself to be promised or accepts a benefit for himself or for a third person in return for the fact that he performed or will in the future perform a judicial act and thereby violated or will violate his judicial duties shall be liable to imprisonment from one to ten years. In less serious cases the penalty shall be imprisonment from six months to five years.

(3) If the offender demands, allows himself to be promised or accepts a benefit in return for a future act, subsections (1) and (2) above shall apply even if he has merely indicated to the other his willingness to

1. violate his duties by the act; or
2. to the extent the act is within his discretion, to allow himself to be influenced by the benefit in the exercise of his discretion.

Section 333

Giving bribes

(1) Whosoever offers, promises or grants a benefit to a public official, to a European public official or to a person entrusted with special public service functions or a soldier in the Armed Forces for that person or a third person for the discharge of a duty shall be liable to imprisonment not exceeding three years or a fine.

(2) Whosoever offers promises or grants a benefit to a judge, to a member of a court of the European Union or to an arbitrator for that person or a third person in return for the fact that he performed or will in the future perform a judicial act shall be liable to imprisonment not exceeding five years or a fine.

(3) The offence shall not be punishable under subsection (1) above if the competent public authority, within the scope of its powers, either previously authorises the acceptance of the benefit by the recipient or authorises it upon prompt report by the recipient.

Section 334

Giving bribes as an incentive to the recipient's violating his official duties

(1) Whosoever offers, promises or grants a benefit to a public official, a European public official or a person entrusted with special public service functions or a soldier

of the Armed Forces for that person or a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be liable to imprisonment from three months to five years. In less serious cases the penalty shall be imprisonment not exceeding two years or a fine.

(2) Whosoever offers, promises or grants a benefit to a judge, to a member of a court of the European Union or an arbitrator for that person or a third person, in return for the fact that he

1. performed a judicial act and thereby violated his judicial duties; or
 2. will in the future perform a judicial act and will thereby violate his judicial duties,
- shall be liable in cases under No 1 above to imprisonment from three months to five years, in cases under No 2 above to imprisonment from six months to five years. The attempt shall be punishable.

(3) If the offender offers, promises or grants the benefit in return for a future act, then subsections (1) and (2) above shall apply even if he merely attempts to induce the other to

1. violate his duties by the act; or
2. to the extent the act is within his discretion, to allow himself to be influenced by the benefit in the exercise of his discretion.

Section 335 Aggravated cases

(1) In especially serious cases

1. of an offence under

(a) Section 332(1) 1st sentence, also in conjunction with (3); and

(b) Section 334(1) 1st sentence and (2), each also in conjunction with (3),

the penalty shall be imprisonment from one to ten years and

2. of an offence under section 332(2), also in conjunction with (3),

the penalty shall be imprisonment of not less than two years.

(2) An especially serious case within the meaning of subsection (1) above typically occurs when

1. the offence relates to a major benefit;
2. the offender continuously accepts benefits demanded in return for the fact that he will perform an official act in the future; or
3. the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

Section 335a

Foreign and international staff

For the application of sections 332 and 334, both also in conjunction with section 335, to an offence which refers to a future judicial or official act, the following terms are tantamount:

1. a judge:

to a member of a foreign and of an international court,

2. any other public official:

a) to a staff member of a foreign state and a person, who is entitled to fulfil public tasks for a foreign state,

b) to a staff member of an international organisation and a person, who is entitled to fulfil tasks for an international organisation,

c) to a soldier of a foreign state and a soldier who is entitled to fulfil tasks for an international organisation

(2) For the application of sections 331 and 333 to an offence which refers to a future judicial or official act, the following terms are tantamount:

1. a judge:

to a member of the International Criminal Court,

2. any other public official:

to a staff member of the International Criminal Court

(3) For the application of section 331 (1) and (3) to an offence which refers to a future official act, the following terms are tantamount:

1. a soldier of the Armed Forces:

to a soldier of troops of the non-German contracting states of the North Atlantic Treaty Organisation (NATO) which are stationed in the Federal Republic of Germany,

2. any other public official:

to a staff member of these troops;

3. a person entrusted with special public service function:

to a person who is employed by, or working for the troops and who has been formally obliged on behalf of the order of a superior department to perform his duties in a conscientious manner.