

Extracts from the Czech Criminal Code

(law No. 140/1961 Coll., as amended)

COMMON PART

Culpability

§ 4

A criminal offence is committed intentionally if the offender

- a) wanted to infringe or endanger, in a manner stipulated in this Code, an interest protected by this Code, or
- b) was aware that he* could cause by his act such infringement or danger and, if he caused it, he agreed with its result.

* “He” also refers to “she”, and “his” also means “her”

Commentary: a) – “dolus directus”, b) – “dolus eventualis”, both forms of intent are punishable.

§ 5

A criminal offence is committed through negligence if an offender:

- a) knew that he could infringe or endanger an interest which is protected by this Code, in a manner stipulated in this Code, but without adequate reasons he believed he would not cause such an infringement or danger, or
- b) did not know that his act (conduct) could cause such an infringement or danger, even though, given the circumstances and his personal situation, he should and could have known it.

§ 6

An aggravating circumstance, or a circumstance which warrants the application of a higher punishment (sentence), shall be taken into consideration,

- a) if a graver consequence is involved, including cases where the offender caused it through his negligence, except when this Code requires intentional culpability,
- b) if another act is involved, including such facts which the offender did not know, even though, given the circumstances and his personal situation, he should or could have known it, except when this Code requires the offender’s knowledge of such act.

§ 7
Preparation of a Criminal Offence

- (1) Conduct which threatens society and which consists in the organizing of an especially serious criminal offence (§ 41 par. 2), the acquisition or adaptation of means or tools for the purpose of committing a crime or conspiracy, assembling, instigating or giving assistance for such purpose, or other intentional creation of conditions for committing a criminal offence shall be considered as preparation of a criminal offence, even if such criminal offence is not attempted or committed.
- (2) Preparation of a criminal offence shall be punishable within the sentencing guidelines for the criminal offence which was prepared, unless in its Special Part this Code provides otherwise.
- (3) Preparation of a criminal offence shall not be punishable if the offender voluntarily
 - a) abandons any further conduct aimed at committing the criminal offence and eliminates the threat represented by its preparation to an interest protected by this Code, or
 - b) reports the preparation of a criminal offence at a time when the threat represented by its preparation to an interest protected by this Code could still be eliminated. The report must be made to the prosecutor or (a body of) the police or, in the case of a soldier, to his commander or chief instead.
- (4) However, the provision of par. 3 shall not affect the criminal liability of the offender for any completed criminal offence which he had already committed by his conduct.

*Commentary: "Conspiracy" is agreement of at least two persons, planning to commit criminal offence in future. This agreement need not to be explicitly formulated. Special form of conspiracy is an organized group. If someone commits a criminal offence as an organizer (i.e. that he organized that offence **and** committed it) or as a member of an organized group or as a member of conspiracy, the court shall consider it as an aggravating circumstance.*

R 53/1976-II., R 45/1986 (conclusions): "Organized group" is community of at least three criminally liable persons, where the tasks are divided in some manner and the activities are coordinated. This increases the degree of dangerousness to the society. Longer duration and formal relations are not necessary elements of an organized group.

Last concept relating to conspiracy represents § 89 par.17, in conjunction with § 163a-163c of the Criminal Code. (See this material)

§ 8
Attempt to Commit a Criminal Offence

- (1) Conduct which is dangerous to society, and directed towards the completion of a criminal offence, and which has been undertaken by the offender with intent to commit such a criminal offence, shall be considered as attempt to commit the criminal offence, if the criminal offence was not completed.
- (2) Preparation of a criminal offence shall be punishable within the sentencing guidelines for the criminal offence at which it was aimed, unless in its Special Part this Code provides otherwise.
- (3) An attempt shall not be subject to punishment if the offender voluntarily
 - a) desists from further activity to complete the criminal offence and eliminates the threat represented by his attempt to the interest protected by this Code,
 - b) reports his attempt at a time when the threat represented by it to the interest protected by this Code could still be eliminated. Such a report (notification) must be made to a prosecutor or (a body of) the police, in case of a soldier, to his commander or chief instead.
- (4) However, the provision of par. 3 shall not affect the criminal liability of the offender for any completed criminal offence which he had already committed by his conduct.

