

**Swiss Penal Code**

of December 21, 1937 (Status on May 1 , 2013)

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*The Federal Assembly of the Swiss Confederation*, having regard to art. 123, par. 1 and 3, of the Constitution<sup>1,2</sup> having regard to the message from the Federal Council of July 23, 19183, *stopped*:

**Book 14**

**General provisions**

**Part 1**

**Crimes and misdemeanors**

**Title 1**

**Champ d'application****Art. 1**

1. No sanction without law

A sentence or measure can only be imposed due to an act expressly punished by law.

**Art. 2**

2. Conditions of time

1 Anyone who commits a crime or misdemeanor after the entry into force of this code is judged according to this code.

2 This code is also applicable to crimes and offenses committed before the date of its entry into force if the perpetrator is not put on trial until after this date and if this code is more favorable to him than the law in force at the time of the offense.

**Art. 3**

3. Venue Conditions.

Crimes or offenses committed in Suisse

1 This code is applicable to anyone who commits a crime or misdemeanor in Switzerland.

2 If, as a result of such an act, the perpetrator was sentenced abroad and he suffered all or part of the sentence pronounced against him there, the judge charges the sentence suffered against the sentence to be pronounce.

RO **54** 781, **57** 1364 and RS **3**  
193 1 RS

**101** 2 New content according to ch. I of the FL of September 30, 2011, in force since July 1 , 2012 (RO **2012** 2575; FF **2010** 5125 5151).  
3 FF **1918** IV 1 4

New content according to ch. I of the LF of December 13 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

3 Subject to a serious violation of the fundamental principles of constitutional law and the European Convention on Human Rights of November 4, 1950 (ECHR)<sup>5</sup>, the author prosecuted abroad at the request of the Swiss authority can no longer be prosecuted in Switzerland for the same act:

has. if he was acquitted abroad by a final judgment; b. if he suffered

the sanction pronounced against him abroad, that it has been handed over to him or that it is prescribed.

4 If the perpetrator prosecuted abroad at the request of the Swiss authority has not suffered the sentence pronounced against him, he executes it in Switzerland; if he only underwent part of it abroad, he carries out the rest in Switzerland. The judge decides whether he must execute or continue in Switzerland the measure which was not imposed abroad or which was only partially imposed.

#### Art. 4

Crimes or offenses  
committed  
abroad against the  
State

1 This code is applicable to anyone who commits a crime or offense abroad against the State and national defense (art. 265 to 278).

2 If, as a result of this act, the perpetrator was sentenced abroad and he suffered all or part of the sentence pronounced against him there, the judge counts the sentence suffered on the sentence to be pronounced.

#### Art. 5

Offenses  
committed  
abroad against  
minors

1 This code is applicable to anyone who is in Switzerland and is not extradited, and who has committed one of the following acts abroad:

a.6 trafficking in human beings (art. 182), sexual coercion (art. 189), rape (art. 190), sexual act committed against a person incapable of discernment or resistance (art. 191) or encouragement of prostitution (art. 195), if the victim was under 18 years old; b. sexual act with a child (art. 187), if the victim was under

14 years old;

vs. qualified pornography (art. 197, ch. 3), if the objects or representations contained sexual acts with children.

#### 5 RS 0.101 6

New content according to art. 2 rooms. 1 of the AF of March 24, 2006 approving and implementing Prot. optional of May 25, 2000 relating to Conv. relating to the rights of the child, concerning the sale of children, child prostitution and child pornography, in force since December 1 . 2006 (RO **2006** 5437; FF **2005** 2639).

2 Subject to a serious violation of the fundamental principles of constitutional law and the ECHR7, the author can no longer be prosecuted in Switzerland for the same act: if he has been acquitted

- a. abroad by a final judgment ;
- b. if he suffered the sanction pronounced against him abroad, that it has been handed over to him or that it is prescribed.

3 If, as a result of this act, the perpetrator was sentenced abroad and he only suffered part of the sentence pronounced against him, the judge deducts this part from the sentence to be pronounced. It decides whether the measure ordered and partially executed abroad must be continued or charged to the sentence imposed in Switzerland.

#### Art. 6

Crimes or  
offenses  
committed  
abroad,  
prosecuted  
under an international agreement

1 This code is applicable to anyone who commits a crime or offense abroad that Switzerland has undertaken to prosecute under an international agreement:

- a. if the act is also punishable in the State where it was committed or the place where the act was committed does not fall under any criminal jurisdiction and
- b. if the perpetrator is in Switzerland and is not extradited.

2 The judge sets the sanctions so that the perpetrator is not treated more severely than he would have been under the law applicable to the place where the act was committed.

3 Subject to a serious violation of the fundamental principles of constitutional law and the ECHR8, the perpetrator can no longer be prosecuted in Switzerland for the same act: if he has been acquitted

- a. abroad by a final judgment ;
- b. if he suffered the sanction pronounced against him abroad, that it has been handed over to him or that it is prescribed.

4 If, as a result of this act, the perpetrator was sentenced abroad and only suffered part of the sentence pronounced against him there, the judge deducts this part from the sentence to be pronounced. It decides whether the measure ordered and partially executed abroad must be continued or charged to the sentence imposed in Switzerland.

#### Art. 7

Other crimes or  
offenses  
committed abroad

1 This code is applicable to anyone who commits a crime or misdemeanor abroad, without the conditions provided for in arts. 4, 5 or 6:

has. if the act is also punishable in the State where it was committed or the place where the act was committed does not fall under any criminal jurisdiction;

b. if the author is in Switzerland or is handed over to Switzerland in reason for this act and

c. if, according to Swiss law, the act may give rise to extradition, but the perpetrator is not extradited.

2 When the perpetrator is not of Swiss nationality and the crime or offense was not committed against a Swiss national, par. 1 is applicable only if:

has. the extradition request was rejected for reasons other than the nature of the act or

b. the perpetrator committed a particularly serious crime prohibited by the international community.

3 The judge sets the sanctions so that the perpetrator is not treated more severely than he would have been under the law applicable to the place where the act was committed.

4 Subject to a serious violation of the fundamental principles of constitutional law and the ECHR<sup>9</sup>, the author can no longer be prosecuted in Switzerland for the same act: if he has been acquitted

a. abroad by a final judgment ; b. if he suffered the sanction

pronounced against him abroad, that it has been handed over to him or that it is prescribed.

5 If, as a result of this act, the perpetrator was sentenced abroad and he only suffered part of the sentence pronounced against him, the judge deducts this part from the sentence to be pronounced. It decides whether the measure ordered and partially executed abroad must be continued or charged to the sentence imposed in Switzerland.

#### Art. 8

1 A crime or misdemeanor is deemed to have been committed both at the place where the perpetrator acted or should have acted and at the place where the result occurred.

2 An attempt is deemed to have been committed both at the place where its author made it and at the place where, in the author's idea, the result was to occur.

#### Art. 9

1 This code is not applicable to persons to the extent that their actions must be judged according to military criminal law.

Place  
of commission  
of the act

4. Conditions  
personal

2 The juvenile criminal law of June 20, 2003 (DPMin)<sup>10</sup> applies to people who are not 18 years old on the day of the act. When the perpetrator must be tried simultaneously for offenses he committed before and after the age of 18, art. 3, par. 2, DPMin is applicable.<sup>11</sup>

## Title 2 Conditions of repression

### Art. 10

1. Crimes and misdemeanors.  
Definitions

1 This code distinguishes crimes from misdemeanors based on the severity of the penalty for which the offense is punishable.

2 Offenses punishable by a custodial sentence of more than three years are crimes.

3 Offenses are offenses punishable by a custodial sentence not exceeding three years or a monetary penalty.

### Art. 11

Commission par omission

1 A crime or misdemeanor can also be committed through passive behavior contrary to an obligation to act.

2 Remains passive in violation of an obligation to act who does not prevent the endangerment or injury of legal property protected by criminal law although he is required to do so due to his legal situation, in particular by virtue of:

a. has. of the law;

b. of a contract; vs.

c. a freely agreed community of risks; d. of the creation of a risk.

3 A person who remains passive in violation of an obligation to act is only punishable for the offense in question if, taking into account the circumstances, he incurs the same reproach as if he had committed this offense through active behavior .

4 The judge can reduce the sentence.

### Art. 12

2. Intent and neglect.  
Definitions

1 Unless expressly provided otherwise by law, only the author of a crime or misdemeanor who acts intentionally is punishable.

<sup>10</sup> RS 311.1

<sup>11</sup> New content according to art. 44 hp. 1 of the juvenile criminal law of June 20, 2003, in force since Jan. 1, 2007 (RO 2006 3545; FF 1999 1787).

2 Anyone who commits a crime or misdemeanor with conscience and will acts intentionally. The perpetrator already acts intentionally when he considers the commission of the offense to be possible and accepts it if it occurs.

3 Acts through negligence anyone who, through culpable lack of foresight, commits a crime or misdemeanor without realizing the consequences of their act or without taking them into account. Imprudience is guilty when the author has not used the precautions required by the circumstances and his personal situation.

#### **Art. 13**

Error of facts

1 Anyone who acts under the influence of an erroneous assessment of the facts is judged according to this assessment if it is favorable to him.

2 Anyone who could avoid the error by using due precautions is punishable for negligence if the law punishes his act as an offense of negligence.

#### **Art. 14**

3. Lawful acts and  
guilt.  
Authorized acts  
by the law

Anyone who acts as the law directs or authorizes behaves lawfully, even if the act is punishable under this Code or another law.

#### **Art. 15**

Self-defense

Anyone who, contrary to law, is attacked or threatened with imminent attack has the right to repel the attack by means proportionate to the circumstances; the same right belongs to third parties.

#### **Art. 16**

Excusable  
Defense

1 If the perpetrator, by repelling an attack, has exceeded the limits of self-defense within the meaning of art. 15, the judge mitigates the sentence.

2 If this excess comes from an excusable state of excitement or shock caused by the attack, the perpetrator is not acting culpably.

#### **Art. 17**

State of lawful  
necessity

Anyone who commits a punishable act to protect legal property belonging to him or a third party from an imminent danger that cannot otherwise be diverted is acting lawfully if he thereby protects overriding interests.

**Art. 18**

Excusable state of necessity

1 If the perpetrator commits a punishable act to protect himself or others from an imminent danger that cannot otherwise be avoided, threatening life, bodily integrity, freedom, honor, property or other property essential, the judge mitigates the sentence if the sacrifice of the threatened property could reasonably be demanded of him.

2 The perpetrator does not act culpably if the sacrifice of the threatened property could not reasonably be demanded of him.

**Art. 19**

Irresponsibility and restricted liability

1 The perpetrator is not punishable if, at the time of acting, he did not have the ability to assess the unlawful nature of his act or to make a decision based on this assessment.

2 The judge reduces the sentence if, at the time of acting, the perpetrator only partially had the ability to assess the unlawful nature of his act or to make a decision based on this assessment.

3 The measures provided for in arts. 59 to 61, 63, 64, 67 and 67b can however be ordered.

4 If the author could avoid irresponsibility or restricted liability and foresee the act committed in this state, the paras. 1 to 3 are not applicable.

**Art. 20**

Doubt about the responsibility of the author

The investigating authority or the judge orders an expert opinion if there is serious reason to doubt the responsibility of the author.

**Art. 21**

Error on illegality

Anyone who does not know and cannot know at the time of acting that their behavior is unlawful is not acting culpably. The judge reduces the sentence if the error was avoidable.

**Art. 22**

4. Degrees of achievement.  
Punishment of the attempt

1 The judge may reduce the sentence if the execution of a crime or misdemeanor is not continued to completion or the result necessary for the completion of the offense does not occur or could not occur.

2 The perpetrator is not punishable if, through serious lack of intelligence, he did not realize that the completion of the offense was absolutely impossible due to the nature of the object targeted or the means used .

**Art. 23**

Disclaimer and  
active repentance

1 If, on his own initiative, the perpetrator has renounced continuing the punishable activity until its end or he has contributed to preventing the commission of the offense, the judge may reduce the penalty or exempt the author of all pain.

2 If several perpetrators or participants take part in the act, the judge may reduce the penalty or exempt from any penalty the person who, on his own initiative, contributed to preventing the commission of the offense.

3 The judge may also reduce the penalty or exempt from any penalty the author or participant whose withdrawal would have prevented the commission of the offense if other causes had not avoided it.

4 The judge may reduce the penalty or exempt from any penalty the perpetrator or participant if the latter has, on his own initiative, seriously endeavored to prevent the commission of the offense and it has been committed regardless of its contribution.

**Art. 24**

5. Participation.  
Instigation

1 Anyone who intentionally induces another to commit a crime or misdemeanor is liable, if the offense has been committed, to the penalty applicable to the author of that offense.

2 Anyone who attempts to induce another to commit a crime incurs the penalty provided for the attempt of this offense.

**Art. 25**

Complicity

The penalty is reduced for anyone who intentionally assisted the perpetrator in committing a crime or misdemeanor.

**Art. 26**

Participation in  
a crime

If the punishment is justified or aggravated due to a particular duty of the perpetrator, the penalty is reduced with regard to the participant who was not bound by this duty.

**Art. 27**

Circumstances  
personal

Relationships, qualities and particular personal circumstances which aggravate, diminish or exclude punishability have this effect only with regard to the author or participant to whom they concern.

**Art. 28**

6. Punishability of  
the media

1 When an offense has been committed and committed in the form of publication by a media, the author alone is punishable, subject to the following provisions.



2 If the author cannot be discovered or brought before a court in Switzerland, the responsible editor is punishable under art. 322bis. In the absence of an editor, the person responsible for the publication in question is punishable under this same article.

3 If the publication took place without the author's knowledge or against his will, the editor or, failing that, the person responsible for the publication, is punishable as the author of the offense.

4 The author of a truthful report of public debates or official declarations of an authority incurs no penalty.

#### Art. 28a

Source  
protection

1 Persons who, in a professional capacity, participate in the publication of information in the editorial part of a periodical media and their auxiliaries incur no penalty and are not subject to any coercive measure based on the right of procedure if they refuse to testify on the identity of the author or on the content and sources of their information.

2 Para. 1 is not applicable if the judge finds that: the

- a. testimony is necessary to prevent an imminent attack on the life or bodily integrity of a person;
- b.12 in the absence of testimony, a homicide within the meaning of arts. 111 to 113 or another crime punishable by a custodial sentence of at least three years or an offense within the meaning of arts. 187, 189 to 191, 197, ch. 3, 260ter, 260quinquies, 305bis, 305ter and 322ter to 322 septies of this code, and art. 19, ch. 2, of the federal law of October 3, 1951 on narcotics<sup>13</sup> cannot be elucidated or that the person charged with such an act cannot be arrested.

#### Art. 29

7. Punishability of  
acts  
committed in a  
representation report

A particular duty, the violation of which establishes or aggravates the punishability and which is incumbent solely on the legal person, the company or the enterprise on an individual basis<sup>14</sup> is imputed to a natural person when the latter acts:

- has. as an organ of a legal entity or a member of such an organ; b. as a partner;

<sup>12</sup> New content according to ch. I 1 of the Act of March 21, 2003 (Financing of terrorism), in force since Oct. 1, 2003 (RO 2003 3043; FF 2002 5014).

<sup>13</sup> RS 812.121

<sup>14</sup> Currently: sole proprietorship

vs. as an employee of a legal entity, a company or an individual enterprise<sup>15</sup> with independent decision-making power in the sector of activity for which he is responsible;

d. as an effective manager who is neither an organ or a member of an organ, nor an associate or collaborator.

### Art. 30

8. Complaint of the injured party.

Right to complain

1 If an offense is punishable only upon complaint, any injured person may file a complaint against the perpetrator.

2 If the injured party does not have the exercise of civil rights, the right to file a complaint belongs to his legal representative. If the beneficiary is under guardianship or general curatorship, the right to file a complaint also belongs to the adult protection authority.<sup>16</sup>

3 The injured person who is minor or placed under general curatorship has the right to file a complaint if he is capable of discernment.<sup>17</sup>

4 If the injured party dies without having filed a complaint or having expressly waived the right to file a complaint, their right passes to each of their relatives.

5 If the beneficiary has expressly waived the right to file a complaint, his waiver is definitive.

### Art. 31

Deadline

The right to file a complaint expires after three months. The period starts from the day the beneficiary became aware of the perpetrator of the offense.

### Art. 32

Indivisibility

If a rights holder has filed a complaint against one of the participants in the infringement, all participants must be prosecuted.

### Art. 33

Withdrawal

1 The beneficiary may withdraw his complaint as long as the cantonal second instance judgment has not been pronounced.

2 Anyone who has withdrawn their complaint cannot renew it.

<sup>15</sup> Currently: sole proprietorship <sup>16</sup> New content

of the sentence according to ch. 14 of the annex to the Federal Act of December 19, 2008

(Adult protection, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).

<sup>17</sup> New content according to ch. 14 of the annex to the Federal Act of December 19, 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).

3 The withdrawal of the complaint against one of the defendants benefits everyone others.

4 The withdrawal does not apply to the defendant who objects to it.

### **Title 3 Penalties and measures**

#### **Chapter 1 Penalties**

##### **Section 1**

#### **Financial penalty, community service, custodial sentence**

##### **Art. 34**

1. Sentence  
pecuniary.  
Fixation

1 Unless otherwise provided by law, the monetary penalty may not exceed 360 fine days. The judge sets their number based on the guilt of the perpetrator.

2 The daily fine is 3000 francs at most. The judge sets the amount according to the personal and economic situation of the author at the time of the judgment, in particular taking into account his income and his wealth, his lifestyle, his assistance obligations, in particular family, and the subsistence minimum.

3 The federal, cantonal and municipal authorities provide the judge with the information he needs to set the amount of the day fine.

4 The judgment indicates the number and amount of the day fine.

##### **Art. 35**

Recovery

1 The executing authority sets the convicted person a payment deadline of one to twelve months. It may authorize payment in installments and, upon request, extend the deadlines.

2 If the executing authority has serious reasons to believe that the convicted person wants to avoid the financial penalty, it may demand immediate payment or request security.

3 If the convicted person does not pay the monetary penalty within the prescribed period, the enforcement authority shall initiate debt proceedings against him, provided that a result can be expected.

##### **Art. 36**

Alternative  
custodial  
sentence

1 To the extent that the convicted person does not pay the monetary penalty and it cannot be enforced through debt enforcement (art. 35, para. 3), the monetary penalty gives way to a custodial sentence. A day fine corresponds to one day of custodial sentence. Subsequent payment of the monetary penalty results in

proportional reduction of the alternative custodial sentence.

2 If the financial penalty is imposed by an administrative authority, a judge must rule on the alternative custodial sentence.

3 If the convicted person cannot pay the monetary penalty because, without his fault, the circumstances which determined the setting of the amount of the day fine have deteriorated significantly since the judgment, he may ask the judge to suspend the execution of the fine. alternative custodial sentence and instead:

has. either to increase the payment period to 24 months at most;

b. either to reduce the amount of the day fine; vs. or

to order work in the general interest.

4 If the judge orders community service, arts. 37, 38 and 39, paras. 2, are applicable.

5 The alternative custodial sentence is executed to the extent that the convicted person does not pay the financial penalty despite the extension of the payment deadline or the reduction in the amount of the day fine or if he does not execute not, despite a warning, community service.

#### Art. 37

2. Work  
of general interest.  
Definition

1 Instead of a custodial sentence of less than six months or a monetary penalty of up to 180 day fines, the judge may order, with the consent of the perpetrator, community service 720 hours at most.

2 Work of general interest must be carried out for the benefit of social institutions, works of public utility or people in need. He is not paid.

#### Art. 38

Execution

The executing authority sets the convicted person a period of no more than two years to carry out the work of general interest.

#### Art. 39

Conversion

1 The judge converts community service into a monetary penalty or a custodial sentence to the extent that, despite a warning, the convicted person does not carry it out in accordance with the judgment or the conditions and charges set by the court. 'competent authority.