Offender, Accomplice and Participant of a Criminal Offence

§ 9

- (1) An offender is a person (an individual) who himself commits a criminal offence.
- (2) If a criminal offence is committed by the joint conduct of two or more persons, each of them shall be criminally liable as if he alone had committed the criminal offence (accomplices).

§ 10

- (1) A participant in a completed criminal offence, or in an attempt to commit a criminal offence, is a person who intentionally
 - a) organized or directed the commission of a criminal offence (the organizer),
 - b) instigated another person to commit a criminal offence (the instigator),
 - c) granted another person assistance in committing a criminal offence, particularly by providing the means for committing such criminal offence, removing obstacles, giving advice, strengthening the person's intent, or promising assistance after the commission of a criminal offence (an assistant).
- (2) The criminal liability and punishability of a participant shall be governed by the provisions on the offender's criminal liability and punishability, unless this Code provides otherwise.

CHAPTER III

Effectiveness of Criminal Laws

§ 16

- (1) The liability to punishment for an act shall be considered according to the Act (law) in force at the time when the act was committed; it shall be considered under a subsequent Act only if consideration under such law is more favorable to the offender.
- (2) Only such punishment can be imposed upon an offender as may be imposed under the Act in effect at the time when a verdict on the criminal offence is made.
- (3) Protective measures shall be decided under the Act in effect at the time when the decision is taken.

§ 17

- (1) The liability to punishment for a criminal offence committed on the territory of the Czech Republic shall always be considered under the law of the Czech Republic.
- (2) A criminal offence shall be considered as having been committed on the territory of the Czech Republic
 - a) if an offender acted on its territory, even if the violation of, or threat to, an interest protected under this Code resulted, or was to result, completely or partly abroad, or

b) if an offender violated or threatened on its territory an interest protected under this Code, or if the consequence of such a criminal offence was to have occurred on its territory at least partly, even though the criminal offence was committed abroad.

(3) The liability to punishment for a criminal offence committed outside the territory of the Czech Republic on board a ship (vessel) or an aircraft registered in the Czech Republic shall also be considered under the law of the Czech Republic. The place where the criminal offence in question is committed shall be considered similarly as in case falling under par. 2.

§ 18

The liability to punishment for an act committed abroad by a citizen of the Czech Republic or by a stateless person (a person having no citizenship) authorized to reside permanently in the Czech Republic shall also be considered under Czech law.

§ 19

The Czech law shall apply when determining punishability for subversion of the Republic (§ 92), terror (§ 93 and 93a), diversion (§ 95 and 96), sabotage (§ 97), espionage (§ 105), the counterfeiting and altering of means of currency (§ 140), the placing of counterfeit and altered means of currency (money) into circulation (§ 141), manufacture and possession of counterfeiting tools (§ 142), assault on a state authority under § 153 and assault on a public official under § 155, genocide (§ 259), use of a forbidden weapon and non-permitted conduct of war (§ 262), cruelty in war (§ 263), persecution of citizens (§ 263a), plunder in an area of military operations (§ 264), abuse of internationally-recognized and state insignia (§ 265) and a crime against peace under § 1 of the Peace Protection Act, No. 165/1950 Coll., even if such a criminal offence was committed abroad by a foreign national or a stateless person who does not reside (i.e. has no permanent permit to reside) on the territory of the Czech Republic.

§ 20

(1) The Czech law shall be applied to determine the punishability for an act committed abroad by a foreigner (i.e. a citizen of another state) or a stateless person who is not authorized to reside permanently on the territory of the Czech Republic

- a) if the act is also punishable under the law in force on the territory where it was committed, and
- b) if the offender is apprehended on the territory of the Czech Republic and was not extradited for criminal prosecution to a foreign state.