2 Four hours of community service corresponds to a day fine or a custodial sentence.

3 A custodial sentence may only be ordered if there is reason to believe that a financial penalty cannot be carried out.

#### **Art. 40**

3. Custodial sentence.  
In general

The duration of the custodial sentence is generally a minimum of six months and a maximum of 20 years. When the law expressly provides for it, the custodial sentence is imposed for life.

#### **Art. 41**

Short custodial sentence

1 The judge may impose a custodial sentence of less than six months only if the conditions for suspension of the execution of the sentence (art. 42) are not met and if there is reason to admit that neither a monetary penalty or community service cannot be carried out.

2 The judge must provide detailed reasons for choosing a short custodial sentence.

3 The custodial sentence imposed by conversion of a monetary penalty (art. 36) or due to non-performance of work of general interest (art. 39) is reserved.

### **Section 2**

#### **Suspension and partial suspension of execution of sentence**

#### **Art. 42**

1.  
Suspension of execution of sentence

1 The judge generally suspends the execution of a monetary sentence, community service or a custodial sentence of at least six months and at most two years when a sentence is imposed. does not appear necessary to deter the perpetrator from other crimes or offenses.

2 If, during the five years preceding the offence, the perpetrator was sentenced to a fixed or suspended custodial sentence of at least six months or to a monetary penalty of at least 180 fine days, he cannot There may be a suspension of the execution of the sentence only in the event of particularly favorable circumstances.

3 The granting of suspension may also be refused when the perpetrator has failed to repair the damage as could reasonably be expected of him.

4 The judge may pronounce, in addition to the suspended sentence, a financial penalty without suspension or a fine in accordance with art. 106.18

18 New content according to ch. I of the LF of March 24, 2006 (Corrections regarding sanctions and criminal record), in force since Jan. 1, 2007 (RO 2006 3539; FF 2005 4425).

**Art. 43**

2. Partial suspension of the execution of the sentence

1 The judge may partially suspend the execution of a financial sentence, community service or a custodial sentence of at least one year and at most three years in order to take into account appropriate way of the author's fault.

2 The part to be executed cannot exceed half of the sentence.

3 In the event of partial suspension of the execution of a custodial sentence, the suspended part, as well as the part to be executed, must be for at least six months. The rules for granting conditional release (art. 86) do not apply to him.

**Art. 44**

3. Dispositions communities.  
Proofing time

1 If the judge totally or partially suspends the execution of a sentence, he gives the convicted person a probation period of two to five years.

2 The judge may order probation assistance and impose rules of conduct for the duration of the probation period.

3 The judge explains to the convicted person the scope and consequences of the suspension or partial suspension of the execution of the sentence.

**Art. 45**

Success of the put to the test

If the convicted person has successfully undergone probation, he does not serve the suspended sentence.

**Art. 46**

Failed to put to the test

1 If, during the probation period, the convicted person commits a crime or misdemeanor and there is therefore reason to anticipate that he will commit new offenses, the judge revokes the suspended sentence or partial suspended sentence. He can modify the type of sentence revoked to fix, with the new sentence, an overall sentence in accordance with art. 49. However, he may only impose a custodial sentence if the overall sentence lasts at least six months or if the conditions provided for in art. 41 are fulfilled.

2 If there is no reason to foresee that the convicted person will commit new offenses, the judge waives ordering revocation. He may send the convicted person a warning and extend the trial period by no more than half of the duration fixed in the judgment. He may order probation assistance and impose rules of conduct for the probation period thus extended. If the extension occurs after the expiry of the trial period, it begins on the day it is ordered.

3 The judge called upon to hear the new crime or offense is also competent to rule on the revocation.

4 Art. 95, par. 3 to 5, is applicable if the convicted person evades probation assistance or violates the rules of conduct.

5 Revocation can no longer be ordered when three years have passed since the expiry of the probation period.

### Section 3      Setting the sentence

#### Art. 47

1. Principle

1 The judge determines the sentence according to the guilt of the perpetrator. He takes into consideration the background and personal situation of the latter as well as the effect of the sentence on his future.

2 Guilt is determined by the seriousness of the injury or endangerment of the legal property concerned, by the reprehensible nature of the act, by the motivations and aims of the perpetrator and by the extent to which he could have avoided the endangerment or injury, taking into account his personal situation and external circumstances.

#### Art. 48

2. Mitigation of  
the punishment.  
Extenuating  
circumstances

The judge reduces the

- a. sentence: if the perpetrator acted: 1. by giving in to an honorable motive; 2. in deep distress; 3. under the influence of a serious threat; 4. under the ascendancy of a person to whom he owed obedience or on whom he depended;
- b. whether the perpetrator was led into serious temptation by the conduct of the victim; if
- c. the author acted in the grip of a violent emotion that the circumstances made excusable or if he acted in a state of profound dismay; d. if the perpetrator has demonstrated sincere repentance through actions, in particular if he has repaired the damage as much as could be expected of him; if the interest in punishment has
- ii is. significantly diminished due to the time that has passed since the offense and the perpetrator has behaved well in the meantime.

#### Art. 48a

Effects of  
attenuation

1 The judge who reduces the sentence is not bound by the legal minimum sentence provided for the offense.

2 He may impose a sentence of a type different from that provided for the offense but he remains bound by the legal maximum and minimum of each type of sentence.

**Art. 49**

3. Competition

1 If, due to one or more acts, the perpetrator fulfills the conditions of several penalties of the same type, the judge sentences him to the penalty of the most serious offense and increases it in a fair proportion -portion. However, it cannot exceed the maximum penalty provided for this offense by more than half. It is also bound by the legal maximum of each type of sentence.

2 If the judge must pronounce a conviction for an offense that the perpetrator committed before having been convicted of another offense, he sets the additional penalty so that the perpetrator is not punished more severely than if the various offenses had been the subject of a single judgment.

3 If the offender committed one or more offenses before the age of 18, the judge sets the overall sentence in accordance with paragraphs. 1 and 2 so that he is not punished more severely than if the various offenses had been the subject of separate judgments.

**Art. 50**

4. Obligation to motivate

If the judgment must be reasoned, the judge indicates in the reasons the relevant circumstances for setting the sentence and their importance.

**Art. 51**

5. Imputation of pretrial detention

The judge counts against the sentence the detention before trial suffered by the author in the context of the case which has just been judged or other proceedings. One day of detention corresponds to one day fine or four hours of community service.



## Section 4

### Exemption from sentence and suspension of proceedings<sup>19</sup>

#### Art. 52

1. Reasons for exemption from punishment.  
Lack of interest to punish<sup>20</sup>

If the culpability of the perpetrator and the consequences of his act are not significant, the competent authority declines to prosecute him, send him before the judge or impose a sentence on him.

#### Art. 53

Repair

When the perpetrator has repaired the damage or made all the efforts that could reasonably be expected of him to compensate for the harm he has caused, the competent authority waives the right to prosecute him, to refer him before the judge or to impose a sentence on him: if the conditions

- a. for suspension of execution of the sentence are met (art. 42) and b. if the public interest

and the interest of the injured party in prosecuting the perpetrator criminally are of little importance.

#### Art. 54

Damage suffered by the author following his act

If the perpetrator has been directly affected by the consequences of his act to the point that a sentence would be inappropriate, the competent authority declines to prosecute him, refer him to the judge or impose a sentence on him.

#### Art. 55

2. Dispositions municipalities

1 The judge does not revoke the suspension of execution of the sentence or conditional release if the conditions for exemption from sentence are met.

2 The cantons designate bodies responsible for the administration of criminal justice as competent authorities within the meaning of arts. 52, 53 and 54.

<sup>19</sup> New content according to ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

<sup>20</sup> New content according to art. 37 hp. 1 of the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

**Art. 55a21**

3. Suspension of the procedure.

Spouse, registered partner or victim partner<sup>22</sup>

1 In the event of simple bodily harm (art. 123, ch. 2, al. 3 to 5), repeated assault (art. 126, al. 2, let. b, bbis and c), threat (art. 180, al. 2) or duress (art. 181), the public prosecutor and the courts may suspend the proceedings:<sup>23</sup>

a.<sup>24</sup> if the victim is:

1. the spouse or ex-spouse of the perpetrator and the violation was committed during the marriage or in the year following the divorce,
2. the registered partner or ex-partner of the author and that the infringement was committed during the registered partnership or in the year following its judicial dissolution,
3. the heterosexual or homosexual partner or ex-partner of the perpetrator and that the attack was committed during the period of living together or in the year following the separation, and

b. if the victim or, when he does not have the exercise of civil rights, his legal representative requests it or agrees to the proposed suspension.

2 The procedure is resumed if the victim or, when he does not have the exercise of civil rights, his legal representative revokes his agreement, in writing or orally, within six months following the suspension.<sup>25</sup>

3 In the absence of revocation of the agreement, the public prosecutor and the courts order the dismissal of the proceedings.<sup>26</sup>

4 ...<sup>27</sup>

21 Introduced by ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

22 New content according to art. 37 hp. 1 of the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

23 New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

24 New content according to art. 37 hp. 1 of the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

25 New content according to Ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

26 New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>27</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

## Chapter 2 Measurements

### Section 1 Therapeutic measures and internment

#### Art. 56

##### 1. Principles

1 A measure must be ordered:

- a. if a sentence alone cannot remove the danger of the perpetrator committing other offenses;
- b. whether the perpetrator requires treatment or public safety requires it; and if the
- c. conditions provided for in arts. 59 to 61, 63 or 64 are filled.

2 The pronouncement of a measure assumes that the infringement of personality rights which results for the author is not disproportionate in view of the likelihood that he will commit new offenses and their seriousness.

3 To order one of the measures provided for in arts. 59 to 61, 63 and 64 or in the event of a change of sanction within the meaning of art. 65, the judge relies on expertise. This is determined:

- has. on the necessity and chances of success of treatment; b. on the likelihood that the perpetrator will commit other offenses
- tions and the nature of these; vs. on
- the possibilities of carrying out the measure.

4 If the perpetrator has committed an offense within the meaning of art. 64, par. 1, the expertise must be carried out by an expert who has not treated the author or dealt with him in any way. 4bis If life internment

within the meaning of art. 64, par. 1bis, is envisaged, the judge makes his decision based on the expertise carried out by at least two independent and experienced experts who have not treated the author nor taken care of him any way.<sup>28</sup>

5 As a general rule, the judge only orders a measure if an appropriate facility is available.

6 A measure whose conditions are no longer met must be lifted.

<sup>28</sup> Introduced by ch. I of the FL of December 21, 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO 2008 2961; FF 2006 869).

**Art. 56a**

Competition between  
several  
measures

1 If several measures prove appropriate, but only one is necessary, the judge orders the one which causes the least serious harm to the perpetrator.

2 If several measures prove necessary, the judge may order them jointly.

**Art. 57**

Relationship  
between measures  
and penalties

1 If the conditions are met both for the pronouncement of a sentence and for that of a measure, the judge orders both sanctions.

2 The execution of one of the measures provided for in arts. 59 to 61 takes precedence over a custodial sentence imposed jointly as well as a custodial sentence which must be carried out due to revocation or reinstatement. Likewise, reinstatement to a measure pursuant to art. 62a takes precedence over an overall sentence pronounced jointly.

3 The duration of the deprivation of liberty resulting from the execution of the measure is counted against the duration of the sentence.

**Art. 58**

Execution

1 ... 29

2 The places of execution of the therapeutic measures referred to in arts. 59 to 61 must be separated from the places of execution of sentences.

**Art. 59**

2. Measurements  
institutional  
therapies.

Treatment of mental  
disorders

1 When the perpetrator suffers from a serious mental disorder, the judge may order institutional treatment under the following conditions:

- has. the perpetrator has committed a crime or misdemeanor in relation to this trouble;
- b. It is expected that this measure will deter him from further offenses related to this disorder.

2 Institutional treatment takes place in an appropriate psychiatric establishment or in an establishment implementing measures.

3 Treatment takes place in a closed establishment as long as there is reason to fear that the perpetrator will flee or commit new offenses. It can also be carried out in a penitentiary establishment.

<sup>29</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO 2010 1881; FF 2006 1057).

tiary within the meaning of art. 76, par. 2, to the extent that the necessary therapeutic treatment is provided by qualified personnel.<sup>30</sup>

4 Deprivation of liberty resulting from institutional treatment cannot generally exceed five years. If the conditions for conditional release are not met after five years and it is expected that maintaining the measure will deter the author from new crimes or new offenses in relation to his mental disorder, the judge may, at the request of the executing authority, order the extension of the measure by up to five years each time.

#### Art. 60

Addiction  
treatment

1 When the perpetrator is drug dependent or suffers from another addiction, the judge may order institutional treatment under the following conditions:

has. the perpetrator has committed a crime or misdemeanor in relation to this addiction;

b. It is expected that this treatment will distract him from other offenses related to this addiction.

2 The judge takes into account the request and the motivation of the author.

3 Treatment takes place in a specialized establishment or, if necessary, in a psychiatric hospital. It must be adapted to the particular needs of the author and the evolution of his condition.

4 Deprivation of liberty resulting from institutional treatment cannot generally exceed three years. If the conditions for conditional release are not met after three years and it is expected that maintaining the measure will deter the perpetrator from other crimes or offenses related to his addiction, the judge may, at the request of the executing authority, order a one-year extension of the measure once. The deprivation of liberty resulting from the measure cannot exceed six years in total in the event of extension and reinstatement following conditional release.

#### Art. 61

Measures  
applicable to  
young adults

1 If the perpetrator was under 25 years old at the time of the offense and suffers from serious personality development disorders, the judge may order his placement in an establishment for young adults under the following conditions:

has. the perpetrator has committed a crime or misdemeanor in relation to these troubles;

<sup>30</sup> New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO 2006 3539; FF 2005 4425).

b. It is expected that this measure will deter him from further offenses relating to these disorders.

2 Establishments for young adults must be separated from other establishments provided for by this code.

3 The placement must promote the perpetrator's ability to live responsibly and without committing crimes. It must in particular enable him to acquire training or further development.

4 The deprivation of liberty resulting from the execution of the measure cannot exceed four years. In the event of reintegration following conditional release, it cannot exceed six years in total. The measure must be lifted at the latest when the perpetrator reaches the age of 30.

5 If the perpetrator is also convicted of an act he committed before the age of 18, he may carry out the measure in a juvenile facility.

#### Art. 62

Conditional  
liberation

1 The author is conditionally released from the institutional execution of the measure as soon as his condition justifies giving him the opportunity to prove himself at liberty.

2 The probationary period is from one year to five years in the event of conditional release from the measure provided for in art. 59 and from one to three years in the event of conditional release from one of the measures provided for in arts. 60 and 61.

3 The conditionally released person may be required to undergo outpatient treatment during the probation period. The executing authority may order, for the duration of the probation period, probation assistance and impose rules of conduct.

4 If, at the end of the probation period, it appears necessary to continue the outpatient treatment of the person released on parole or to maintain probation assistance or the rules of conduct to prevent the danger that he or she commits other crimes or offenses in relation to his condition, the judge may, at the request of the executing authority, extend the trial period:

has. each time from one to five years in the event of conditional release from the measure provided for in art. 59;

b. from one to three years in the event of conditional release of one of the measures provided for in arts. 60 and 61.

5 The probation period in the event of conditional release from one of the measures provided for in arts. 60 and 61 cannot exceed six years in total.

6 If the perpetrator has committed an offense provided for in art. 64, par. 1, the probation period may be extended as many times as necessary to prevent other offenses of the same type.

**Art. 62a**

Failed to put  
to the test

1 If, during the probation period, the person conditionally released commits an offense indicating the persistence of the danger that the measure was intended to avert, the judge who hears the new offense may, after hearing the executing authority:

has. order reinstatement; b. lift the

measure and order another one provided that the conditions are met; vs. lift the measure and order the

execution of a custodial sentence provided that the conditions are met.

2 If, due to the new offence, the conditions for a firm custodial sentence are met and this competes with a custodial sentence suspended by the measure, the judge pronounces a general sentence in application of art. 49.

3 If there is a serious fear that due to his behavior during the probation period, the conditionally released person will commit an offense provided for in art. 64, par. 1, the judge who ordered the measure may order his reinstatement at the request of the executing authority.

4 Reinstatement cannot exceed five years for the measure provided for in art. 59 and two years for the measures provided for in arts. 60 and 61.

5 When he decides not to order reinstatement or a new measure, the judge may:

has. send a warning to the person released on parole -  
ment;

b. order outpatient treatment or professional assistance  
feel;

vs. impose rules of conduct; d. extend

the trial period from one to five years in the case of the measure provided for in art. 59 and from one to three years in the case of one of the measures provided for in arts. 60 and 61.

6 Art. 95, par. 3 to 5, is applicable if the conditionally released person evades probation assistance or violates the rules of conduct.

**Art. 62b**

Final  
release

1 A person released on parole is released permanently if he or she has successfully undergone probation.

2 The author is definitively released when the maximum duration provided for in arts. 60 and 61 is reached and if the conditions for conditional release are met.

3 If the duration of the deprivation of liberty resulting from the measure is less than that of the suspended custodial sentence, the remainder of the sentence is no longer served.

#### Art. 62c

Lifting of the  
measure

1 The measure is lifted:

has. if its execution or prosecution appears doomed to failure; b. if the maximum duration provided for in arts. 60 and 61 has been reached and the conditions for parole are not met; vs. if there is no or no longer a suitable establishment.

2 If the duration of the deprivation of liberty resulting from the measure is less than that of the suspended custodial sentence, the remainder of the sentence is carried out. If the conditions for suspension of execution of the custodial sentence or conditional release are met, execution of the remainder of the sentence is suspended.

3 The judge may order a new measure instead of the execution of the sentence if it is expected that this new measure will deter the perpetrator from other crimes or offenses in relation to his state.

4 If, when lifting a measure ordered due to an offense provided for in art. 64, par. 1, there is a serious fear that the perpetrator will commit other offenses of the same kind, the judge may order internment at the request of the executing authority.

5 If, when the measure is lifted, the competent authority considers that it is appropriate to order an adult protection measure, it will notify the adult protection authority. 31

6 The judge may also lift an institutional therapeutic measure, before or during the execution of this measure, and order, in place of this measure, another institutional therapeutic measure if it is expected that this new measure will clearly be better able to divert the perpetrator from other crimes or offenses related to his condition.

#### Art. 62d

Review of the  
release and lifting of  
the  
measure

1 The competent authority shall examine, ex officio or upon request, whether the perpetrator can be conditionally released from the execution of the measure or whether the measure can be lifted and, if so, when it can be lifted. . It makes a decision on this matter at least once a year. Beforehand,

31 New content according to ch. 14 of the annex to the Federal Act of December 19, 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO 2011 725; FF 2006 6635).



it hears the author and requests a report from the management of the establishment responsible for implementing the measure.

2 If the perpetrator has committed an offense provided for in art. 64, par. 1, the competent authority takes a decision on the basis of an independent expertise, after having heard a commission composed of representatives of the criminal prosecution authorities, the enforcement authorities and the psychiatric community. The expert and representatives of psychiatric circles must neither have treated the author nor taken care of him in any way.

### Art. 63

3. Outpatient  
treatment.  
Conditions and  
execution

1 When the perpetrator suffers from a serious mental disorder, is drug dependent or suffers from another addiction, the judge may order outpatient treatment instead of institutional treatment, under the following conditions:

- has. the perpetrator committed a punishable act in relation to his condition;
- b. it is expected that this treatment will divert him from further offenses related to his condition.

2 If the sentence is not compatible with the treatment, the judge may suspend, in favor of outpatient treatment, the execution of a custodial sentence handed down at the same time as the treatment, execution of a custodial sentence which became enforceable following the revocation of the suspended sentence and the execution of the balance of the sentence which became enforceable due to a reinstatement decision. He can order probation assistance and impose rules of conduct during treatment.

3 The competent authority may order that the perpetrator be temporarily subjected to initial temporary institutional treatment if this measure allows a subsequent transition to outpatient treatment. Institutional treatment cannot exceed two months in total.

4 Outpatient treatment cannot generally exceed five years. If, at the end of the maximum period, it appears necessary to prosecute him in order to divert the perpetrator from other crimes or offenses related to his mental disorder, the judge may, at the request of the executing authority, extend it from one to five years each time.

### Art. 63a

Lifting of the  
measure

1 The competent authority shall check at least once a year whether outpatient treatment should be continued or stopped. Beforehand, she hears the author and requests a report from the person responsible for the treatment.

2 The competent authority orders the cessation of outpatient treatment: a.

when it has been successfully completed; b. if its

pursuit appears doomed to failure; vs. upon

expiration of the maximum legal duration of treatment for people dependent  
on alcohol, narcotics or medications  
paths

3 If, during outpatient treatment, the perpetrator commits an offense indicating that this treatment cannot possibly eliminate the danger that he commits new offenses in relation to his condition, the judge who hears the new offense orders the arrest of the treatment remained without result.

4 Art. 95, par. 3 to 5, is applicable if the perpetrator evades probation assistance or violates the rules of conduct.

#### Art. 63b

Execution of the  
custodial  
sentence  
suspended

1 If the outpatient treatment has been successfully completed, the suspended custodial sentence is not carried out.

2 If outpatient treatment is stopped because its continuation appears doomed to failure (Art. 63a, al. 2, let. b), because it has reached the maximum legal duration (Art. 63a, al. 2, let. c) or because it remained without result (art. 63a, para. 3), the suspended custodial sentence must be carried out.

3 If the outpatient treatment carried out in freedom appears dangerous for others, the suspended custodial sentence is carried out and the outpatient treatment continued during the execution of the custodial sentence.

4 The judge decides in this regard to what extent the deprivation of liberty caused by outpatient treatment is charged to the sentence. If the conditions for conditional release or suspension of the execution of the custodial sentence are met, he suspends the execution of the remainder of the sentence.

5 The judge may replace the execution of the sentence with an institutional therapeutic measure provided for in arts. 59 to 61 if it is expected that this measure will deter the author from new crimes or new offenses in relation to his state.

#### Art. 64

4. Internment.  
Conditions  
and execution

1 The judge orders internment if the perpetrator has committed assassination, murder, serious bodily injury, rape, banditry, hostage-taking, fire, endangering the life of others, or another offense punishable by a maximum custodial sentence of

at least five years, by which he caused or intended to cause serious harm to the physical, psychological or sexual integrity of others and if:<sup>32</sup>

has. due to the characteristics of the author's personality, the circumstances in which he committed the offense and his experience, there is a serious fear that he will commit other offenses of the same type; or b. due to a serious chronic or recurrent mental

disorder in relation to the offense, there is a serious fear that the perpetrator will commit other offenses of the same kind and that the measure provided for in art. 59 seems doomed to failure.

1bis The judge orders internment for life if the perpetrator has committed assassination, murder, serious bodily injury, rape, banditry, sexual coercion, kidnapping, kidnapping or hostage-taking, if he has engaged in human trafficking, participated in genocide or committed a crime against humanity or a war crime (title 12ter) and the following conditions are met:<sup>33</sup>

has. by committing the crime, the perpetrator caused or intended to cause particularly serious harm to the physical, psychological or sexual integrity of others; b. it is

highly likely that the perpetrator will commit one of these crimes again;

vs. the author is described as permanently unredeemable, to the extent that the therapy seems, in the long term, doomed to failure.<sup>34</sup>

2 The execution of a custodial sentence precedes internment.

The provisions relating to conditional release from custodial sentences (art. 86 to 88) are not applicable.<sup>35</sup>

3 If, during the execution of the custodial sentence, it is expected that the offender will behave correctly while at liberty, the judge shall fix the conditional release from the custodial sentence at the earliest on the day on which the perpetrator has served two thirds of his custodial sentence or

32 New content according to Ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

33 New content according to ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO **2010** 4963; FF **2008** 3461).

34 Introduced by ch. I of the FL of December 21, 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

35 New content according to Ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

fifteen years in the event of a life sentence. The judge who ordered the internment is competent. Moreover, art. 64a is applicable.<sup>36</sup>

4 Internment is carried out in an establishment for the execution of measures or in an establishment provided for in art. 76, par. 2. Public safety must be guaranteed. The author is subject, if necessary, to psychiatric treatment.

#### **Art. 64a**

Lifting and  
release

1 The author is conditionally released from internment within the meaning of art. 64, par. 1, as soon as it is expected that he will behave properly while at liberty.<sup>37</sup> The probation period is two to five years. Probation assistance may be ordered and rules of conduct may be imposed for the duration of the probation.

2 If, at the end of the probation period, continuation of probation assistance or rules of conduct appears necessary to prevent other offenses provided for in art. 64, par. 1, the judge may extend the trial period from two to five years each time, at the request of the executing authority.

3 If there is a serious fear that due to his behavior during the probation period, the conditionally released person will commit new offenses within the meaning of art. 64, par. 1, the judge orders his reinstatement at the request of the executing authority.

4 Art. 95, par. 3 to 5, is applicable if the conditionally released person evades probation assistance or violates the rules of conduct.

5 A person released on parole is released permanently if he or she has successfully undergone probation.

#### **Art. 64b38**

Review of release

1 The competent authority shall examine, ex officio or upon request:

has. at least once a year and for the first time after a period of two years, whether the perpetrator can be conditionally released from internment and, if so, when he can be released (art. 64a , paragraph 1);

<sup>36</sup> New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1 , 2007 (RO **2006** 3539; FF **2005** 4425).

<sup>37</sup> New content according to Ch. I of the FL of December 21. 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

<sup>38</sup> New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1 , 2007 (RO **2006** 3539; FF **2005** 4425).

b. at least once every two years and for the first time before the start of internment, if the conditions for institutional therapeutic treatment are met and a request to this effect must be made to the competent judge ( Article 65, paragraph 1).

2 It makes the decision according to para. 1 based on: a. a report from the management of the establishment; b. an independent expertise within the meaning of art. 56, par. 4; vs. the hearing of a commission within the meaning of art. 62d, para. 2; d. the author's hearing.

#### **Art. 64c39**

Consideration  
for release  
from life internment  
and parole

1 In the event of internment for life within the meaning of art. 64, par. 1bis, the competent authority examines, ex officio or upon request, whether new scientific knowledge could make it possible to treat the author in such a way that he no longer represents a danger to the community. It makes its decision based on the report of the federal commission responsible for judging the possibilities of treating people interned for life.

2 If the competent authority concludes that the perpetrator can be treated, it will offer treatment. This takes place in a closed establishment. The provisions on the execution of life internment are applicable until the lifting of the life internment measure within the meaning of para. 3.

3 When the treatment has made it possible to significantly reduce the dangerousness of the perpetrator and can be further reduced to the point that he no longer presents a danger to the community, the judge lifts the life internment and orders an institutional therapeutic measure within the meaning of arts. 59 to 61 in a closed establishment.

4 The judge may conditionally release from life internment the perpetrator who, because of his age, a serious illness or for another reason, no longer represents a danger to the community. Conditional release is governed by art. 64a.

5 The judge who ordered the internment for life is competent to lift the internment for life and for conditional release. He makes his decision based on the assessments carried out by at least two independent and experienced experts who have not treated the author or dealt with him in any way.

39 Introduced by ch. I of the FL of December 21. 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO 2008 2961; FF 2006 869).

6 The paras. 1 and 2 are also applicable during the execution of the custodial sentence which precedes life internment. The lifting of life internment under s. 3 takes place at the earliest when the perpetrator has served two thirds of his sentence or 15 years of the sentence in the case of a life sentence.

#### Art. 65

5. Change of sanction

1 If, before or during the execution of a custodial sentence or internment within the meaning of art. 64, par. 1, the convicted person meets the conditions for an institutional therapeutic measure provided for in arts. 59 to 61, the judge may order this measure subsequently.<sup>40</sup> The competent judge is the one who pronounced the sentence or ordered the internment. The execution of the balance of the sentence is suspended.

2 If, during the execution of the custodial sentence, new facts or means of proof make it possible to establish that a convicted person fulfills the conditions of internment and that these conditions were already met at the time of the judgment without the judge may have become aware of it, the judge may order internment subsequently. Jurisdiction and procedure are determined by the rules on review.<sup>41</sup>

### Section 2 Other measures

#### Art. 66

1. Caution-preventive measure

1 If there is reason to fear that someone who has threatened to commit a crime or misdemeanor will actually commit it or if a person convicted of a crime or misdemeanor demonstrates the formal intention of repeating his act, the judge may, upon request of the threatened person, require from him a commitment not to commit the offense and require him to provide sufficient security.

2 If he refuses to commit himself or if, out of bad will, he does not provide the security within the time limit set, the judge can force him to do so by ordering his detention. This detention cannot exceed two months. It is carried out as a short custodial sentence (art. 79).

3 If he commits the offense within two years from the day on which he provided the securities, they are acquired by the State. Otherwise, they are returned to the beneficiary.

<sup>40</sup> New content according to ch. I of the FL of December 21, 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

<sup>41</sup> Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

**Art. 67**

2. Prohibition  
on practicing  
a profession

1 If the perpetrator has committed a crime or misdemeanor in the exercise of a profession, an industry or a trade and he has been sentenced for this offense to a custodial sentence of more than of six months or a monetary penalty of more than 180 fine days, the judge may totally or partially prohibit him from exercising this activity or comparable activities for a period of six months to five years if there is there is reason to fear further abuses.

2 The prohibition on exercising a profession prohibits the author from carrying out this activity independently, as an organ of a legal entity or a commercial company or as an agent or representative of a third. If there is a danger that the author will abuse his professional activity to commit offenses while acting under the directives and under the control of a superior, the exercise of this activity is entirely prohibited.

**Art. 67a**

Execution

1 The ban on exercising a profession takes effect from the day on which the judgment pronouncing it comes into force. The duration of the execution of a custodial sentence or a measure resulting in deprivation of liberty (art. 59 to 61 and 64) is not counted against that of the ban.

2 If the perpetrator has not successfully completed the probation and if the suspended sentence is carried out or reinstatement to a sentence or measure is ordered, the duration of the ban on exercising a profession runs from the day the perpetrator is released conditionally or definitively or from the day the sanction is remitted or lifted.

3 If the author has successfully undergone the probation, the competent authority decides on the lifting of the ban on exercising a profession or on the limitation of its duration or its content.

4 When the ban on practicing a profession has lasted two years or more, the author may request the competent authority to lift this ban or limit its duration or content.

5 If there is no reason to fear that the perpetrator will commit further abuses and if he has repaired the damage he has caused to the extent that could be expected of him, the competent authority lifts the prohibition to exercise a profession in the cases provided for in paras. 3 and 4.

**Art. 67b**

3. Driving ban

If the perpetrator used a motor vehicle to commit a crime or misdemeanor, the judge may order a penalty or a measure provided for in arts. 59 to 64 the withdrawal of the student driver's license or the driving license for a period of one month to five years if there is reason to fear further abuse.

**Art. 68**

4. Publication of judgement

1 If the public interest, the interest of the injured party or the interest of the person authorized to file a complaint so requires, the judge orders the publication of the judgment at the expense of the convicted person.

2 If the public interest, the interest of the acquitted accused or the interest of the person freed from any charge so requires, the judge orders the publication of the judgment of acquittal or the decision of release of criminal prosecution at the expense of the State or the informant.

3 Publication in the interest of the injured party, the person authorized to file a complaint, the acquitted accused or the person freed from all charges shall only take place at their request.

4 The judge sets the terms of publication.

**Art. 69**5. Confiscation.  
has. Confiscation  
of  
dangerous objects

1 Even though no specific person is punishable, the judge orders the confiscation of objects which were used or were to be used to commit an offense or which are the product of an offense, if these objects compromise the safety of persons, the morality or public order.

2 The judge may order that the confiscated objects be put out of use or destroyed.

**Art. 70**b. Confiscation  
heritage values.

Principles

1 The judge orders the confiscation of assets which are the result of an offense or which were intended to decide or reward the author of an offense, if they must not be returned to the injured party in restoration of his rights.

2 Confiscation is not pronounced when a third party has acquired the assets in ignorance of the facts which would have justified it, and this insofar as he has provided an adequate counter-service or if the confiscation is revealed excessively strict.

3 The right to order the confiscation of assets is prescribed by seven years, unless the prosecution of the offense in question is subject to a limitation period of a longer period; this is then applicable.



4 The confiscation decision is the subject of an official notice. The claims of injured parties or third parties expire five years after this notice.

5 If the amount of values subject to confiscation cannot be determined precisely or if this determination requires disproportionate means, the judge may make an estimate.

#### Art. 71

Debt  
compensatory

1 When the assets to be confiscated are no longer available, the judge orders their replacement with a compensatory debt from the State of an equivalent amount; it can only be pronounced against a third party to the extent that the conditions provided for in art. 70, par. 2, are not carried out.

2 The judge may totally or partially waive the compensation claim if it is expected that it would not be recoverable or that it would seriously hinder the reintegration of the person concerned.

3 The investigating authority may place in sequestration, with a view to the execution of a compensatory claim, assets belonging to the person concerned. The receiver does not create a preferential right in favor of the State during the forced execution of the compensatory debt.

#### Art. 72

Confiscation of  
heritage  
values of a  
criminal  
organization

The judge orders the confiscation of all assets over which a criminal organization exercises power of disposal. The values belonging to a person who participated in or provided support to a criminal organization (art. 260ter) are presumed to be subject, until proven otherwise, to the power of disposal of the organization.

#### Art. 73

6. Allowance to the  
injured party

1 If a crime or misdemeanor has caused damage to a person which is not covered by any insurance and if there is reason to fear that the perpetrator will not repair the damage or moral harm, the judge awards the injured party, at his request, up to the amount of damages or moral reparation fixed by a judgment or by a settlement:

- a. the amount of the monetary penalty or fine paid by the convicted person;
- b. confiscated objects and heritage values or the proceeds of their realization, less costs; offsetting claims; d. the amount of the
- c. preventive security.

2 The judge can only order this measure if the injured party assigns a corresponding part of his claim to the State.

3 The cantons establish a simple and rapid procedure in the event that it is not possible to order this allowance in the criminal judgment.

## **Title 4**

### **Execution of custodial sentences and measures resulting in deprivation of liberty**

#### **Art. 74**

1. Principles

The detainee and the person carrying out a measure have the right to respect for their dignity. The exercise of their rights can only be restricted to the extent required by the deprivation of liberty and by the requirements of collective life in the establishment.

#### **Art. 75**

2. Execution of custodial sentences.

Principles

1 The execution of the custodial sentence must improve the social behavior of the prisoner, in particular his ability to live without committing offenses. It must correspond as much as possible to ordinary living conditions, provide the detainee with the necessary assistance, combat the harmful effects of deprivation of liberty and take adequate account of the need for protection of the community, staff and residents. fellow prisoners.

2 ... 42

3 The establishment's regulations provide that an execution plan is established with the inmate. The plan concerns in particular the assistance offered, the possibility of working and acquiring training or further development, the repair of the damage, the relations with the outside world and the preparation for release.

4 The inmate must actively participate in the resocialization efforts implemented and in the preparation for his release.

5 The specific concerns and needs of prisoners, depending on their gender, must be taken into consideration.

6 When the prisoner is released conditionally or definitively and it subsequently appears that there was against him, at the time of his release, an enforceable judgment pronouncing a custodial sentence, there is reason to waive the execution of this sentence:

<sup>42</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO 2010 1881; FF 2006 1057).

- a. if, for a reason attributable to the executing authority, this sentence was not carried out with the other sentence;
- b. if, upon his release, the detainee could in good faith assume that there was no other enforceable judgment against him pronouncing a custodial sentence and if the execution of this judgment
- c. risks calling into question his reintegration.

**Art. 75a43**

Special security measures

1 The commission referred to in art. 62d, para. 2, assesses, when it comes to placement in an open sentence execution establishment or the granting of relief in execution, the dangerous nature of the prisoner for the community if the following conditions are fulfilled:

- a. the detainee has committed a crime referred to in art. 64, par. 1; b. the executing authority cannot comment categorically on the dangerous nature of the detainee for the community.

2 The reductions in execution are softening of the regime of deprivation of liberty, in particular the transfer to an open establishment, the granting of leave, the authorization to work or live outside as well as conditional release.

3 The dangerous nature of the prisoner for the community is accepted if there is reason to fear that the prisoner will flee and commit another offense by which he would seriously harm the physical, psychological or sexual integrity of others .

**Art. 76**

Place of execution of custodial sentences

1 Custodial sentences are carried out in a closed or open establishment.

2 The inmate is placed in a closed establishment or in the closed section of an open establishment if there is reason to fear that he will abscond or commit further offences.

**Art. 77**

Ordinary execution

Typically, the inmate works in the facility and spends his leisure and rest hours there.

43 New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1 , 2007 (RO 2006 3539; FF 2005 4425).

**Art. 77a**

External work  
and housing  
outer

1 The custodial sentence is carried out in the form of external labor if the prisoner has served part of his sentence, as a general rule at least half, and if there is no reason to fear that he will flee or commits new offenses.

2 In the case of external work, the inmate works outside the establishment and spends his leisure and rest hours in the establishment. The transition to external work occurs in principle after a stay of an appropriate duration in an open establishment or in the open section of a closed establishment. Housework and childcare are considered external work.

3 If the prisoner is satisfactory in external work, the execution of the sentence continues in the form of external work and accommodation.

The inmate then lives and works outside the establishment, but remains subject to the executing authority.

**Art. 77b**

Semi-detention

A custodial sentence of six months to one year is carried out in the form of semi-detention if there is no reason to fear that the detainee will flee or commit new offenses. The inmate continues to work or train outside the establishment; he spends his leisure and rest hours in the establishment. The accompaniment of the condemned must be guaranteed during the execution time.

**Art. 78**

Cellular  
detention

Solitary detention in the form of uninterrupted isolation from other detainees may only be ordered:

- has. for a period of not more than one week at the start of the sentence and to prepare for its execution;
- b. to protect the detainee or third parties; vs.  
as a disciplinary sanction.

**Art. 79**

Execution of  
short custodial  
sentences

1 Custodial sentences of less than six months and the remainder of the sentence of less than six months after deduction of the detention suffered before the judgment are generally carried out in the form of semi-detention.

2 Custodial sentences of up to four weeks may, upon request, be served on separate days. The sentence is divided into several periods of detention and carried out on the detainee's days of rest or vacation.

3 Semi-detention and execution on separate days may also be carried out in the special section of a pretrial detention facility.

#### **Art. 80**

Derogatory  
forms of execution

1 It is possible to deviate in favor of the prisoner from the rules for serving the custodial sentence:

has. when the inmate's state of health requires it;

b. during pregnancy, during childbirth and immediately  
After;

vs. so that the mother can live with her young child, as long as it is also in the child's interest.

2 A prisoner who does not serve his sentence in an establishment for the execution of sentences, but in another appropriate establishment, is subject to the rules of this establishment unless the executing authority provides otherwise.

#### **Art. 81**

Work

1 The prisoner is required to work. This work must correspond, as much as possible, to their skills, training and interests.

2 If he consents, the inmate may be employed by a private employer.

#### **Art. 82**

Training and  
perfect-  
ment

The inmate must, as far as possible, be able to acquire training and development corresponding to his abilities.

#### **Art. 83**

Remuneration

1 The inmate receives remuneration for his work in relation to his services and adapted to the circumstances.

2 During the execution of the sentence, the prisoner can only freely dispose of part of his remuneration. The other part constitutes a reserve fund which he will have at his disposal upon his release. The remuneration cannot be seized, sequestered or included in a bankrupt estate. Its transfer or pledge is void.

3 The prisoner receives fair compensation when he participates in training and further training courses that the execution plan provides instead of work.

**Art. 84**

Relations with the  
outside world

1 The detainee has the right to receive visits and to maintain relations with the outside world. Relationships with friends and loved ones must be fostered.

2 Relationships can be monitored; they may be limited or prohibited for reasons of order and security of the establishment. Control of visits is not authorized if the interested parties are not informed. Procedural measures intended to guarantee criminal prosecution are reserved.