(2) However, such offender shall not be sentenced to a more severe punishment than that stipulated under the law of the state on whose territory the criminal offence was committed.

§ 20a

(1) The punishability for an act shall also be considered under Czech law in cases stipulated in a promulgated international convention (agreement, treaty) which is binding on the Czech Republic.

(2) The provisions of § 17 – 20 shall not apply if it is not admitted under a promulgated international agreement binding on the Czech Republic.

§ 21

(1) A citizen of the Czech Republic may not be extradited to a foreign state either for criminal prosecution or for enforcement of a punishment (sentence).

(2) A sentence of a foreign criminal court may not be enforced on the territory of the Czech Republic or have other effects there, unless it is stipulated in this Code or in a promulgated agreement (convention) which is binding on the Czech Republic.

§ 22

(1) If an offender has been kept in custody or sentenced by an authority of a foreign country for a particular act, the period which he spends in custody or in prison (or any other penalty which he fulfils) shall be set off against the punishment (sentence) imposed on him by a court of the Czech Republic if possible regarding to type of punishment imposed. A similar procedure shall be applied by a court if it imposes upon an offender an aggregate sentence or a subsequent total sentence (§ 35).

(2) If the period of custody or fulfillment of a sentence abroad (par. 1) cannot be set off in the Czech Republic, mainly because the offender (convicted person), fully or partly, served or performed abroad a type of punishment which is not recognized by this Code, the (Czech) court shall take this fact into consideration when determining the type and extent of the punishment.

Forfeiture of Property

§ 51

(1) Owing to the circumstances of the committed criminal offence and the offender's personal situation, the court may order forfeiture of his property, if the offender has been sentenced to an unsuspended term of imprisonment for a premeditated criminal offence by which the offender acquired, or attempted to acquire, a property benefit.

(2) The court may only impose forfeiture of property without the conditions under par. 1 being met if the Special Part of this Code permits imposition of such punishment; forfeiture of property may be imposed as a sole sentence if, because of the nature of the criminal offence and the person of the offender, imposition of another punishment is not considered necessary for achieving the purpose of punishing the offender.

§ 52

(1) Forfeiture of property shall apply to the entire property of the convicted offender, or only to a part of his property as determined by the court; forfeiture shall not apply to means or things which are required for satisfying the wants of the offender or persons whose maintenance or upbringing is the offender's duty under statutory provisions.

(2) A sentence of forfeiture of property shall terminate shared ownership of property based on statutory provisions.

(3) The forfeited property shall escheat to the state.

Pecuniary Penalty

§ 53

- (1) A court may impose a pecuniary penalty in an amount ranging from CZK 2,000 to CZK 5 million, if the offender acquired or attempted to acquire a property benefit by his criminal activity.
- (2) The court may only impose a pecuniary penalty without the conditions under par. 1 being met where
 - a) the Special Part of this Code so permits, of
 - b) it imposes such pecuniary penalty for the commission of a criminal offence punishable by a maximum term of imprisonment not exceeding three years and, because of the nature of the committed criminal offence and the possibility of the offender's rehabilitation, a concurrent sentence of imprisonment is not imposed.
- (3) A pecuniary penalty may be imposed as a sole punishment if, because of the nature of the committed criminal offence and the possibility of the offender's rehabilitation, the court is of the opinion that no other punishment is required.
- (4) The court may determine that the pecuniary penalty shall be paid in appropriate monthly installments.