3 Clergymen, doctors, lawyers, notaries, guardians and persons carrying out similar tasks may be authorized to communicate freely with prisoners within the limits set by the regulations of the establishment.

4 Relations with defenders must be authorized. Defenders' visits may be monitored, but listening to conversations is prohibited. Examination of the contents of the lawyer's correspondence and writings is not permitted. In the event of abuse, the competent authority may prohibit relations with a lawyer.

5 The prisoner's relations with the supervisory authorities cannot be subject to control.

6 Leave of appropriate length is granted to the prisoner to enable him to maintain relations with the outside world, to prepare for his release or for special reasons, provided that his behavior during the execution of the sentence does not does not object and there is no reason to fear that he will flee or commit other offenses.

6bis No leave or other relief in execution is granted to persons interned for life during the execution of the sentence which precedes internment.<sup>44</sup>

7 Art. 36 of the Vienna Convention of April 24, 1963 on consular relations<sup>45</sup> and the other rules of public international law binding Switzerland in matters of visits and correspondence.

**Art. 85**

Controls and  
inspections

1 The inmate's personal effects and accommodation may be inspected for reasons of order and security of the establishment.

2 A detainee suspected of concealing prohibited objects on his person or inside his body may be subject to a body search.

This must be carried out by a person of the same sex. If she

<sup>44</sup> Introduced by ch. I of the FL of December 21. 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

<sup>45</sup> RS **0.191.02**

involves undressing, it will be done in the absence of other prisoners. Examination of the inside of the body should be carried out by a doctor or other medical personnel.

#### **Art. 86**

Conditional  
liberation.  
has. Granting

1 The competent authority conditionally releases the prisoner who has served two thirds of his sentence, but at least three months of detention, if his behavior during the execution of the sentence does not oppose it and if he does not there is no reason to fear that he will commit new crimes or offenses.

2 The competent authority examines ex officio whether the prisoner can be released conditionally. She requests a report from the management of the establishment. The detainee must be heard.

3 If she has refused conditional release, the competent authority must review her decision at least once a year.

4 Exceptionally, an inmate who has served half his sentence, but at least three months of detention, may be released conditionally if extraordinary circumstances relating to his person justify it.

5 In the event of a life sentence, conditional release may occur at the earliest after fifteen years in the case provided for in para. 1 and after ten years in the case provided for in para. 4.

#### **Art. 87**

b. Deadline  
test

1 The conditionally released prisoner is given a probation period equal to the duration of the balance of his sentence. This period is, however, at least one year and at most five years.

2 The enforcement authority generally orders probation assistance for the duration of the probation period. It can impose rules of conduct.

3 If conditional release was granted for a custodial sentence which had been imposed due to an offense referred to in art. 64, par. 1, and when the probation period expires, it appears necessary to extend the probation assistance or the rules of conduct to prevent new offenses of the same type, the judge may, at the request of the authority of execution, extend the probation assistance or the rules of conduct from one to five years each time, or order new rules of conduct for this period. In this case, reinstatement in the execution of the sentence according to Art. 95, par. 5, is not possible.

**Art. 88**

vs. Success of the  
put to the test

If the probation is successfully completed, the release is definitive.

**Art. 89**

d. Failure of  
put to the test

1 If, during the probation period, the conditionally released prisoner commits a crime or misdemeanor, the judge who hears the new offense orders his reintegration into the establishment.

2 If, despite the crime or misdemeanor committed during the probation period, there is no reason to fear that the convicted person will commit new offenses, the judge waives reinstatement. He may send a warning to the convicted person and extend the probation period by no more than half of the duration originally set by the competent authority. If the extension occurs after the expiry of the trial period, it begins on the day it is ordered. The provisions on probation assistance and rules of conduct (art. 93 to 95) apply.

3 Art. 95, par. 3 to 5, is applicable if the conditionally released person evades probation assistance or if he violates the rules of conduct.

4 Reinstatement can no longer be ordered when three years have passed since the expiration of the probation period.

5 The pre-trial detention that the author suffered during the reintegration procedure must be charged to the balance of the sentence.

6 If, due to the new offense, the conditions for a firm custodial sentence are met and this competes with the balance of the sentence that became enforceable following the revocation, the judge pronounces, in under art. 49, a general sentence. This is governed by the provisions on conditional release. If only the balance of the sentence must be executed, art. 86, par. 1 to 4, is applicable.

7 If the balance of the sentence which becomes enforceable due to a reinstatement decision enters into competition with one of the measures provided for in arts. 59 to 61, art. 57, par. 2 and 3, is applicable.

**Art. 90**

3. Execution of  
measures

1 The person carrying out a measure provided for in arts. 59 to 61 cannot be subject to uninterrupted isolation from other people unless:

has. as a temporary therapeutic measure; b. for their personal protection or that of third parties; vs. as a disciplinary sanction.



2 At the start of the execution of the measure, a plan is drawn up with the person concerned or with their legal representative. This plan relates in particular to the treatment of mental disorder, dependence or personality development disorder and to the means of avoiding endangering third parties.

2bis The measures

provided for in arts. 59 to 61 and 64 may be implemented in the form of external work and accommodation if it can reasonably be assumed that they will thus make a decisive contribution to achieving the aim pursued and there is no need to fear that the person placed there will abscond or commit other offenses.

Art. 77a, para. 2 and 3, is applicable by analogy.<sup>46</sup>

3 If the person concerned is able to work, he or she must be encouraged to work to the extent that institutional treatment or care requires or allows it. In this case, arts. 81 to 83 are applicable by analogy.

4 Art. 84 is applicable by analogy to the data subject's relations with the outside world, provided that the requirements of institutional processing do not result in additional restrictions.  
res.

4bis Art. 75a is applicable by analogy to placement in an open establishment and to the granting of relief in execution.<sup>47</sup>

4ter No leave or other relief in execution is granted during life internment.<sup>48</sup>

5 Art. 85 on controls and inspections is applicable by analogy.

### Art. 91

4. Dispositions  
communities.  
Right  
disciplinary

1 Prisoners and persons carrying out a measure who culpably contravene the requirements or the execution plan are liable to disciplinary sanctions.

2 The disciplinary sanctions are: a. the

warning; b. the

temporary suppression, complete or partial, of the possibility of having financial resources, of legal activities and of relations with the outside world;

46 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO 2006 3539; FF 2005 4425).

47 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO 2006 3539; FF 2005 4425).

48 Introduced by ch. I of the FL of December 21, 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO 2008 2961; FF 2006 869).

c.49 the fine;

d.50 judgments, as an additional restriction of freedom.

3 The cantons issue disciplinary provisions regarding the execution of sentences and measures. These provisions define the constituent elements of disciplinary offenses, the nature of the sanctions and the criteria for their determination as well as the applicable procedure.

#### Art. 92

Interrupting  
execution

The execution of sentences and measures may be interrupted for serious reasons.

### Title 5

#### Probation assistance, rules of conduct and optional social assistance

#### Art. 93

Support from  
probation

1 Probation assistance must protect those in care from committing new offenses and promote their social integration. The probation assistance authority provides the necessary assistance directly or in collaboration with other specialists.

2 Employees of probation support services must keep their findings confidential. They may only communicate information about the personal situation of the person in care to third parties with the written consent of the person in charge or of the authority responsible for probation assistance.

3 The penal administration authorities may request a report on the person in care from the authority responsible for probation assistance.

#### Art. 94

Rules of  
Conduct

The rules of conduct that the judge or the executing authority may impose on the convicted person for the duration of the probation period relate in particular to his professional activity, his place of stay, the driving of motor vehicles, repair damage as well as medical and psychological care.

49 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO 2006 3539; FF 2005 4425).

50 Formerly let. vs.

**Art. 95**

Dispositions  
municipalities

1 Before ruling on probation assistance or the rules of conduct, the judge and the enforcement authority may request a report from the authority responsible for probation assistance or monitoring the rules of conduct. The person concerned can take a position on this report. Divergent opinions must be mentioned there.

2 The judgment or decision must establish and motivate the provisions on probation assistance and the rules of conduct.

3 If the convicted person evades probation assistance, if he violates the rules of conduct or if the probation assistance or the rules of conduct can no longer be carried out or are no longer necessary, the competent authority shall submit a report to the judge or the executing authority.

4 In the cases provided for in para. 3, the judge or the executing authority may:

has. extend the trial period by up to half its duration;

b. lift probation assistance or order new one; vs. modify, revoke or impose new rules of conduct  
news.

5 In the cases provided for in para. 3, the judge may also revoke the suspended sentence or order reinstatement in the execution of the sentence or measure if there is a serious fear that the convicted person will commit new offenses.

**Art. 96**

Social  
assistance

During the criminal proceedings and while the sentence is being served, the person concerned may benefit from cantonal social assistance.

**Title 6 Prescription****Art. 97**

1. Prescription  
of criminal  
action.  
Time limit

1 Criminal action is prescribed:

has. by 30 years if the offense is punishable by a custodial sentence for life;  
b. by fifteen

years if it is punishable by a custodial sentence of more than three years;

vs. by seven years if it is liable to another sentence.

2 In the event of acts of a sexual nature with children (art. 187) and dependent minors (art. 188), and in the case of offenses within the meaning of arts. 111, 113, 122, 124, 182, 189 to 191 and 195 directed against a child under 16 years of age, the limitation period for criminal action runs in any case until the day the victim is 25 years old.<sup>51</sup>

3 The limitation period no longer runs if, before its expiry, a first instance judgment has been rendered.

4 The limitation period for criminal action in the event of sexual acts with children (art. 187) and dependent minors (art. 188), and in the event of offenses within the meaning of arts. 111 to 113, 122, 182, 189 to 191 and 195 directed against a child under 16 years of age committed before the entry into force of the amendment of October 5, 2001<sup>52</sup> is set according to paras. 1 to 3 if it has not yet expired on this date.<sup>53</sup>

### Art. 98

Starting point

La prescription court:

has. from the day the perpetrator carried out his guilty activity; b.

from the day of the last act if this activity was carried out on several occasions;

vs. from the day the guilty actions ceased if they had a certain duration.

### Art. 99

2. Prescription of sentence.

Time limit

1 The penalties are prescribed:

a. by 30 years if a life custodial sentence has been imposed  
cé;

b. by 25 years if a custodial sentence of at least ten years has been imposed;  
vs. by 20 years if

a custodial sentence of at least five years, but less than ten years, has been imposed; d. by fifteen years if a custodial sentence of

more than one year but less than five years has been imposed; e. by five years if another sentence has been imposed.

51 New content according to ch. I of the FL of September 30, 2011, in force since July 1, 2012 (RO 2012 2575; FF 2010 5125 5151).

52 RO 2002 2993

53 New content according to art. 2 rooms. 1 of the AF of March 24, 2006 approving and implementing Prot. optional of May 25, 2000 relating to Conv. relating to the rights of the child, concerning the sale of children, child prostitution and child pornography, in force since December 1 . 2006 (RO 2006 5437; FF 2005 2639).

2 The limitation period for a custodial sentence is extended: a. the duration of the uninterrupted execution of this sentence, of another custodial sentence or of a measure carried out immediately before; b. of the duration of the probation in the event of conditional release functional.

#### Art. 100

Starting point The limitation period runs from the day the judgment becomes enforceable. In the event of a suspended sentence or previous execution of a measure, it starts from the day on which execution of the sentence is ordered.

#### Art. 101

3. Imprescriptibility 1 Are imprescriptible:

- a. genocide (art. 264); b. crimes against humanity (art. 264a, paras. 1 and 2);
- c. war crimes (art. 264c, al. 1 to 3, 264d, al. 1 et 2, 264e, al. 1 et 2, 264f, 264g, al. 1 et 2, et 264h);
- d. crimes committed with a view to coercion or extortion and which endanger or threaten to endanger the life and physical integrity of a large number of people, in particular by the use of means of extermination massive destruction, by the outbreak of a catastrophe or by a hostage-taking;<sup>54</sup>

e.55 sexual acts with children (art. 187, ch. 1), sexual coercion (art. 189), rape (art. 190), sexual acts committed on an incapable person of discernment or resistance (art. 191), acts of a sexual nature with hospitalized, detained or accused persons (art. 192, al. 1) and abuse of distress (art. 193, al. 1), when they were committed against children under 12 years of age.

2 The judge may mitigate the sentence in the case where the criminal action is prescribed under arts. 97 and 98.

3 The paras. 1, let. a, c and d, and 2 are applicable if the criminal action or the penalty was not prescribed on January 1, 1983 under the law applicable on that date. Para. 1, let. b, is applicable if the criminal action or the

<sup>54</sup> New content according to Ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO 2010 4963; FF 2008 3461).

<sup>55</sup> Introduced by ch. I 1 of the Act of June 15, 2012 (Imprescriptibility of acts of a sexual or pornographic nature committed against pre-pubescent children), in force since Jan. 1, 2013 ( RO 2012 5951; FF 2011 5565).

penalty was not prescribed upon the entry into force of the June 18, 2010 amendment to this code, under the law applicable on that date.

Para. 1, let. e, is applicable if the criminal action or the penalty was not prescribed on November 30, 2008 under the law applicable on that date<sup>56,57</sup>

## Title 7 Corporate Responsibility

### Art. 102

Punishability

1 A crime or misdemeanor which is committed within a company in the exercise of commercial activities consistent with its aims is imputed to the company if it cannot be attributed to any specific natural person due to lack of 'business organization. In this case, the company is punished with a fine of up to five million francs.

2 In the event of an offense provided for in arts. 260ter, 260quinquies, 305bis, 322ter, 322quinquies or 322septies, al. 1, or even in art. 4a, para. 1, let. a, of the federal law of December 19, 1986 against unfair competition<sup>58</sup>, the company is punished independently of the punishability of natural persons if it must be accused of not having taken all reasonable and necessary organizational measures to prevent such an offense.<sup>59</sup>

3 The judge sets the fine in particular according to the seriousness of the offense, the lack of organization and the damage caused, and according to the economic capacity of the company.

4 Companies within the meaning of this title are: a.

private law legal entities; b. legal entities under

public law, with the exception of corporations  
rations territoriales;

vs. companies; d.

companies on an individual basis.

<sup>56</sup> Sentence introduced by ch. I 1 of the Federal Act of June 15, 2012 (Imprescriptibility of acts of a sexual or pornographic nature committed against pre-pubescent children), in force since Jan. 1, 2013 (RO **2012** 5951; FF **2011** 5565).

<sup>57</sup> New content according to ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO **2010** 4963; FF **2008** 3461).

<sup>58</sup> RS **241**

<sup>59</sup> New content according to art. 2 rooms. 2 of the AF of October 7, 2005 approving and implementing Conv. criminal law of the Council of Europe on corruption and prot. add. to the said conv., in force since July 1, 2006 (RO **2006** 2371; FF **2004** 6549).

**Art. 102a60****Part 2 Fines****Art. 103**

Definition Violations punishable by a fine are contraventions.

**Art. 104**

Application of the provisions of Part I The provisions of the first part of this code apply to contraventions, subject to modifications resulting from the following articles.

**Art. 105**

Restrictions in the application

1 The provisions on suspension and partial suspension (art. 42 and 43) and those on company liability (art. 102 and 102a61) are not applicable in the event of a contravention.

2 Attempt and complicity are only punishable in cases expressly provided for by law.

3 Measures resulting in deprivation of liberty (art. 59 to 61 and 64), prohibition from practicing a profession (art. 67) and publication of the judgment (art. 68) may only be ordered in express cases -sely provided for by law.

**Art. 106**

Fine

1 Unless otherwise provided by law, the maximum amount of the fine is 10,000 francs.

2 The judge pronounces in his judgment, in the event that the convicted person wrongfully does not pay the fine, an alternative custodial sentence of at least one day and at most three months.

3 The judge sets the fine and the alternative custodial sentence taking into account the situation of the perpetrator so that the sentence corresponds to the offense committed.

4 Subsequent payment of the fine results in a proportional reduction in the alternative custodial sentence.

5 Arts. 35 and 36, paras. 2 to 5, are applicable by analogy to the execution and conversion of the fine.

<sup>60</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO 2010 1881; FF 2006 1057).

<sup>61</sup> This article is repealed. See currently art. 112 of the CPP (RS 312.0).

**Art. 107**Interest work  
general

1 With the consent of the perpetrator, the judge may order, instead of the fine, community service for a maximum of 360 hours.

2 The executing authority sets a maximum time limit of one year for carrying out the work of general interest.

3 If, despite a warning, the convicted person does not carry out community service, the judge orders the execution of the fine.

**Art. 10862****Art. 109**

Prescription

The criminal action and the sentence are prescribed by three years.

**Part 3 Definitions****Art. 110**

1 A person's *next* of kin are their spouse, registered partner, direct lineal relatives, full, consanguineous or uterine brothers and sisters as well as their parents, brothers and sisters and adopted children.<sup>62</sup>

2 A *person's familiars* are those who share a common household with him.

3 By *civil servants* we mean civil servants and employees of a public administration and justice as well as persons who occupy a public function on a temporary basis, or who are employed on a temporary basis by a public administration or justice or who perform a temporary public function. 3bis When a provision refers to the concept of thing, it also applies to animals.<sup>64</sup>

4 *Titles* are all writings intended and suitable for proving a fact having legal significance and all signs intended to prove such a fact. Recording on data carriers and image carriers is considered writing if it has the same purpose.

5 *Authentic titles* are all titles emanating from members of an authority, civil servants or public officers acting in

62 For reasons of legislative technique, this article is without content. Rectified by the Editorial Commission of the Ass. fed. (art. 58 al. 1 LParl; RS **171.10**).

63 New content according to art. 37 hp. 1 of the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

64 RO **2006** 3583



the exercise of their functions. Excluded are titles emanating from the administration of economic enterprises and state monopolies or other corporations or public law establishments which relate to civil law matters.

6 The *day* is counted as twenty-four consecutive hours. The month and year are counted from date to date.

7 Detention *before trial* is any detention ordered during a criminal trial for the purposes of investigation, for security reasons or with a view to extradition.

## **Book 2      Special provisions**

### **Title 1**

### **Offense against life and bodily integrity**

#### **Art. 111**

1. Homicide.  
Murder

Anyone who intentionally kills a person will be punished with a custodial sentence<sup>65</sup> of at least five years, as long as the conditions provided for in the following articles are not met.

#### **Art. 11266**

assassinat

If the offender has killed with a particular lack of scruples, in particular if his motive, his aim or his way of acting is particularly heinous, he will be punished with a custodial sentence for life or a custodial sentence. freedom of at least ten years.<sup>67</sup>

#### **Art. 11368**

Murder  
passionate

If the offender killed while he was in the grip of a violent emotion that the circumstances made excusable, or if he was at the time of the act in a state of profound distress, he will be punished with a custodial sentence. of freedom from one to ten years.<sup>69</sup>

65 New expression according to ch. II 1 al. 1 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

66 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

67 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

68 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

69 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

**Art. 11470**

Murder at the  
request of  
the victim

Anyone who, yielding to an honorable motive, in particular pity, kills a person at the serious and immediate request of the person will be punished with a custodial sentence of not more than three years or with pecuniary<sup>71</sup>.

**Art. 115**

Incitement  
and assistance  
to suicide

Anyone who, driven by a selfish motive, incites a person to commit suicide, or assists them in committing suicide, will, if the suicide has been completed or attempted, be punished with a custodial sentence of five years. at most or a monetary penalty<sup>72</sup>.

**Art. 11673**

Infanticide

The mother who kills her child during childbirth or while she was still under the influence of the puerperal state will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 117**

Homicide by  
negligence

Anyone who, through negligence, causes the death of a person will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 11874**

2. Termination of  
pregnancy.  
Termination of  
pregnancy  
punishable

1 Anyone who interrupts a woman's pregnancy with her consent, or instigates or helps her to terminate her pregnancy without the conditions set out in art. 119 are fulfilled will be punished by a custodial sentence of up to five years or a monetary penalty.

2 Anyone who interrupts a woman's pregnancy without her consent will be punished with a custodial sentence of one to ten years<sup>75</sup>.

70 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

71 New expression according to ch. II 1 al. 2 of the LF of December 13 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

72 New expression according to ch. II 1 al. 3 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

73 New content according to Ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

74 New content according to Ch. I of the FL of March 23, 2001 (termination of pregnancy), in force since Oct. 1, 2002 (RO **2002** 2989; FF **1998** 2629 4734).

3 The woman who terminates her pregnancy, has it terminated or participates in the termination in any way after the twelfth week following the start of the last period, without the conditions set out in art. 119, par. 1, are fulfilled, will be punished by a custodial sentence of up to three years or by a monetary penalty.

4 The criminal actions referred to in paras. 1 and 3 are prescribed after three years.<sup>76</sup>

#### **Art. 11977**

Termination of pregnancy no punishable

1 Termination of pregnancy is not punishable if a medical opinion demonstrates that it is necessary to avoid the danger of serious harm to the physical integrity or a state of profound distress of the pregnant woman. The danger must be all the more serious as the pregnancy progresses.

2 Termination of pregnancy is also not punishable if, at the written request of the woman who claims that she is in a situation of distress, it is carried out during the twelve weeks following the start of the last period by a doctor authorized to practice his profession. The doctor must first speak in depth with the pregnant woman and advise her.

3 The consent of the legal representative of the pregnant woman is required if she is incapable of discernment.

4 The canton designates the practices and hospital establishments which meet the necessary conditions for the practice of termination of pregnancy according to the rules of the art and for in-depth counseling of the pregnant woman.

5 For statistical purposes, any termination of pregnancy must be reported to the competent public health authority; the anonymity of the woman concerned is guaranteed and medical confidentiality must be respected.

#### **Art. 12078**

Fines committed by the doctor

1 A doctor who terminates a pregnancy pursuant to art. 119, par. 2, and omits before the intervention:

has. to require a written request from the pregnant woman;

75 New expression according to ch. II 1 al. 4 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

76 New content according to ch. I of the LF of March 22, 2002 (Prescription of criminal action), in force since Oct. 1 , 2002 (RO **2002** 2986; FF **2002** 2512 1579).

77 New content according to ch. I of the FL of March 23, 2001 (termination of pregnancy), in force since Oct. 1 , 2002 (RO **2002** 2989; FF **1998** 2629 4734).

78 New content according to ch. I of the FL of March 23, 2001 (termination of pregnancy), in force since Oct. 1 , 2002 (RO **2002** 2989; FF **1998** 2629 4734).

79 New expression according to ch. II 1 al. 5 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

- b. to speak in depth with the pregnant woman himself, to advise her and inform her about the medical risks of the intervention as well as to give her against signature a file containing:
1. the list consultation centers which offer their services free of charge;
  2. a list of associations and organizations likely to provide moral or material assistance;
  3. information on the possibilities of adoption

the child;

vs. to ensure himself, if the pregnant woman is under sixteen, that she has contacted a specialist consultation center for minors.

2 A doctor who fails to notify the competent public health authority, in accordance with art. 119, par. 5, of the termination of pregnancy carried out.

#### Art. 12180

#### Art. 12281

3. Injuries  
bodily.  
Lesions  
serious bodily  
injuries

Anyone who intentionally injures a person in such a way as to endanger their life, anyone who

intentionally mutilates the body of a person, one of its limbs or one of its important organs or causes a person to suffer harm. incapacity for work, permanent infirmity or mental illness, or will have disfigured a person in a serious and permanent manner,

anyone who intentionally causes a person to suffer any other serious harm to bodily integrity or physical or mental health will be punished with a custodial

sentence of up to ten years or with a monetary penalty. of at least 180 day fine.<sup>82</sup>

<sup>80</sup> Repealed by ch. I of the Federal Act of March 23, 2001 (termination of pregnancy), with effect from Oct. 1, 2002 (RO 2002 2989; FF 1998 2629 4734).

<sup>81</sup> New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO 1989 2449; FF 1985 II 1021).

<sup>82</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

**Art. 12383**

Lesions  
simple  
bodily

1. Anyone who intentionally causes another person to suffer bodily harm or health will, upon complaint, be punished with a custodial sentence of up to three years or with a monetary penalty.

In less serious cases, the judge may reduce the sentence (art. 48a).<sup>84</sup>

2. The penalty will be a custodial sentence of up to three years or a monetary penalty and prosecution will take place automatically, if the offender used poison, a weapon or a dangerous object,

if he attacked a person incapable of defending himself or a person, in particular a child, in his care or over whom he had a duty to look after.

if the perpetrator is the spouse of the victim and the attack was committed during the marriage or in the year following the divorce,<sup>85</sup>

if the perpetrator is the registered partner of the victim and the violation was committed during the registered partnership or in the year following its judicial dissolution,<sup>86</sup>

if the perpetrator is the heterosexual or homosexual partner of the victim provided that they live together for an indeterminate period of time and that the attack was committed during this period or in the year following the separation.<sup>87</sup>

**Art. 12488**

Female  
genital  
mutilation

1 Anyone who mutilates female genitalia, seriously and permanently compromises their natural function or causes any other harm to them will be punished with a custodial sentence of up to ten years or a monetary penalty of 180 days -fine at least.

83 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

84 New content of the sentence according to ch. II 2 of the LF of December 13. 2002, in force since on Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

85 Para. introduced by ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

86 Para. introduced by ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

87 Formerly para. 4. Introduced by ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

88 New content according to ch. I of the FL of September 30, 2011, in force since July 1, 2012 (RO **2012** 2575; FF **2010** 5125 5151).

2 Anyone who is in Switzerland and is not extradited and commits mutilation abroad is punishable. Art. 7, par. 4 and 5, is applicable.

#### Art. 125

Lesions  
bodily injury  
by negligence

1 Anyone who, through negligence, causes harm to a person's body or health will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty<sup>89</sup>.

2 If the injury is serious the offender will be prosecuted automatically.

#### Art. 126

Assault

1 Anyone who commits assault on a person which does not cause bodily harm or damage to health will, upon complaint, be punished with a fine.

2 Prosecution will take place automatically if the perpetrator has repeatedly acted:

has. against a person, in particular a child, in whose custody he had or over whom he had a duty to look after; b. against his spouse during

the marriage or in the year following the divorce; bbis.90 against his partner during the registered

partnership or in the year following its judicial dissolution;

vs. against his heterosexual or homosexual partner provided that they live together for an indefinite period and that the attacks were committed during this period or in the year following the separation.<sup>91</sup>

#### Art. 12792

4. Setting up  
danger to  
the life or  
health  
of others.

Exposition

Anyone who, having the care of a person incapable of protecting themselves or the duty to watch over them, exposes them to a danger of death or to a serious and imminent danger to health, or if abandoned in such danger, will be punished with a custodial sentence of up to five years or a monetary penalty.

89 New expression according to ch. II 1 al. 2 of the LF of December 13 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

90 Introduced by ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1 , 2007 (RO **2005** 5685; FF **2003** 1192).

91 Introduced by ch. I of the LF of June 23, 1989 (RO **1989** 2449; FF **1985** II 1021). New content according to ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1 , 2004 (RO **2004** 1403; FF **2003** 1750 1779).

92 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

- Art. 12893**
- Omission of  
lend aid      Anyone who does not render aid to a person he has injured or to a person in imminent danger of death, even though it could reasonably be required of him, given the circumstances, whoever prevents a third party to render assistance or will have hindered him in the fulfillment of this duty, will be punished with a custodial sentence of up to three years or with a monetary penalty.
- Art. 128bis 94**
- False alarm      Anyone who, knowingly and without reason, alerts public security or general interest services, rescue or first aid stations, in particular the police, firefighters or health services, will be punished with a custodial sentence of three years at most or a monetary penalty.
- Art. 12995**
- Endangering  
the lives of others      Anyone who, without scruples, puts others in imminent danger of death will be punished with a custodial sentence of up to five years or a monetary penalty.
- Art. 130 to 13296**
- Art. 13397**
- Brawl      1 Anyone who takes part in a brawl resulting in the death of a person or bodily harm will be punished with a custodial sentence of up to three years or a monetary penalty.
- 2 Anyone who limits himself to repelling an attack, defending others or separating the combatants is not punishable.
- Art. 13498**
- Assault
- 93 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).
- 94 Introduced by ch. I of the FL of June 17, 1994, in force since Jan. 1 , 1995 (RO **1994** 2290; FF **1991** II 933).
- 95 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).
- 96 Repealed speaks ch. I of the FL of June 23, 1989, with effect from Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).
- 97 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).
- 98 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

Anyone who participates in an attack directed against one or more people during which one of them or a third party has died or suffered bodily harm will be punished with a custodial sentence of five years. at most or a monetary penalty<sup>99</sup>.

#### Art. 135100

Representation  
of violence

1 Anyone who has manufactured, imported or stored, put into circulation, promoted, exhibited, offered, shown, made accessible or made available sound or visual recordings, images, other objects or representations which emphatically illustrate acts of cruelty towards human beings or animals seriously violating human dignity, without presenting any cultural or scientific value worthy of protection, will be punished by a custodial sentence of not more than three years or a monetary penalty. 1bis Anyone who has acquired, obtained by electronic means or in another way or possessed objects or representations referred to in para. 1, to the extent that they illustrate acts of violence against human beings or animals, will be punished by a custodial sentence of up to one year or a fine.<sup>101 102</sup>

2 Items will be confiscated.

3 If the perpetrator acted for financial gain, the penalty will be a custodial sentence of up to three years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.<sup>103</sup>

#### Art. 136104

Giving  
children  
substances  
that could  
endanger  
their health

Anyone who gives to a child under sixteen years of age or makes available to him alcoholic beverages or other substances in quantities that could endanger his health will be punished with a custodial sentence of not more than three years or a monetary penalty.

99 New expression according to ch. II 1 al. 6 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

100 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

101 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

102 Introduced by ch. I of the FL of October 5, 2001 (Offences against sexual integrity; prohibition of the possession of objects or representations relating to hard pornography), in force since April 1, 2002 (RO **2002** 408; FF **2000** 2769).

103 New expressions according to ch. II 1 al. 7 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

104 New content according to ch. II of the FL of March 20, 2008, in force since July 1, 2011 (RO **2009** 2623, **2011** 2559; FF **2006** 8141 8211).



## Title 2105 Offenses against heritage

### Art. 137

1. Offenses  
against  
heritage.  
Illegitimate  
appropriation

1. Anyone who, in order to obtain illegitimate enrichment for themselves or a third party, appropriates a movable thing belonging to another will be punished with a custodial sentence of not more than three years or with a monetary penalty, as the conditions provided for in arts. 138 to 140 will not be carried out.

2. If the perpetrator found the thing or if it fell into his power independently of his will, if he acted without the intention

of enrichment or if the act was committed to the

detriment of relatives or pets, the offense will only be prosecuted upon complaint.

### Art. 138

Breach  
of trust

1. Any person who, in order to obtain illegitimate enrichment for himself or a third party, appropriates a movable thing belonging to another and which had been entrusted to him, he

who, without right, uses it for his own benefit or for the benefit of a third of the assets entrusted to him, will be punished by a custodial

sentence of up to five years or a financial penalty.

Breach of trust committed to the detriment of relatives or friends will only be prosecuted upon complaint.

2. If the author acted as a member of an authority, civil servant, guardian, curator, asset manager or in the exercise of a profession, industry or trade to which the public authorities have authorized it, the penalty will be a custodial sentence of up to ten years or a monetary penalty<sup>106</sup>.

### Art. 139

Vol

1. Any person who, in order to obtain illegitimate enrichment for himself or a third party, steals a movable thing belonging to another with the aim of appropriating it will be punished with a custodial sentence of not more than five years or a monetary penalty.

<sup>105</sup> New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1, 1995 (RO **1994** 2290; FF **1991** II 933).

<sup>106</sup> New expression according to ch. II 1 al. 8 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

2. Theft will be punishable by a custodial sentence of up to ten years or by a monetary penalty of at least 90 days<sup>107</sup> if the perpetrator is involved in theft.

3. Theft will be punishable by a custodial sentence of not more than ten years or by a monetary penalty of at least 180 days' fine<sup>108</sup>, if the perpetrator committed it as an affiliate of a gang formed to commit robbery or theft, if he has armed himself with a firearm or another dangerous weapon or if in any other way the way he acts indicates that he is particularly dangerous.

4. Theft committed against relatives or friends will only be prosecuted upon complaint.

#### Art. 140

Brigandage

1. Anyone who commits theft by using violence against a person, by threatening them with imminent danger to their life or physical integrity or by rendering them incapable of resisting will be punishable by a custodial sentence of up to ten years or a monetary penalty of at least 180 days' fine.

Anyone who, caught in the act of theft, commits one of the acts of coercion mentioned in para. 1 for the purpose of keeping the stolen thing will incur the same penalty.

2. Brigandage will be punishable by a custodial sentence of at least one year<sup>109</sup>, if the perpetrator has a firearm or other dangerous weapon.

3. Brigandage will be punishable by a custodial sentence of at least two years, if its perpetrator committed it as an affiliate of a gang formed to commit brigandage or theft, if in any other way the to act denotes that it is particularly dangerous.

4. The penalty will be a custodial sentence of at least five years, if the perpetrator has put the victim in danger of death, caused them to suffer serious bodily harm, or treated them with cruelty.

<sup>107</sup> New expression according to ch. II 1 al. 9 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787). He was given this mod. throughout the Book.

<sup>108</sup> New expression according to ch. II 1 al. 10 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787). He was given this mod. throughout the Book.

<sup>109</sup> New expression according to ch. II 1 al. 12 of the LF of December 13. 2002, in force since Jan 1st 2007 (RO 2006 3459; FF 1999 1787).

Subtraction of a movable thing	<p><b>Art. 141</b></p> <p>Anyone who, without the intention of appropriation, takes a movable thing from the beneficiary and thereby causes them considerable harm will, upon complaint, be punished with a custodial sentence of not more than three years or a monetary penalty.</p>
Unauthorized use of assets	<p><b>Art. 141bis</b></p> <p>Anyone who, without right, uses for his own benefit or for the benefit of a third party assets that have fallen into his power independently of his will will, upon complaint, be punished with a custodial sentence of not more than three years or a monetary penalty.</p>
Subtraction energy	<p><b>Art. 142</b></p> <p>1 Anyone who, without right, subtracts energy from an installation used to exploit a natural force, in particular from an electrical installation, will, upon complaint, be punished with a custodial sentence of not more than three years or a monetary penalty.</p> <p>2 If the perpetrator of the act had the intention of obtaining illegitimate enrichment for himself or a third party, the penalty will be a custodial sentence of up to five years or a monetary penalty.</p>
Subtraction of data	<p><b>Art. 143</b></p> <p>1 Anyone who, with the intention of obtaining or providing a third party with illegitimate enrichment, removes, for himself or for a third party, data recorded or transmitted electronically or in a similar manner, which was not intended for him and which were specially protected against any undue access on his part, will be punished by a custodial sentence of up to five years or a monetary penalty.</p> <p>2 The subtraction of data committed to the detriment of relatives or friends will only be prosecuted upon complaint.</p>
Undue access to a computer system	<p><b>Art. 143bis 110</b></p> <p>1 Anyone who enters without right, by means of a data transmission device, into a computer system belonging to another and specially protected against any access on their part is, upon complaint, punishable by a custodial sentence of up to three years or a monetary penalty.</p>

110 New content according to art. 2 rooms. 1 of the AF of March 18, 2011 (Conv. of the Council of Europe on cybercrime), in force since Jan. 1, 2012 (RO 2011 6293; FF 2010 4275).

2 Anyone who puts into circulation or makes accessible a password, a program or any other data which he knows or must presume must be used with the aim of committing an offense referred to in paragraph 2. 1 is punishable by a custodial sentence of up to three years or a monetary penalty.

#### Art. 144

Property  
damage

1 Anyone who damages, destroys or puts out of use a thing belonging to another or subject to a right of use or usufruct for the benefit of another will, upon complaint, be punished with a custodial sentence of three years at most or a monetary penalty.

2 If the perpetrator committed the damage to property during a public gathering, prosecution will take place automatically.

3 If the perpetrator has caused considerable damage, the judge may impose a custodial sentence of one to five years. The prosecution will take place automatically.

#### Art. 144bis

Data  
Deterioration

1. Anyone who, without right, has modified, erased, or put out of use data recorded or transmitted electronically or by a similar method will, upon complaint, be punished with a custodial sentence of not more than three years or a monetary penalty.

If the perpetrator has caused considerable damage, the judge may impose a custodial sentence of one to five years. The prosecution will take place automatically.

2. Anyone who has manufactured, imported, put into circulation, promoted, offered or in any way made accessible software which he knew or had to assume was to be used with the aim of committing an offense referred to in ch. 1, or who has provided information with a view to their fabrication, will be punished with a custodial sentence of up to three years or a monetary penalty.

If the perpetrator engages in such acts, the judge may impose a custodial sentence of one to five years.

#### Art. 145

Diversion of  
things subject  
to a right of  
pledge or  
retention

The debtor who, with the intention of harming his creditor, will have removed from the latter something subject to a right of pledge or retention, will have arbitrarily disposed of it, will have damaged, destroyed, depreciated or placed out of possession. Use will be, upon complaint, punishable by a custodial sentence of up to three years or a monetary penalty.

**Art. 146**

Scam

1 Any person who, with the intention of obtaining illegitimate enrichment for himself or a third party, has cleverly misled a person by false assertions or by concealing true facts or has cleverly confirmed him in his error and will have the kind determined the victim to commit acts prejudicial to his or her financial interests or those of a third party will be punished by a custodial sentence of up to five years or a monetary penalty.

2 If the perpetrator engages in fraud, the penalty will be a custodial sentence of up to ten years or a monetary penalty of at least 90 days' fine.

3 Fraud committed to the detriment of relatives or friends will only be prosecuted upon complaint.

**Art. 147**Fraudulent  
use of a computer

1 Anyone who, with the intention of obtaining illegitimate enrichment for himself or a third party, has, by using data in an incorrect, incomplete or undue manner or by resorting to an analogous process, influenced an electronic or similar process processing or transmission of data and will have, through the inaccurate result thus obtained, caused a transfer of assets to the detriment of others or will have concealed it immediately afterwards will be punished by a custodial sentence of five years at more or a monetary penalty.

2 If the perpetrator engages in such acts, the penalty will be a custodial sentence of up to ten years or a monetary penalty of at least 90 days' fine.

3 Fraudulent use of a computer to the detriment of relatives or friends will only be prosecuted upon complaint.

**Art. 148**Card abuse-  
checks and  
credit cards

1 Any person who, although insolvent or unwilling to pay his dues, obtains financial services using a check card, a credit card or any similar means of payment and thus harms the pecuniary interests of the issuing body which had issued it will, provided that the issuing body and the contractual company have taken the measures that could be expected of them to avoid abuse of the card, punished a custodial sentence of up to five years or a monetary penalty.

2 If the perpetrator engages in such acts, the penalty will be a custodial sentence of up to ten years or a monetary penalty of at least 90 days' fine.

**Art. 149**

Filouterie  
inn

Anyone who has been accommodated, served food or drinks or who has obtained other services from a hotel or catering establishment, and who has frustrated the establishment of the amount to be paid will, upon complaint, punishable by a custodial sentence of not more than three years or a monetary penalty.

**Art. 150**

Fraudulent  
obtaining  
of a service

Anyone who, without a purse, will have fraudulently obtained a service which they knew should only be provided against payment, in particular someone who will have used

a means of public transport, will have access

to a representation, an exhibition or a similar demonstration, has used a computer or an

automatic device, will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 150bis111**

Manufacturing  
and marketing

equipment  
used to  
fraudulently  
decode  
encrypted services

1 Anyone who has manufactured, imported, exported, transported, placed on the market or installed devices whose components or data processing programs are used to fraudulently decode television programs or encrypted telecommunications services or are used for this purpose will, upon complaint, be punished with a fine.<sup>112</sup>

2 Attempt and complicity are punishable.

**Art. 151**

Clever  
attack on  
interests  
other  
people's money

Anyone who, without the intention of enrichment, will have cleverly misled a person by false assertions or by the concealment of true facts or will have cleverly confirmed them in their error and will thus have determined them to acts prejudicial to their pecuniary interests or those of a third party will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty.