§ 54

- (1) When fixing a pecuniary penalty, the court shall take into consideration the offender's personal and property situation; the court shall not impose a pecuniary penalty if it is obvious that such penalty would be non-collectible.
- (2) The collected amount of the pecuniary penalty shall escheat to the state.
- (3) If the court imposes a pecuniary penalty, it shall also determine an alternative punishment of imprisonment of up to two years, should the pecuniary penalty not be paid within the fixed time limit. The alternative punishment, together with a previously imposed term of imprisonment, may not exceed the maximum statutory limit stipulated for such criminal offence.
- (4) An offender who is ordered to pay a pecuniary penalty for a criminal offence committed due to his negligence shall be regarded as not having been sentenced, once the pecuniary penalty has been paid, or if its payment (fulfillment) or part payment was waived under a valid verdict.

Forfeiture of Things

§ 55

- (1) The court may impose forfeiture of a thing which
 - a) was used to commit a criminal offence,
 - b) was determined to be used to commit a criminal offence,
 - c) the offender acquired by his criminal offence, or as a reward for such a criminal offence, or
 - d) the offender at least partly acquired for another thing stipulated under c), unless the value of the thing under c) is negligible in relation to the thing acquired.
- (2) The court may order forfeiture of a thing only if such thing belongs to the offender.
- (3) The forfeited thing shall become the property of the state.
- (4) An offender who is only punished by forfeiture of a certain thing shall be regarded as not having been sentenced, once the decision under which such punishment was imposed becomes valid (takes legal effect).

§ 56

A court may only impose forfeiture of a thing as the sole punishment where the Special Part of this Code permits imposition of this punishment and if, in view of nature of the committed criminal offence and the possibility of rehabilitating the offender, no other punishment is considered necessary for achieving the purpose of punishment.

Statute of Limitations of Criminal Prosecution

§ 67

- (1) Punishability for a criminal offence shall become statute-barred on expiry of the period of the limitation which is
 - a) twenty years, in the case of criminal offence for which provisions included in the Special Part of this Code permit imposition of an exceptional punishment, and in the case of a criminal offence committed in preparing a privatization project under the law No. 92/1991 Coll. (Large - Scale Privatization Act), as amended,
 - b) ten years, if the maximum term of imprisonment is no less than ten years,
 - c) five years, if the maximum term of imprisonment is no less than three years,
 - d) three years, in the case of other criminal offences.
- (2) The statute of limitations shall not include
 - a) a period during which the offender could not be tried because of a legal impediment,
 - b) a period when the offender was abroad,
 - c) the probationary period if there is a conditional stay of criminal prosecution,
- (3) Statute of limitations shall be interrupted
 - a) when the offender is informed on accusation of a criminal offence affected by statute of limitations when also subsequent tasks are directed towards criminal prosecution of the offender by a police body, investigator, prosecutor or the court, or
 - b) when, during a period of limitation the offender commits a new criminal offence which is punishable under this Code by the same or more severe punishment.
- (4) A new period of limitation shall commence to run when the (initial) period of limitation is interrupted.

Statute of Limitations of Punishment

§ 68

- (1) An imposed punishment cannot be enforced after expiry of the period of limitation which is
 - a) twenty years, in the case of a sentence to exceptional punishment,
 - b) fifteen years, in the case of a sentence to imprisonment for a term exceeding ten years,
 - c) ten years, in the case of a sentence to imprisonment for a term of no less than five years,
 - d) five years, in the case of another punishment.
- (2) The period of limitation shall start to run ad of the day when the sentence becomes final and, in the case of a suspended sentence or of release on parole, on the day when the verdict ordering enforcement of the punishment takes legal effect. The period of limitation shall not include a period of time when the punishment could not be enforced because the convict was abroad, or because he was in prison for another criminal offence. With regard to the prohibition of a specific activity, a pecuniary penalty, a punishment on the form of a prohibition of residence and expulsion, the period of limitation shall not include the period of time when the convicted person serves his term of imprisonment.

- (3) The period of limitation shall be interrupted
- a) if the court takes steps to enforce a punishment to which the period of limitation relates, or
 - b) if, during this period, the convicted person commits a new criminal offence for which this Code provides the same or more severe punishment.
- (4) A new period of limitation shall commence to run when the (initial) period of limitation is interrupted.