111 Introduced by ch. 2 of the annex to the law of April 30, 1997 on telecommunications, in force since Jan. 1, 1998 (RO 1997 2187; FF 1996 III 1361).

112 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

**Art. 152**

False information  
about commercial  
companies

Anyone who, as founder, holder, partner with unlimited liability, authorized representative, member of the management body, the board of directors or the auditing body or liquidator of a commercial company, cooperative or of another business operated in commercial form, will have given or caused to be given, in communications to the public or in reports or proposals intended for all the

partners of a commercial or cooperative company or for participants in another business operated in commercial form, false or incomplete information of considerable importance, likely to cause others to dispose of their assets in a manner prejudicial to their pecuniary interests, will be punished by a custodial sentence of at most three years or a monetary penalty.

**Art. 153**

False  
communications to  
authorities  
responsible for  
the register of  
commerce

Anyone who determines an authority responsible for the commercial register to register a fact contrary to the truth or who ignores a fact that must be registered will be punished with a custodial sentence of not more than three years. or a monetary penalty.

**Art. 154**

*Repealed*

**Art. 155**

Counterfeiting of  
goods

1. Anyone who, with a view to deceiving others in business relations, has manufactured goods whose real market value is less than appearances lead one to believe, in particular by counterfeiting or falsifying these goods, will have imported, taken into deposit or put into circulation of such goods, will be punished by a custodial sentence of not more than three years or by a monetary penalty,

provided that the offense does not fall under a provision providing for a penalty more severe.

2.113 If the perpetrator engages in such acts, the penalty is a custodial sentence of up to five years or a monetary penalty, provided that the offense is not covered by a provision providing for a penalty. more severe.

113 New content according to ch. I 1 of the Act of October 3, 2008 on the implementation of the revised recommendations of the Financial Action Task Force, in force since February 1 . 2009 (RO **2009** 361; FF **2007** 5919).

**Art. 156**Extortion and  
blackmail

1. Any person who, with the intention of obtaining illegitimate enrichment for himself or a third party, induces a person to commit acts prejudicial to his pecuniary interests or those of a third party, by using violence or by threatening him with serious damage will be punishable by a custodial sentence of up to five years or a monetary penalty.
2. If the perpetrator is in the business of extortion or if he has repeatedly continued his actions against the victim, the penalty will be a custodial sentence of one to ten years.
3. If the perpetrator has committed violence against a person or threatened them with imminent danger to life or bodily integrity, the penalty will be that provided for in art. 140.
4. If the perpetrator has threatened to endanger the life or physical integrity of a large number of people or to cause serious damage to things of important public interest, the penalty will be one custodial sentence of at least one year<sup>114</sup>.

**Art. 157**

Wear

1. Someone who exploits the embarrassment, dependence, inexperience or weakness of a person's capacity for judgment by obtaining a grant or promise from them, for themselves or for a third party, in exchange for a provision, pecuniary advantages in obvious disproportion with it on an economic level, anyone who has acquired a usurious debt and has alienated it or asserted it, will be punished with a custodial sentence of not more than five years or a monetary penalty.
2. If the perpetrator engages in usury, the penalty will be a custodial sentence of one to ten years.

**Art. 158**

Unfair management

1. One who, by virtue of the law, an official mandate or a legal act, is required to manage the pecuniary interests of others or to supervise their management and who, in violation of his duties, will have harmed these interests or will have allowed them to be harmed will be punished by a custodial sentence of up to three years or a monetary penalty.  
  
The business manager who, without a mandate, acts in the same way will incur the same penalty.

<sup>114</sup> New expression according to ch. II 1 al. 12 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787). He was given this mod. throughout the Book.



If the perpetrator acted with the intention of obtaining illegitimate enrichment for himself or a third party, the judge may impose a custodial sentence of one to five years.

2. Anyone who, with the intention of obtaining for himself or a third party illegitimate enrichment, has abused the power of representation conferred on him by law, an official mandate or a legal act and has thus harmed the pecuniary interests of the person represented will be punished by a custodial sentence of up to five years or a monetary penalty.

3. Unfair management to the detriment of relatives or friends will only be prosecuted upon complaint.

#### **Art. 159**

Misappropriation  
of payroll  
deductions

The employer who has violated the obligation to allocate salary deduction to the payment of taxes, duties, premiums or insurance contributions or for other purposes on behalf of the employee and has thus incurred harm to the pecuniary interests of the latter will be punished by a custodial sentence of up to three years or by a monetary penalty.

#### **Art. 160**

Receve

1. Anyone who has acquired, received as a gift or pledge, concealed or helped to negotiate something which he knew or had to presume that a third party had obtained by means of an offense against property will be punished with a penalty custodial sentence of up to five years or a monetary penalty.

The receiver will incur the penalty provided for the prior offense if this penalty is less severe.

If the prior offense is prosecuted upon complaint, the receiving of stolen goods will only be prosecuted if this complaint has been filed.

2. If the perpetrator is involved in receiving stolen goods, the penalty will be a custodial sentence of up to ten years or a monetary penalty of at least 90 days' fine.

**Art. 161115****Art. 161bis 116****Art. 162**

2. Violation of  
manufacturing  
or  
commercial secrets

Anyone who has revealed a manufacturing secret or a commercial secret that they were required to keep by virtue of a legal or contractual obligation, anyone who has used this revelation for their own benefit or that of a third party, will be, on complaint, punishable by a custodial sentence of up to three years or a monetary penalty.

**Art. 163**

3. Crimes or  
misdemeanors  
in bankruptcy and  
debt lawsuit.

Fraudulent  
bankruptcy and  
seizure fraud

1. The debtor who, in such a way as to cause damage to his creditors, has fictitiously reduced his assets, in particular by distracting or concealing assets, by invoking supposed debts, by recognizing fictitious debts or by inciting a third party to do so. produce will be, if he has been declared bankrupt or if an act of default of assets has been drawn up against him, punishable by a custodial sentence of not more than five years or by a monetary penalty.

2. A third party who, under the same conditions, engages in these actions in such a way as to cause damage to creditors will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 164**

Effective  
reduction in  
assets as of  
prejudice of  
creditors

1. The debtor who, in such a way as to cause damage to his creditors, has reduced his assets by damaging, destroying, depreciating or putting assets out of use, by transferring assets free of charge or in exchange for a service of manifestly lower value,

<sup>115</sup> Repealed by ch. II 3 of the FL of September 28, 2012, with effect from May 1, 2013 (RO **2013** 1103; FF **2011** 6329).

<sup>116</sup> Introduced by art. 46 of the law of March 24, 1995 on stock exchanges (RO **1997** 68; FF **1993** I 1269). Repealed by ch. II 3 of the FL of September 28, 2012, with effect from May 1, 2013 (RO **2013** 1103; FF **2011** 6329).

by refusing without valid reason the rights due to him or by gratuitously renouncing rights will, if he has been

declared bankrupt or if an act of lack of assets has been drawn up against him, punishable by a custodial sentence of up to five years or a monetary penalty.

2. A third party who, under the same conditions, engages in these actions in such a way as to cause damage to creditors will be punished with a custodial sentence of up to three years or a monetary penalty.

### Art. 165

Bad management

1. The debtor who, in ways other than those referred to in art. 164, by management errors, in particular by insufficient capital allocation, by exaggerated expenses, by hazardous speculations, by the careless granting or use of credits, by the sale of assets or by negligence guilty in the exercise of his profession or in the administration of his property, will have caused or aggravated his over-indebtedness, will have caused his own insolvency or

aggravated his situation when he knew he was insolvent, will, if he has been declared bankrupt or if an act of lack of assets has been drawn up

against him, punishable by a custodial sentence of up to five years or a monetary penalty.

2. The debtor subject to prosecution by seizure will only be prosecuted criminally upon complaint from a creditor having obtained against him a certificate of default of assets.

The complaint must be filed within three months from the day on which the certificate of defect of goods was issued.

The creditor who has led the debtor to contract debts lightly, to make excessive expenses, to indulge in risky speculations, or who has exploited him usuriously will not have the right to file a complaint.

### Art. 166

Violation  
of the obligation  
to keep a  
accounting

The debtor who contravenes the legal obligation to regularly keep or preserve his accounting books, or to draw up a balance sheet, in such a way that it has become impossible to establish his situation or to establish it completely, will be , if he has been declared bankrupt or if an act of default of goods has been drawn up against him following a seizure carried out under art. 43 of the federal law of April 11, 1889 on debt enforcement and bankruptcy (LP)117, punishable by a custodial sentence of up to three years or a monetary penalty.

**Art. 167**

Advantages  
granted to  
certain  
creditors

The debtor who, while he knew himself to be insolvent and with the intention of favoring certain of his creditors to the detriment of others, will have carried out acts tending to this aim, in particular will have paid debts not due, will have paid a debt due otherwise than in cash or in usual values, will have, of his own means, given security for a debt when he was not obliged to do so, will, if he has been declared bankrupt or if an act of default of goods been brought against him, punishable by a custodial sentence of up to three years or a monetary penalty.

**Art. 168**

Bribery in  
forced execution

1 Anyone who, in order to win the vote of a creditor or his representative in the meeting of creditors or in the supervisory commission or to obtain his consent to a judicial arrangement or its rejection, grants him or promises him special advantages will be punished by a custodial sentence of up to three years or a monetary penalty.

2 Anyone who grants or promises special advantages to the bankruptcy administrator, a member of the administration, the commissioner or the liquidator in order to influence his decisions will be punished with a custodial sentence of up to three years or a monetary penalty.

3 Anyone who is granted or promised such benefits will incur the same penalty.

**Art. 169**

Diversion  
of heritage values  
placed under the  
control of justice

Anyone who, in such a way as to cause damage to his creditors, has arbitrarily disposed of an asset seized or sequestered,

inventoried in a debt

suit or bankruptcy, included in an inventory establishing a right

of retention or belonging to the Any asset transferred in a

composition by abandonment of assets or damaged, destroyed,

depreciated or put out of use will be punished by a custodial sentence of

up to three years or a monetary penalty.

**Art. 170**

Fraudulent  
obtaining of a  
composition  
judicial

The debtor who, in order to obtain a suspension of composition or the approval of a judicial composition, has, in particular by means of inaccurate accounting or a false balance sheet, misled about his situation

pecuniary his creditors, the composition commissioner or the competent authority, the

third party who engages in such actions for the benefit of the debtor, will be punished with a custodial sentence of not more than three years or with a monetary penalty.

#### Art. 171

Concordat  
judicial

1 Arts. 163, ch. 1, 164, ch. 1, 165, ch. 1, 166 and 167 are also applicable when a judicial arrangement has been accepted and approved.

2 If the debtor or third party within the meaning of arts. 163, ch. 2 and 164, ch. 2, has made special economic efforts and thus facilitated the successful conclusion of the judicial arrangement, the competent authority may waive criminal prosecution, refer him to court or impose a penalty on him.

#### Art. 171bis

Revocation  
of bankruptcy

1 When the bankruptcy is revoked (art. 195 LP118), the competent authority may waive criminal proceedings, a referral to court or the imposition of a sentence.

2 When a judicial arrangement has been concluded, para. 1 is only applicable if the debtor or third party within the meaning of arts. 163, ch. 2 and 164, ch. 2, made special economic efforts and thus facilitated its success.

#### Art. 172119

#### Art. 172bis

Accumulation of a  
custodial  
sentence and  
fine

When, in this title, only a custodial sentence is provided for, the judge may in all cases combine this with a financial penalty.<sup>120</sup>

#### Art. 172ter

Infractions  
of minor  
importance

1 If the act only targeted a heritage item of low value or damage of lesser importance, the perpetrator will, upon complaint, be punished with a fine.

2 This provision is not applicable to robbery (art. 139, ch. 2 and 3), banditry as well as extortion and blackmail.

118 RS 281.1

<sup>119</sup> Repealed by ch. II 3 of the LF of December 13 2002, with effect from Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

120 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

### Title 3

## Offenses against honor and against the secret or private domain<sup>121</sup>

#### Art 173<sup>122</sup>

1. Crimes against honor.  
Defamation

1. Anyone who, when addressing a third party, accuses a person or casts suspicion on them of conduct contrary to honor, or of any other fact likely to undermine their reputation, anyone who propagates such an

accusation or suspicion will, upon complaint, be punished with a monetary penalty of a maximum of 180 day fines<sup>123</sup>.

2. The accused will not incur any penalty if he proves that the allegations he made or propagated are true or that he had serious reasons for believing them to be true in good faith.

3. The accused will not be allowed to provide this evidence and will be punishable if his allegations have been articulated or propagated without regard to the public interest or without other sufficient reason, mainly with the intention of speaking ill of others, particularly when they relate to private life or family life.

4. If the perpetrator recognizes the falsity of his allegations and retracts them, the judge may mitigate the sentence or exempt the offender from any punishment.

5. If the accused has not proven the truth of his allegations or if they were contrary to the truth or if the accused has retracted them, the judge will note this in the judgment or in another written document.

#### Art. 174

Calumny

1.124 Anyone who, knowing the falsity of his allegations, will, by addressing a third party, accuse a person or cast suspicion on him of engaging in conduct contrary to honor, or of any other fact likely to harm his in his consideration, anyone who spreads such accusations

or suspicions, even though he knew their insanity, will, upon complaint, be punished with a custodial

sentence of up to three years or with a monetary penalty.

<sup>121</sup> New content according to ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO **1969** 327; FF **1968** I 609).

<sup>122</sup> New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233).

<sup>123</sup> New expression according to ch. II 1 al. 13 of the LF of December 13 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

<sup>124</sup> New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233). See also RO **57** 1364.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty of at least 30 days<sup>125</sup> if the slanderer has deliberately sought to ruin the reputation of his victim.

3. If, before the judge, the offender recognizes the falsity of his allegations and retracts them, the judge may reduce the sentence. The judge will acknowledge this retraction to the offended party.

#### Art. 175

Defamation  
and slander  
against a dead man  
or an absentee

1 If the defamation or slander targets a person who is deceased or declared absent, the right to file a complaint belongs to the relatives of the deceased or the absent person.

2 However, no penalty will be incurred if more than thirty years have passed since the death or declaration of absence.

#### Art. 176

Disposition  
common

Verbal defamation and slander are assimilated to defamation and slander by writing, image, gesture, or by any other means.

#### Art. 177

Injure

1 Anyone who, in any other way, by word, writing, image, gesture or by assault, attacks another in their honor will, upon complaint, be punished with a monetary penalty of 90 day fine at most.<sup>126</sup>

2 The judge may exempt the offender from any penalty if the injured party directly provoked the injury through reprehensible conduct.

3 If the injured party retaliated immediately with insult or assault, the judge may exempt both offenders or one of them from any penalty.

#### Art. 178

Prescription

1 For crimes against honor, criminal action is prescribed by four years.<sup>127</sup>

2 Art. 31 is applicable with regard to the complaint.<sup>128</sup>

<sup>125</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>126</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>127</sup> New content according to ch. I of the LF of March 22, 2002 (Prescription of criminal action), in force since Oct. 1 , 2002 (RO **2002** 2986; FF **2002** 2512 1579).

<sup>128</sup> New content according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

**Art. 179**

2.129 Offenses  
against  
the secret domain  
or the private  
domain.  
Violation of  
private secrets

Anyone who, without having the right to do so, opens a closed envelope or package to become aware of its contents; anyone who, having become aware of certain facts by opening a closed envelope or package that was not intended for them, discloses these facts or has benefited from it, will, upon complaint, be punished with a fine.

**Art. 179bis 130**

Listen and record  
conversations  
between other  
people

Anyone who, without the consent of all participants, listens using a listening device or records on a sound carrier a non-public conversation between other people, anyone who takes advantage of or gives knowledge of a third party of a fact which he knew or must have presumed to have come to his own knowledge by means of an offense referred to in para. 1, anyone who has preserved or made accessible to a third party a recording that he knew or must have presumed to have been made by means of an offense referred to in para. 1, will, upon complaint, be punished with a custodial sentence of up to three years or with a monetary penalty.

**Art. 179ter 131**

Unauthorized  
recording of  
conversations

Anyone who, without the consent of the other interlocutors, will have recorded on a sound carrier a non-public conversation in which he was taking part, anyone who will have kept a recording that he knew or must presume to have been made by means of an offense referred to in para. 1, or has taken advantage of it, or has made it accessible to a third party, will, upon complaint, be punished with a custodial sentence of up to one year or with a monetary penalty.<sup>132</sup>

129 New content according to ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO 1969 327; FF 1968 I 609).

130 Introduced by ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO 1969 327; FF 1968 I 609).

131 Introduced by ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO 1969 327; FF 1968 I 609).

132 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO 2006 3459; FF 1999 1787).



**Art. 179quater 133**

Violation of  
secret domain or  
domain  
private by means  
of a camera

Anyone who, without the consent of the person concerned, observes with a camera or attached to an image carrier a fact which falls within the secret domain of that person or a fact which cannot be perceived without other means by each and which falls within the private domain of the latter, anyone who has taken advantage of or given knowledge to

a third party of a fact which he knew or must have presumed to have come to his own knowledge by means of an offense referred to in al. 1, anyone who has preserved a photograph or made it accessible to

a third party, even though he knew or had to presume that it had been obtained by means of an offense referred to in para. 1, will, upon complaint, be punished with a custodial sentence of up to three years or with a

monetary penalty.

**Art. 179quinquies 134**

Non-punishable  
recordings

1 Not punishable under arts. 179bis, al. 1, and 179ter, al. 1, anyone who, as an interlocutor or as a subscriber<sup>135</sup> of the line used, has recorded telephone conversations:

has. with assistance, rescue or security services; b. relating to orders,

mandates, reservations or other commercial transactions of a similar nature, within the framework of business relationships;

2 Arts. 179bis, al. 2 and 3, and 179ter, al. 2, apply by analogy to the use of recordings.

**Art. 179sexies 136**

Circulation and  
advocacy

listening,  
sound  
recording and  
photography devices

1. Anyone who has manufactured, imported, exported, acquired, stored, possessed, transported, handed over to a third party, sold, rented, lent or put into circulation in any other way technical devices used in particular for illicit eavesdropping or for the unlawful taking of his or her views, providing information with a view to their production or advertising in their favor, will be punishable by a custodial sentence of up to three years or a monetary penalty.

133 Introduced by ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO **1969** 327; FF **1968** I 609).

134 Introduced by ch. I of the LF of December 20 1968 (RO **1969** 327; FF **1968** I 609). New content according to ch. I of the FL of October 3, 2003, in force since March 1 , 2004 (RO **2004** 823; FF **2001** 2502 5556)

135 Rectified by the Editorial Commission of the Ass. fed. (art. 33 LREC; RO **1974** 1051).

136 Introduced by ch. I of the LF of December 20 1968, in force since May 1 , 1969 (RO **1969** 327; FF **1968** I 609).

2. When the offender acted in the interest of a third party, the latter will incur the same penalty if he knew of the offense and did not do everything in his power to prevent it.

When the third party is a legal entity, a general or limited partnership or a sole proprietorship, para. 1 is applicable to natural persons who have acted or should have acted in his name.

**Art. 179septies 137**

Misuse of  
a

Anyone who, through malice or mischief, misuses a telecommunications installation to worry or annoy a third party will, upon complaint, be punished with a fine.

telecommunications installation

**Art. 179octies 138**

Official  
surveillance  
measures.  
Exemption from  
penalty

1 Anyone who, in the exercise of a power expressly conferred on him by law, orders or implements the surveillance of a person's correspondence by post and telecommunications or uses technical surveillance devices (art. . 179bis ss) is not punishable, provided that the authorization of the competent judge has been immediately requested.

2 The conditions for monitoring correspondence by post and telecommunications and the procedure are governed by the federal law of October 6, 2000 on the monitoring of correspondence by post and telecommunications<sup>139</sup>.

**Art. 179novies 140**

Subtraction of  
personal  
data

Anyone who removes sensitive personal data or personality profiles from a file that are not freely accessible will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty.

<sup>137</sup> Introduced by ch. I of the LF of December 20 1968 (RO **1969** 327; FF **1968** I 609). New content according to ch. 2 of the annex to the law of April 30, 1997 on telecommunications, in force since Jan. 1 , 1998 (RO **1997** 2187; FF **1996** III 1361).

<sup>138</sup> Introduced by ch. VII of the LF of March 23, 1979 on the protection of private life (RO **1979** 1170; FF **1976** I 521 II 1529). New content according to ch. 1 of the annex to the Act of October 6, 2000 on the surveillance of correspondence by post and telecommunications, in force since January 1, 2002 (RO **2001** 3096; FF **1998** 3689).

<sup>139</sup> RS **780.1**

<sup>140</sup> Introduced by ch. 4 of the annex to the LF of June 19, 1992 on data protection, in force since July 1 , 1993 (RO **1993** 1945; FF **1988** II 421).

## Title 4                    Crimes or offenses against freedom

### Art. 180

Threat                    1 Anyone who, through a serious threat, alarms or frightens a person will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty.

2 Prosecution will take place

a. automatically: if the perpetrator is the spouse of the victim and the threat was committed during the marriage or in the year following the divorce;

abis.141 if the perpetrator is the partner of the victim and the threat was committed during the registered partnership or in the year following its judicial dissolution;

b. if the perpetrator is the heterosexual or homosexual partner of the victim provided that they live together for an indefinite period and that the threat was committed during this period or in the year following the separation.142

### Art. 181

Constraint                    Anyone who, by using violence against a person or by threatening them with serious harm, or by hindering them in any other way in their freedom of action, obliges them to do, not to do or not -carrying out an act will be punishable by a custodial sentence of up to three years or a monetary penalty.

### Art. 182143

Human trafficking                    1 Anyone who, as an offeror, intermediary or purchaser, engages in the trafficking of a human being for the purposes of sexual exploitation, exploitation of their labor or with a view to taking a organ, is punishable by a custodial sentence or a financial penalty. Recruiting a person for these purposes is considered trafficking.

2 If the victim is a minor or if the perpetrator is involved in human trafficking, the penalty is a custodial sentence of at least one year.

141 Introduced by ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1 , 2007 (RO **2005** 5685; FF **2003** 1192).

142 Introduced by ch. 1 of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1 , 2004 (RO **2004** 1403; FF **2003** 1750 1779).

143 New content according to art. 2 rooms. 1 of the AF of March 24, 2006 approving and implementing Prot. optional of May 25, 2000 relating to Conv. relating to the rights of the child, concerning the sale of children, child prostitution and child pornography, in force since December 1 . 2006 (RO **2006** 5437; FF **2005** 2639).

3 In all cases, the perpetrator is also punished with a monetary penalty.

4 Anyone who commits the offense abroad is also punishable.

The arts. 5 and 6 are applicable.

**Art. 183144**

Sequestration  
and kidnapping

1. Anyone who, without right, arrests a person, detains them as prisoners, or in any other way deprives them of their liberty, who, by using violence,

trickery or threats, will have kidnapped a person,

will be punished by a custodial sentence of up to five years or a monetary penalty.

2. Whoever kidnaps a person incapable of discernment or resistance or under the age of sixteen will incur the same penalty.

**Art. 184145**

Aggravating  
circumstances

Sequestration and kidnapping will be punishable by a custodial sentence of at least one year, if the

perpetrator sought ransom, if he treated

the victim with cruelty, if the deprivation

of liberty lasted more than of ten days or if the health

of the victim has been seriously endangered.

**Art. 185146**

Hostage taking

1. Whoever has sequestered, kidnapped a person or in any other way has made himself master of it, to force a third party to do, not to do or allow an act to be done, he who, for the same

purposes, has taken advantage of A hostage-taking committed by another will be punished

by a custodial sentence of at least one year.

2. The penalty will be a custodial sentence of at least three years, if the perpetrator threatened to kill the victim, cause serious bodily harm or treat them with cruelty.

144 New content according to ch. I of the FL of October 9, 1981, in force since October 1, 1982 (RO 1982 1530; FF 1980 I 1216).

145 New content according to ch. I of the FL of October 9, 1981, in force since October 1, 1982 (RO 1982 1530; FF 1980 I 1216).

146 New content according to ch. I of the FL of October 9, 1981, in force since October 1, 1982 (RO 1982 1530; FF 1980 I 1216).

3. In particularly serious cases, particularly when the act was directed against a large number of people, the judge may impose a custodial sentence for life.

4.147 When the perpetrator has renounced the coercion and released the victim, the sentence may be reduced (art. 48a).

5. Anyone who commits the offense abroad is also punishable if he is arrested in Switzerland and is not extradited. Art. 7, par. 4 and 5, is applicable.<sup>148</sup>

#### Art. 186

Home  
invasion

Anyone who, in an unlawful manner and against the will of the beneficiary, enters a house, a dwelling, a closed premises forming part of a house, an enclosed space, courtyard or garden adjoining a house, or in a construction site, or has remained there in defiance of the injunction to leave addressed to him by a beneficiary will, upon complaint, be punished with a custodial sentence of not more than three years or with a penalty pecuniary.

Title 5149

### Offenses against sexual integrity

#### Art. 187

1. Setting up  
danger of  
the development  
of minors.  
Sexual acts  
with children

1. Anyone who has committed a sexual act on a child under 16 years of age, anyone who has

induced a child of this age to commit a sexual act, anyone who has mixed a child of this age

with a sexual act, will be punished by a custodial sentence of up to five years or a monetary penalty.

2. The act is not punishable if the age difference between the participants does not exceed three years.

3.150 If, at the time of the act, the perpetrator was under 20 years of age and in the event of special circumstances or if the victim has entered into marriage or entered into a registered partnership with the perpetrator, the competent authority

147 New content according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

148 New content of the sentence according to ch. II 2 of the LF of December 13. 2002, in force since on Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

149 New content according to ch. I of the FL of June 21, 1991, in force since Oct. 1, 1992 (RO **1992** 1670; FF **1985** II 1021).

150 New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

may refuse to prosecute him, refer him to court or impose a sentence on him.

4. The penalty will be a custodial sentence of not more than three years or a monetary penalty if the perpetrator acted by mistakenly admitting that his victim was at least 16 years old when, by using due precautions, he could have avoided the error.

5. ...151

6. ...152

#### Art. 188

Sexual acts  
with  
dependent  
people

1. Anyone who, taking advantage of relationships of education, trust or work, or ties of dependence of another nature, commits an act of a sexual nature on a minor aged over 16; , taking advantage of relationships of

dependence, will have induced such a person to commit a sexual act, will be punished by a custodial sentence of up to three

years or a monetary penalty.

2.153 If the victim has entered into a marriage or registered partnership with the perpetrator, the competent authority may waive prosecution, refer him to court or impose a penalty.

#### Art. 189

2. Violation  
of sexual  
freedom  
and honor.  
Sexual  
coercion

1 Anyone who, in particular by using threats or violence towards a person, by exerting psychological pressure on them or by rendering them incapable of resisting, has forced them to undergo an act analogous to the sexual act or another act of a sexual nature, will be punished by a custodial sentence of up to ten years or a monetary penalty.

2 ...154

3 If the perpetrator acted with cruelty, in particular if he used a dangerous weapon or another dangerous object, the penalty will be custodial sentence of at least three years.<sup>155</sup>

<sup>151</sup> Repealed by ch. I of the FL of March 21, 1997, with effect from September 1, 1997 (RO **1997** 1626; FF **1996** IV 1315 1320)

<sup>152</sup> Introduced by ch. I of the LF of March 21, 1997 (RO **1997** 1626; FF **1996** IV 1315 1320).  
Repealed by ch. I of the Act of October 5, 2001 (Prescription of criminal action in general and in the event of an offense against the sexual integrity of children), with effect from October 1, 2002 ( RO **2002** 2993; FF **2000** 2769).

<sup>153</sup> New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

<sup>154</sup> Repealed by ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), with effect from April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

<sup>155</sup> New content according to ch. I of the Federal Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

**Art. 190**

Rape

1 Anyone who, in particular by using threats or violence, by exerting psychological pressure on their victim or by rendering them incapable of resisting, has forced a female person to undergo the sexual act, will be punished with a custodial sentence of one to ten years.

2 ...156

3 If the perpetrator acted with cruelty, in particular if he used a dangerous weapon or another dangerous object, the penalty will be custodial sentence of at least three years.157

**Art. 191**

Sexual acts  
committed  
against a person  
incapable  
of discernment  
or resistance

Anyone who, knowing that a person is incapable of discernment or resistance, takes the opportunity to commit a sexual act, a similar act or another sexual act on them, will be punished with a custodial sentence of up to ten years or a monetary penalty.

**Art. 192**

Sexual acts  
with people

hospitalized,  
detained or  
warned

1 Anyone who, taking advantage of a relationship of dependence, causes a person hospitalized, interned, detained, arrested or accused to commit or undergo an act of a sexual nature, will be punished with a custodial sentence of three years at most or a monetary penalty.

2 If the victim has entered into a marriage or registered partnership with the perpetrator, the competent authority may waive prosecution, refer him to court or impose a penalty.158

**Art. 193**

Distress  
abuse

1 Anyone who, taking advantage of the victim's distress or a dependency relationship based on work relationships or a dependency relationship of any other nature, causes the victim to commit or suffer an act of a sexual nature will be punished by a custodial sentence of up to three years or a monetary penalty.

2 If the victim has entered into a marriage or registered partnership with the perpetrator, the competent authority may waive prosecution, refer him to court or impose a penalty.159

<sup>156</sup> Repealed by ch. I of the Act of October 3, 2003 (Prosecution of offenses between spouses or partners), with effect from April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

<sup>157</sup> New content according to ch. I of the Federal Act of October 3, 2003 (Prosecution of offenses between spouses or partners), in force since April 1, 2004 (RO **2004** 1403; FF **2003** 1750 1779).

<sup>158</sup> New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

<sup>159</sup> New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

**Art. 194**

## Exhibitionism

1 Anyone who exposes himself or herself will, upon complaint, be punished with a fine of up to 180 days.

2 If the author submits to medical treatment, the procedure may be suspended. It will be taken back if he withdraws from treatment.

**Art. 195**3. Exploitation  
of sexual  
activity.  
Encouragement  
of prostitution

Anyone who pushes a minor into prostitution, anyone who, taking advantage of a relationship of dependence or with the aim of obtaining a financial advantage, pushes another person into prostitution, anyone who violates the freedom of action of 'a person engaging in prostitution by monitoring their activities or by imposing the place, time, frequency or other conditions, anyone who maintains a person in prostitution will be punished with a custodial sentence of up to ten years or a monetary penalty.

**Art. 196160****Art. 197**

## 4. Pornography

1. Anyone who has offered, shown, made accessible to a person under 16 years of age or made available to them writings, sound or visual recordings, images or other pornographic objects or pornographic representations, or has broadcast them on the radio or on television, will be punished by a custodial sentence of up to three years or a monetary penalty.

2. Anyone who has exhibited or shown in public objects or representations referred to in ch. 1 or will have offered them to a person who did not want them, will be punished with a fine.

Anyone who, during exhibitions or performances in closed premises, draws the attention of spectators in advance to the pornographic nature of these will not be punishable.

3. Anyone who has manufactured, imported, taken into custody, put into circulation, promoted, exhibited, offered, shown, made accessible or made available to the objects or representations referred to in ch. 1, having as content acts of a sexual nature with children, animals, human excrement or including acts of violence, will be punished with

<sup>160</sup> Repealed by art. 2 rooms. 1 of the AF of March 24, 2006 approving and implementing Prot. optional of May 25, 2000 relating to Conv. on the rights of the child, concerning the sale of children, child prostitution and child pornography, with effect from December 1 . 2006 (RO 2006 5437; FF 2005 2639).



custodial sentence of up to three years or a monetary penalty.

The items will be confiscated.

3bis.161 Anyone who has acquired, obtained by electronic means or in another way or possessed objects or representations referred to in ch. 1 whose content is sexual acts with children or animals or includes acts of violence, will be punished with a custodial sentence of up to one year or a monetary penalty.<sup>162</sup>

The items will be confiscated.

4. If the perpetrator acted for financial gain, the penalty will be a custodial sentence of up to three years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

5. The objects or representations referred to in ch. 1 to 3 will not be considered pornographic when they have cultural or scientific value worthy of protection.

#### Art. 198

5. Anyone who causes scandal by engaging in a sexual act in the presence of a person who is unexpectedly confronted with it, or who bothers a person with sexual touching or crude words, will be, on complaint, punishable by a fine.

Contraventions against sexual integrity.  
Discomfort caused by being confronted with a sexual act

#### Art. 199

Anyone who violates the cantonal provisions regulating the places, times and methods of practicing prostitution and those intended to combat its undesirable secondary manifestations will be punished with a fine.

Illicit practice of prostitution

#### Art. 200

6. Commission in common  
When an offense provided for in this title has been committed jointly by several people, the judge may increase the duration of the sentence, but not more than half in addition to the maximum sentence provided for this offense. He will, moreover, be bound by the legal maximum of the type of sentence.

161 Introduced by ch. I of the FL of October 5, 2001 (Offences against sexual integrity; prohibition of the possession of objects or representations relating to hard pornography), in force since April 1, 2002 (RO 2002 408; FF 2000 2769).

162 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO 2006 3459, 2007 4523; FF 1999 1787).

**Art. 201 to 212163****Title 6 Crimes or offenses against the family****Art. 213164**

Incest

1 Sexual acts between ascendants and descendants, or between full, consanguineous or uterine brothers and sisters, will be punishable by a custodial sentence of up to three years or by a monetary penalty.

2 Minors will not incur any penalty if they have been seduced.

3 ...165

**Art. 214166****Art. 215167**

Plurality of registered marriages or partnerships

Anyone who, being already married or linked by a registered partnership, contracts marriage or enters into a registered partnership,

anyone who contracts marriage or enters into a registered partnership with a person already married or linked by a registered partnership, will be punished with a penalty custodial sentence of up to three years or a monetary penalty.

**Art. 216168****Art. 217169**

Violation of a maintenance obligation

1 Anyone who has not provided the maintenance or subsidies he owes under family law, even though he had the means or was able to do so

163 These provisions. repealed (with the exception of art. 211) are replaced by arts. 195, 196, 197, 198, 199 (see comments on ch. 23 of the message; FF **1985** II 1021). Art. 211 is crossed out without being replaced.

164 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

165 Repealed by ch. I of the Act of October 5, 2001 (Prescription of criminal action in general and in the event of an offense against the sexual integrity of children), with effect from October 1, 2002 ( RO **2002** 2993; FF **2000** 2769).

166 Repealed by ch. I of the FL of June 23, 1989, with effect from Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

167 New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1 , 2007 (RO **2005** 5685; FF **2003** 1192).

168 Repealed by ch. I of the FL of June 23, 1989, with effect from Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

169 New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1 , 1990 (RO **1989** 2449; FF **1985** II 1021).

having, will, upon complaint, be punished with a custodial sentence of up to three years or with a monetary penalty.

2 The right to lodge a complaint also belongs to the authorities and services designated by the cantons. It will be exercised taking into account the interests of the family.

**Art. 218170**

**Art. 219171**

Violation of the  
duty of  
assistance or  
education

1 Anyone who has violated their duty to assist or raise a minor whose physical or psychological development they have thus endangered, or who has failed in this duty, will be punished with a custodial sentence of three years at most or a monetary penalty.

2 If the offender acted negligently, the penalty may be a fine instead of a custodial sentence or a monetary penalty.<sup>172</sup>

**Art. 220173**

Kidnapping of  
minor

Anyone who removes or refuses to hand over a minor to the holder of custody rights will, upon complaint, be punished with a custodial sentence of up to three years or a monetary penalty.

**Title 7 Crimes or misdemeanors creating a collective danger**

**Art. 221**

Intentional  
fire

1 Anyone who intentionally causes a fire and thus causes harm to others or creates a collective danger will be punished with a custodial sentence of at least one year.

2 The penalty will be a custodial sentence of at least three years if the offender knowingly endangers the life or bodily integrity of people.

<sup>170</sup> Repealed by ch. I of the FL of June 23, 1989, with effect from Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

<sup>171</sup> New content according to ch. I of the FL of June 23, 1989, in force since Jan. 1, 1990 (RO **1989** 2449; FF **1985** II 1021).

<sup>172</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>173</sup> New content according to ch. 14 of the annex to the Federal Act of December 19, 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).

3 The judge may impose a custodial sentence of up to three years or a monetary penalty if the damage is of little importance.

#### Art. 222

Fire  
by negligence

1 Anyone who, through negligence, causes a fire and thus causes harm to others or creates a collective danger will be punished with a custodial sentence of up to three years or a monetary penalty.

2 The penalty will be a custodial sentence of up to three years or a monetary penalty if, through negligence, the offender has endangered the life or bodily integrity of people.

#### Art. 223

Explosion

1. Anyone who intentionally causes an explosion of gas, gasoline, oil or similar substances and thereby knowingly endangers the life or bodily integrity of people or the property of others will be punished a custodial sentence of at least one year.

The judge may impose a custodial sentence of up to three years or a monetary penalty if the damage is of little importance.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

#### Art. 224

Use,  
with criminal  
intent, of  
explosives or  
toxic gases

1 Anyone who, intentionally and with criminal intent, by means of explosives or toxic gases, exposes the life or bodily integrity of people, or the property of others, to danger, will be punished with a penalty deprivation of liberty for at least one year.

2 The judge may impose a custodial sentence of up to three years or a monetary penalty if the offender has only exposed property to a minor danger.

#### Art. 225

Use without  
criminal  
intent or  
by negligence

1 Anyone who, either intentionally but without criminal intent, or through negligence, by means of explosives or toxic gases, exposes the life or bodily integrity of people or the property of others to danger will be punished a custodial sentence of up to five years or a monetary penalty.

2 In minor cases, the judge may impose a fine.

**Art. 226**

Manufacture,  
conceal and  
transport  
explosives or toxic  
gases

1 Anyone who manufactures explosives or toxic gases, knowing or having to presume that they were intended for criminal use, will be punished by a custodial sentence of up to ten years or by a monetary penalty of 180 days. fine at least.

2 Anyone who obtains explosives, toxic gases, or substances suitable for their manufacture, or who transmits them to others, receives them from others, keeps them, conceals them or transports them, knowing or having to presume that they were intended for criminal employment, will be punished by a custodial sentence of up to five years or a monetary penalty of at least 30 days<sup>174</sup>.

3 Anyone who, knowing or having to presume that a person intends to make a criminal use of explosives or toxic gases, provides them with instructions for manufacturing them will be punished by a custodial sentence of five years at least. more or a monetary penalty of at least 30 days fine.

**Art. 226bis 175**

Danger  
attributable  
to nuclear  
energy,  
radioactivity and  
to radiation  
ionizing

1 Anyone who intentionally endangers the life or health of people or property of considerable value belonging to third parties by using nuclear energy, radioactive materials or ionizing radiation will be punished with a penalty deprivation of liberty or a financial penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

2 If the perpetrator acts negligently, he will be punished with a custodial sentence of up to five years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

**Art. 226ter 176**

acts  
punishable  
preparatory

1 Anyone who has systematically prepared, on a technical or organizational level, acts endangering the life or health of people or property belonging to third parties of considerable value by using nuclear energy, materials radioactive or ionizing radiation will be punished by a custodial sentence of up to five years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

174 New expression according to ch. II 1 al. 14 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

175 Introduced by ch. II 2 of the annex to the Federal Act of March 21, 2003 on nuclear energy, in force since February 1. 2005 (RO **2004** 4719; FF **2001** 2529).

176 Introduced by ch. II 2 of the annex to the Federal Act of March 21, 2003 on nuclear energy, in force since February 1. 2005 (RO **2004** 4719; FF **2001** 2529).