CHAPTER VIII

Joint Provisions

§ 88

(1) Circumstances requiring a higher punishment shall be taken into consideration only if their gravity substantially increases the degree to which the criminal offence represents a danger to society.

(2) The fact that an offender committed a criminal offence as a member of an organized group shall not prevent him from being concurrently punished, under the conditions stipulated in this Code, as someone who committed a criminal offence as a part of a criminal conspiracy.

§ 89

...

(9) „A public official“ shall mean an elected (public) representative or other person authorized by the state administration or local (municipal) authority, a court or other state organ, or a member of the armed forces or armed corps insofar as he takes part in the fulfillment of the tasks set by society and the state, for which he exercises authority entrusted to him as a part of his responsibility for fulfillment of such tasks. When exercising entitlements and competency according to special legal provisions¹⁾ a public official shall mean also a natural person established to the position of the forest guard, water guard, guard of the nature, hunting guard or fishing guard. Criminal liability and protection of a public official under individual provisions of this Code shall require that a crime be committed in connection with the official's authority (competency) and responsibility.

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- 1) Law No. 289/1995 Coll., on forests
Law No. 23/1962 Coll., on hunting
Law No. 114/1992 Coll., on protection of nature and country
Law No. 102/1963 Coll., on fishery
Law No. 130/1974 Coll., on state administration in water economy.

(11) “Damage which is not negligible” shall mean damage amounting to no less than the minimum monthly wage stipulated in a Government Decree, “damage which is not small” shall mean damage at least equal to six times such wage, “significant damage” shall mean damage at least equal to twenty times such wage, “substantial damage” shall mean damage at least equal to one hundred times such wage, “major (extensive, large - scale) damage” shall mean damage at least equal to five hundred times such wage. This scale shall be used similarly to determine the level of benefit and the value of a thing.

Commentary: - non-negligible benefit - at least 2,000 CZK

- *non-small benefit* - at least 12,000 CZK
- *significant benefit* - at least 40,000 CZK
- *substantial benefit* - at least 200,000 CZK
- *major (large-scale) benefit* - at least 1 million CZK

(1 USD = 36,5 CZK, 1 EUR = 35,5 CZK in February 2000, approximated)

(12) When the amount of damage is being determined, it shall be based on the price for which the object of the attack is usually sold at the place and time of such attack, If the amount of a damage cannot be established in this manner, it shall be based on the cost of obtaining an identical or similar thing or restoring it to its previous condition (to the condition prior to it being damaged).

(13) The term “thing” shall also mean a controllable natural force. The provisions on things also apply to securities.

...

(17) A criminal conspiracy is an association of more persons with an internal organizational structure with divided functions and activities which aim making profit through the systematic commission of intentional criminal activity.

*Commentary: This provision of Criminal Code deals with “organized crime”. Contrary to “organized group”, criminal conspiracy must have internal organizational structure and functions and activities divided. It is characterized by subordination, relative stability and strict compliance with the rules (including keeping silence etc.). The criminal conspiracy **as a whole** must aim to make financial (not political etc.) profit through systematic criminal activity (it can, however, commit criminal offences which have another purpose – removal of witnesses, corruption of state authorities etc.). Even when considered as a complex organization, criminal conspiracy is not legal person. On punishment see § 163a – 163c of the Criminal Code.*

SPECIAL PART

CHAPTER II

Division II

Criminal Offences against Economic Discipline

§ 125

Misrepresentation of Data Relating to Economic Results and Assets

(1) Whoever does not keep books of account, accounting entries or other documents serving to reflect the position of his (its) economic management and property, or their supervision, although under the law he (it) is obliged thereto, or who presents false or grossly distorting data in such books of account, accounting entries or other documents, or who destroys, damages, makes useless or conceals such books of account, accounting entries or other documents, and thus endangers someone else's property rights or the timely and proper tax assessment, shall be sentenced to a term of imprisonment of from six months to three years, or prohibition of a specific activity or to a pecuniary penalty.

(2) The same sentence shall be imposed on a person who provides false or grossly distorted data in documentation required for entry into the Commercial Register.

(3) An offender who by his act under par. 1 or 2 causes substantial damage to someone else's property or some other especially serious consequence shall be sentenced to a term of imprisonment of from one year to five years.

Fraudulent Manipulation of Public Tenders and Public Auctions

§ 128a

(1) A person who, in connection with a public tender or public auction, and with intent to cause damage to someone else or acquire an advantage for himself or someone else, gives priority or provides more advantageous conditions to one of the competitors to the detriment of other competitors shall be sentenced to imprisonment for a term of from six months to three years.

(2) An offender shall be sentenced to imprisonment for a term of from two to eight years, if

- a) he commits the criminal offence under par. 1 as a contracting authority or organizer of a public tender or public auction, a member of a privatization commission, an auctioneer or a member of an organized group,
- b) by committing such a criminal offence he causes substantial damage or acquires a substantial benefit for someone else.

(3) The sentence stated in par. 2 shall also apply to a person who, in the circumstances stipulated in par. 1, requires, receives or accepts a promise of material or other benefit.

§ 128b

A person who, in connection with fraudulent manipulation of a public tender

- a) forces someone else to refrain from participation in the tender by a trick or by a threat of violence or other serious harm,
 - b) provides, offers or promises material or other benefit to someone else for refraining from participation in the tender, or
 - c) requires or accepts a material or other benefit for refraining from participation in the tender,
- shall be sentenced to imprisonment for a term of up to two years.

Commentary: The draft amendment (submitted to the Government) of law No. 199/1994 Coll., on Public Procurement is to establish new wording of § 63:

“Exclusion of Applicants from Tendering for Public Procurement

(1) If any employee of an applicant is convicted of a criminal offence of conspiracy relating to public tender, receiving bribes, bribery or indirect bribery, the supervisory authority shall exclude the respective applicant from tendering for public procurement for a period of time specified in its ruling, however, this period of time shall not exceed 5 years.*

(2) The provisions of subsection 1 above all shall also be applied to an applicant, where the criminal offence of conspiracy relating to the public tender, receiving of bribes, bribery or indirect bribery is committed by an entrepreneur in his capacity as natural person, partner in a commercial company or a member of a supervisory or steering board of an applicant.

** § 128a, § 128b, § 160-162 of the Criminal Code”*

Division IV

§ 149

Unfair Competition

Who shall by a behavior in contradiction with the regulations defining the competition in economic relations or with the usage of the competition damage the good reputation or threaten the functioning or the development of the enterprise of the competitor, shall be punished by imprisonment of up to one year or by a fine or by the confiscation of a thing.

CHAPTER III

Division III

§ 160

Receiving Bribes

(1) Whoever in connection with procuring affairs in the public interest accepts a bribe or the promise of a bribe shall be sentenced to imprisonment for up to 2 years or to the interdiction of activity.

(2) Whoever under the circumstances given in paragraph 1 asks for a bribe shall be sentenced to imprisonment for 6 months to 3 years.

(3) An offender shall be sentenced to imprisonment for 1 year to 5 years if he commits the act given in paragraph 1 or 2

- a) with the intent of procuring a substantial benefit for himself or for another person or
- b) if he commits such act as a public official.

(4) An offender shall be sentenced to imprisonment for 2 to 8 years, if he commits the act given in paragraph 1 or 2

- a) with the intent of procuring a major benefit for himself or for another person or
- b) if he commits such act as a public official with the intent of procuring a substantial benefit for himself or for another person.

§ 161

Offering Bribes

(1) Whoever in connection with procuring affairs of public interest provides, offers or promises a bribe, shall be sentenced to imprisonment for up to 1 year or to a monetary punishment.

(2) A perpetrator shall be sentenced to imprisonment for 1 to 5 years or to monetary punishment

- a) if he commits the act given in paragraph 1 with the intent of procuring a substantial benefit for himself or for another person or of inflicting substantial damage or other particularly serious aftereffect to another person or
- b) if he commits the act given in paragraph 1 vis-a-vis a public official.

§ 162

Indirect Bribery

(1) Whoever requests or accepts a bribe for exerting his influence on the execution of the authority (*competency*) of a public official or for having done so, shall be sentenced to imprisonment for up to 2 years.

(2) Whoever shall provide, offer or promise a bribe to another person for the reason given paragraph 1 shall be sentenced to imprisonment for up to 1 year.

§ 162a
Joint Provision

(1) A bribe means an unwarranted advantage consisting in direct material enrichment or other advantage received or having to be received by the person bribed or with its consent to another person, and to which there is not entitlement.

(2) A public official pursuant to § 160 to 162 means, besides the persons referred to in § 89, par. 9, also any person occupying a post

- a) in a legislative or judicial authority or the public administration of a foreign country, or
- b) an enterprise, in which a foreign country has the decisive influence, or in an international organizations consisting of (*established by*) countries or other entities of international public law, if the execution of such a function is connected with authority (*competency*) in procuring the affairs of public interest and the criminal offence was committed in conjunction with such authority.

§ 163
Special Provision on Effective Repentance

The criminal nature of bribery (§ 161) and indirect bribery (§ 162) shall disappear if the offender has provided or promised a bribe solely because he/she has been requested to do so and reported the fact voluntarily and without any delays to the prosecutor or police authority.

Division IV

Criminal Conspiracy

§ 163a
Participation in the Criminal Conspiracy

- (1) Anyone who will establish the criminal conspiracy, or who participates in the activity of such conspiracy, or who supports such criminal conspiracy, shall be punished by imprisonment for two to ten years or by the forfeiture of the property.
- (2) The provisions of § 43 and 44 shall not apply for the offender of the crime specified in paragraph (1).

§ 163b

Whoever commits an act mentioned under § 163a is not punishable if he has made a disclosure about a criminal conspiracy to the prosecutor or to the police authorities at a time when the danger to the interests protected by this law generated from another act of criminal conspiracy than the one mentioned under § 163a could still be suppressed. A soldier may make such a disclosure as well to his commander or chief.

§ 163c

(1) The policeman who is serving as the agent pursuant to a particular law, who participates in the activity of the criminal conspiracy or supports the criminal conspiracy shall not be punishable for committing the criminal offence of the participation in the criminal conspiracy pursuant to § 163a paragraph 1, provided he committed such act with the aim to detect the culprit of the criminal activity committed in favor of the criminal conspiracy.

(2) The agent who established or contrived the criminal conspiracy shall not become non-punishable.

CHAPTER IX

§ 251

(1) Anyone who conceals, transfers to himself or uses
a) a thing, which was obtained by the crime committed by other person, or
b) what was acquired for such thing,
shall be punished by imprisonment for up to two years or a fine.

(2) Imprisonment for one to five years shall be imposed if the offender has gained substantial benefit by committing the offence under paragraph (1).

(3) Imprisonment for two to eight years or forfeiture of property shall be imposed if the offender has gained major benefit by committing the offence under paragraph (1).

§ 251a

(1) Anyone who allows another person to disguise the origin or to prevent determining the origin of a thing obtained by criminal activity shall be punished by imprisonment of up to two years or by a monetary punishment.

(2) Imprisonment for one to five years shall be imposed if the offender
(a) has committed the offence under paragraph (1) as a member of an organized group, or
(b) has gained by the offence a substantial benefit.

(3) Imprisonment for two to eight years or forfeiture of property shall be imposed if the offender
(a) has committed the offence under (1) in relation to things originating from trafficking in narcotic drugs or psychotropic substances or other very serious criminal offence, or
(b) has gained a major benefit by committing the offence under paragraph (1).