2 Anyone who has produced radioactive substances, has constructed installations or manufactured devices or objects which contain them or which can emit ionizing rays, has obtained them, has given them to a third party, received them from a third party, kept them, concealed or transported, while he knew or must have presumed that they were intended for criminal use, will be punished with a custodial sentence of not more than ten years or with a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

3 Anyone who provides a third party with instructions to produce such substances or to manufacture such installations, devices or objects, when he knew or must have presumed that they were intended for criminal use, will be punished with a custodial sentence. freedom of up to five years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

#### Art. 227

Flood.  
Collapse

1. Anyone who intentionally causes a flood, the collapse of a building or a landslide and thereby knowingly endangers the life or bodily integrity of people or the property of others will be punished with a custodial sentence of at least one year.

The judge may impose a custodial sentence of up to three years or a monetary penalty if the damage is of little importance.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

#### Art. 228

Damage to  
electrical  
installations,  
works  
hydraulics  
and  
protective works

1. Anyone who intentionally destroys or damages electrical installations, hydraulic works, in particular piers, dams, dikes or locks, protective works against natural forces, for example against landslides or avalanches, and will thereby knowingly endanger the life or bodily integrity of people or the property of others will be punished by a custodial sentence of at least one year.

The judge may impose a custodial sentence of up to three years or a monetary penalty if the damage is of little importance.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

#### Art. 229

Violation of  
rules of the art  
of construction

1 Anyone who intentionally violates the rules of the art by directing or carrying out construction or demolition and thereby knowingly endangers the life or bodily integrity of persons

nes will be punished with a custodial sentence of up to three years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.

2 The penalty will be a custodial sentence of up to three years or a monetary penalty if the failure to comply with the rules of the art is due to negligence.

#### Art. 230

Remove  
or fail to  
install  
protective  
devices

1. Anyone who intentionally damages, destroys, removes, renders unusable or puts out of service a device intended to prevent accidents in a factory or other operation, or machine accidents, anyone who, contrary to the applicable regulations, will

intentionally omit to install such a device, and will, thereby, knowingly endanger the life or bodily integrity of persons, will be

punished by a custodial sentence of not more than three years or a monetary penalty. In the

event of a custodial sentence, a monetary penalty is also imposed.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

## Title 8 Crimes or offenses against public health

#### Art. 230bis 177

Endangered  
by  
genetically  
modified  
organisms or  
pathogens

1 Anyone who intentionally disseminates genetically modified or pathogenic organisms into the environment, disrupts the operation of a facility intended for research on these organisms, their conservation or production, or interferes with their transport, will be punished with a custodial sentence of one to ten years, if he knew or should have known that by his actions:

- a. he endangered the lives and bodily integrity of people  
your nose
- b. it seriously endangered the natural composition of animal and plant populations or their habitat.

2 The penalty will be a custodial sentence of up to three years or a monetary penalty if the perpetrator acted negligently.

177 Introduced by ch. 1 of the annex to the law of March 21, 2003 on genetic engineering, in force since Jan. 1, 2004 (RO 2003 4803; FF 2000 2283).

**Art. 231**

Spread of a human disease

1. Anyone who intentionally spreads a dangerous and transmissible human disease will be punished by a custodial sentence of up to five years or a monetary penalty of at least 30 days.<sup>178</sup>

The penalty will be a custodial sentence of one to five years if the offender acted out of baseness of character.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

**Art. 232**

Spread of an epizootic

1. Anyone who intentionally spreads an epizootic among domestic animals will be punished with a custodial sentence of up to three years or a monetary penalty.

The penalty will be a custodial sentence of one to five years if, through baseness of character, the offender has caused considerable damage.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

**Art. 233**

Spread of a dangerous parasite

1. Anyone who intentionally propagates a parasite or germ dangerous to agricultural or forestry cultivation will be punished with a custodial sentence of up to three years or a monetary penalty.

The penalty will be a custodial sentence of one to five years if, through baseness of character, the offender has caused considerable damage.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

**Art. 234**

Contamination drinking water

1. Anyone who intentionally contaminates drinking water used by people or domestic animals with substances harmful to health will be punished with a custodial sentence of up to five years or a monetary penalty of 30 day fine at least.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

<sup>178</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).



**Art. 235**Alteration  
fodder

1. Anyone who intentionally treats natural fodder, or manufactures or treats artificial fodder for the use of domestic animals in such a way that this fodder endangers the health of these animals will be punished with a custodial sentence of up to three years or a monetary penalty.

The penalty will be a custodial sentence of up to three years or a monetary penalty of at least 30 days' fine if the offender engages in such manipulation or fabrication. In the event of a custodial sentence, a monetary penalty is also imposed.<sup>179</sup> The sentencing judgment will be published.

2. The penalty will be a fine if the offender acted negligently.

3. Products will be confiscated. They can be rendered harmless or destroyed.

**Art. 236**Put  
into  
circulation  
altered fodder

1 Anyone who intentionally imports or takes into storage, or puts on sale or in circulation natural or artificial fodder likely to endanger the health of animals will be punished with a custodial sentence of not more than three years or a monetary penalty. The sentencing judgment will be published.

2 The penalty will be a fine if the offender acted negligently.

3 The products will be confiscated. They can be rendered harmless or destroyed.

**Title 9****Crimes or offenses against public communications****Art. 237**Obstruct  
public traffic

1. Anyone who intentionally prevents, disturbs or endangers public traffic, in particular traffic on public roads, by water or in the air, and thereby knowingly endangers the life or bodily integrity of persons persons will be punished with a custodial sentence of up to three years or with a monetary penalty.

The judge may impose a custodial sentence of one to ten years if the offender knowingly endangered the life or physical integrity of a large number of people.

<sup>179</sup> New content of sentences according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

#### Art. 238

Obstruction  
of railway  
service

1 Anyone who intentionally prevents, disrupts or endangers the service of the railways and thereby knowingly endangers the life or bodily integrity of persons or the property of others, in particular who creates the danger of a derailment or collision will be punished with a custodial sentence or a financial penalty<sup>180</sup>.

2 The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender has acted negligently and thereby seriously endangered the life or bodily integrity of people or the property of others.

#### Art. 239

Obstruction of  
services of general  
interest

1. Anyone who intentionally prevents, disrupts or endangers the operation of a public transport or communications enterprise, in particular that of railways, postal services, telegraph or telephone, anyone who intentionally will have prevented, disrupted or endangered the operation of an establishment or installation serving to distribute water, light, energy or heat to the public, will be punished with a custodial sentence of up to three years or a monetary penalty.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

### Title 10

#### Counterfeit money, falsification of official valuable stamps, official marks, weights and measures

#### Art. 240

Manufacturing  
of  
counterfeit money

1 Anyone who, with the intention of putting them into circulation as authentic, counterfeits coins, paper money or bank notes will be punished with a custodial sentence of at least one year.

2 In very minor cases, the penalty will be a custodial sentence of up to three years or a monetary penalty.

<sup>180</sup> New expression according to ch. II 1 al. 15 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787). He was given this mod. throughout the Book.

3 The offender is also punishable when he has committed the crime abroad, if he is arrested in Switzerland and is not extradited abroad, and if the act is punished in the State where he been committed.

#### Art. 241

Counterfeiting  
of currency

1 Anyone who, with the intention of putting them into circulation for a higher value, falsifies coins, paper money or bank notes will be punished with a custodial sentence of not more than five years or with a monetary fine of at least 180 days.<sup>181</sup>

2 In very minor cases, the penalty will be a custodial sentence of up to three years or a monetary penalty.

#### Art. 242

Circulation  
of counterfeit  
money

1 Anyone who puts into circulation as authentic or intact false or falsified coins, paper money or bank notes will be punished with a custodial sentence of up to three years or with a monetary penalty<sup>182</sup>.

2 The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender, his principal or his representative had received the currency or bank notes as authentic or intact.

#### Art. 243<sup>183</sup>

Imitation of  
valuable  
banknotes,  
coins or  
official stamps  
without the intention  
of counterfeiting

1 Anyone who, without intending to commit forgery, reproduces or imitates bank notes in such a way that these reproductions or imitations create, for people or devices, a risk of confusion with the authentic notes, in particular if the totality, one side or the largest part of one of the sides of a banknote is reproduced or imitated on a material and in a format identical or similar to those of the original, anyone who, without intending to commit forgery, has manufactured objects whose strike, weight

or dimensions are similar to those of legal tender coins or which have the nominal values or other characteristics of an official mint, such

181 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

182 New expression according to ch. II 1 al. 2 of the LF of December 13 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

183 New content according to ch. 3 of the annex to the FL of December 22. 1999 on the monetary unit and means of payment, in force since May 1, 2000 (RO **2000** 1144; FF **1999** 6536).

way that these objects create, for people or devices, a risk of confusion with legal tender coins, anyone who, without intending to commit forgery, reproduces or imitates valuable official stamps in such a way that these objects reproductions or imitations create a risk of confusion with authentic stamps, anyone who imports such objects or puts them on sale or in circulation will be punished with a custodial sentence of not more than three years or a monetary penalty.<sup>184</sup>

2 If the perpetrator acted negligently, he will be punished with a fine.<sup>185</sup>

#### Art. 244

Importation,  
acquisition  
and deposit  
of  
counterfeit currency

1 Anyone who imports, acquires or takes into custody false or falsified coins, paper money or bank notes, with the intention of putting them into circulation as authentic or intact, will be punished with custodial sentence of up to three years or a monetary penalty.<sup>186</sup>

2 The penalty will be a custodial sentence of one to five years if the offender has imported, acquired or stored large quantities.

#### Art. 245

Falsification of  
valuable  
official  
stamps

1. Anyone who, with the intention of using them as authentic or intact, counterfeits or falsifies valuable official stamps, in particular postage stamps, stamps or receipt stamps,

Anyone who gives valuable canceled official stamps the appearance of still valid stamps, in order to use them as such, will be punished with a custodial sentence of up to three years or with a monetary penalty.

The offender is also punishable when he has committed the offense abroad, if he is arrested in Switzerland and is not extradited abroad, and if the act is punished in the State where he was clerk.

<sup>184</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>185</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>186</sup> New content according to ch. 3 of the annex to the FL of December 22. 1999 on the monetary unit and means of payment, in force since May 1, 2000 (RO **2000** 1144; FF **1999** 6536).

2. Anyone who uses false, falsified or canceled official stamps of value as authentic, intact or still valid will be punished with a custodial sentence of up to three years or with a monetary penalty.

#### **Art. 246**

Falsification  
official brands

Anyone who, with the intention of using them as authentic or intact, counterfeits or falsifies the official marks that the authority affixes to an object to establish the result of an examination or the granting of an authorization, for example the imprint of the hallmark of the control of gold and silver works, the marks of the butchery inspectors or the customs administration, anyone who has used such counterfeit or falsified marks as authentic or intact

will be punished a custodial sentence of up to three years or a monetary penalty.

#### **Art. 247**

Tampering  
devices and  
illicit use of  
devices

Anyone who, in order to make illicit use of them, has manufactured or obtained devices intended for the counterfeiting or falsification of currencies, paper money, bank notes or official stamps of value, anyone who has makes illicit use of devices used for

the manufacture of coins, paper money, bank notes or official stamps of value, will be punished by a custodial sentence of not more than three years or by pecuniary.

#### **Art. 248**

Falsification des  
weights and measures

One who, with the intention of deceiving others in business relationships,

will have affixed a false punch to weights, measures, scales or other measuring instruments, or will have falsified a punch imprint, will have modified weights, measures, scales or other punched measuring instruments, or will have used weights, measures,

false or falsified scales or other measuring instruments, will be punished by a custodial sentence of up to five

years or a monetary penalty.

**Art. 249187**

Confiscation

1 Coins, paper money, bank notes, official valuable stamps, official marks, false or falsified measures, weights, scales and other measuring instruments, as well as devices used for falsification, will be confiscated and rendered unusable or destroyed.

2 Valuable banknotes, coins and official stamps which have been reproduced, imitated or manufactured without the intention of committing forgery, but which create a risk of confusion, will also be confiscated and rendered unusable or destroyed.

**Art. 250**Valuable  
coins and  
stamps  
foreigners

The provisions of this title are also applicable to foreign currencies, paper money, bank notes and valuable stamps.

**Title 11 False in headlines****Art. 251188**False in  
headlines

1. Anyone who, with the intention of harming the pecuniary interests or rights of others, or of obtaining or obtaining an illicit advantage for himself or a third party, creates a false

title, falsifies a title, misuses the signature or of the brand in the real hand of another to create a supposed title, or falsely noted or caused to be noted, in a title, a fact having legal significance, or will have, to deceive others, made use of such a title, will

be punishable by a custodial sentence of not more than five years or a monetary penalty.

2. In very minor cases, the judge may impose a custodial sentence of up to three years or a financial penalty.

187 New content according to ch. 3 of the annex to the FL of December 22, 1999 on the monetary unit and means of payment, in force since May 1, 2000 (RO **2000** 1144; FF **1999** 6536).

188 New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1, 1995 (RO **1994** 2290; FF **1991** II 933).

- Art. 252189**
- Forgeries in certificates
- Anyone who, with the intention of improving his or her situation or that of others, has forged or falsified documents of legitimacy, certificates or attestations, has used, to deceive others, a writing of this nature, or has abused, to deceive others, of a writing of this nature, true but not intended for him, will be punished by a custodial sentence of up to three years or a monetary penalty.
- Art. 253**
- Fraudulently obtaining a false statement
- Anyone who, by misleading a civil servant or public officer, causes him to falsely note in an authentic document a fact having legal significance, in particular to falsely certify the authenticity of a signature or the accuracy of a copy, anyone who uses a title thus obtained to deceive others about the fact noted therein, will be punished with a custodial sentence of up to five years or a monetary penalty.
- Art. 254**
- Deleting titles
- 1 Any person who, with the intention of harming the pecuniary interests or rights of others, or of obtaining for himself or a third party an illicit advantage, damages, destroys, makes disappear or steals a title for which he did not have not only the right to dispose of will be punished by a custodial sentence of up to five years or by a monetary penalty.
- 2 The deletion of titles committed to the detriment of relatives or friends will only be pursued upon complaint.
- Art. 255**
- Securities foreigners
- The provisions of arts. 251 to 254 are also applicable to foreign securities.
- Art. 256**
- Moving terminals
- Anyone who, with the intention of infringing the pecuniary interests or rights of others, or of obtaining or providing an illicit advantage to a third party, deletes, moves, makes unrecognizable, falsifies

189 New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1, 1995 (RO 1994 2290; FF 1991 II 933).

fied or falsely placed a boundary marker or any other demarcation sign will be punished by a custodial sentence of up to three years or a monetary penalty.

### Art. 257

Moving trigonometric or limnimetric signals  
 Anyone who removes, moves, makes unrecognizable or falsely places a public trigonometric or limnimetric signal will be punished with a custodial sentence of up to three years or a monetary penalty.

## Title 12 Crimes or offenses against public peace

### Art. 258190

Threats alarming the population  
 Anyone who causes alarm among the population by threatening or falsely announcing a danger to life, health or property will be punished with a custodial sentence of not more than three years or with a pecuniary.

### Art. 259191

Provocation public to crime or violence  
 1 Anyone who publicly provokes a crime will be punished with a custodial sentence of up to three years or a monetary penalty.

1bis Public provocation to genocide (art. 264) is punishable even when it takes place abroad if all or part of the genocide were to be committed in Switzerland. 192

2 Anyone who publicly provokes an offense involving violence against others or against property will be punished with a custodial sentence of up to three years or with a monetary penalty.

### Art. 260

Excitement  
 1 Anyone who takes part in a gathering formed in public and during which violence was committed collectively against people or property will be punished with a custodial sentence of up to three years or a monetary penalty.

190 New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1, 1995 (RO 1994 2290; FF 1991 II 933).

191 New content according to ch. I of the FL of October 9, 1981, in force since October 1, 1982 (RO 1982 1530; FF 1980 I 1216).

192 Introduced by ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO 2010 4963; FF 2008 3461).



2 He will not incur any penalty if he has withdrawn upon summons from the authorities without having committed violence or provoked it to be committed.

**Art 260bis 193**

acts  
criminal  
preparations

1 Anyone who takes, in accordance with a plan, concrete measures of a technical or organizational nature, the nature and extent of which indicate that he is preparing to carry out one of the following acts:

- has. murder (art. 111); b.
- assassination (art. 112); vs.
- serious bodily harm (art. 122); cbis.194
- mutilation of female genital organs (art. 124); d. brigandage (art. 140); e. sequestration and
- kidnapping (art. 183); f. hostage-taking (art. 185);
- g. intentional fire (art. 221); h.
- genocide (art. 264); i. crimes against
- humanity (art. 264a); j. war
- crimes (art. 264c to 264h). 195

2 Whoever, of his own accord, renounces continuing his preparatory activity to the end, will be exempt from all punishment.

3 Anyone who commits the preparatory acts abroad is also punishable when the offenses must be committed in Switzerland.

Art. 3, par. 2, is applicable.196

**Art. 260ter 197**

Criminal  
organization

1. Anyone who has participated in an organization which keeps its structure and membership secret and which pursues the aim of committing criminal acts of violence or obtaining income by criminal means,

193 Introduced by ch. I of the FL of October 9, 1981, in force since October 1, 1982 (RO 1982 1530; FF 1980 I 1216).

194 Introduced by ch. I of the FL of September 30, 2011, in force since July 1, 2012 (RO 2012 2575; FF 2010 5125 5151).

195 New content according to ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO 2010 4963; FF 2008 3461).

196 New content of the sentence according to ch. II 2 of the LF of December 13. 2002, in force since on Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

197 Introduced by ch. I of the FL of March 18, 1994, in force since August 1, 1994 (RO 1994 1614; FF 1993 III 269).

anyone who supports such an organization in its criminal activity will be punished with a

custodial sentence of up to five years or a monetary penalty.

2. The judge may freely mitigate the sentence (art. 48a)<sup>198</sup> with regard to anyone who has endeavored to prevent the continuation of the criminal activity of the organization.

3. Anyone who commits the offense abroad is also punishable if the organization carries out or must carry out its criminal activity in whole or in part in Switzerland. Art. 3, par. 2, is applicable.<sup>199</sup>

#### Art. 260quater 200

Endangering public  
safety using  
weapons

Anyone who has sold, rented, given or left at the disposal of a third party a firearm, a weapon prohibited by law, an essential element of a weapon, weapon accessories, ammunition or parts of ammunition, or will have brokered them, while he knew or must have presumed that they would be used in the commission of an offense or a crime, will be punished by a custodial sentence of not more than five years or a monetary penalty,<sup>201</sup> provided that he does not fulfill the elements constituting a more serious offense.

#### Art. 260quinquies 202

Financing of  
terrorism

1 Any person who, with the intention of financing an act of criminal violence aimed at intimidating a population or forcing a State or an international organization to perform or refrain from performing any act, gathers or makes funds available, will be punished by a custodial sentence of not more than five years or a monetary penalty.

2 If the perpetrator has only accommodated the possibility that the funds in question are used to finance a terrorist act, he is not punishable within the meaning of this provision.

3 The act is not considered to be financing of terrorism when it aims to establish or re-establish a democratic regime or the rule of law, or to enable the exercise of human rights or the safeguarding of these.

<sup>198</sup> New content of the phrase according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>199</sup> New content of the sentence according to ch. II 2 of the LF of December 13. 2002, in force since on Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>200</sup> Introduced by art. 41 of the law of June 20, 1997 on weapons, in force since Jan. 1 , 1999 (RO **1998** 2535; FF **1996** I 1000).

<sup>201</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>202</sup> Introduced by ch. I 1 of the Act of March 21, 2003 (Financing of terrorism), in force since Oct. 1 , 2003 (RO **2003** 3043; FF **2002** 5014).

4 Para. 1 does not apply if the financing is intended to support acts which are not in contradiction with the rules of international law applicable in the event of armed conflict.

#### **Art. 261**

Attack on  
freedom  
of belief  
and worship

Anyone who, publicly and vilely, offends or flouts the convictions of others in matters of belief, particularly belief in God, or desecrates the objects of religious veneration, who maliciously prevents celebration or disturbs or publicly flouted a religious act guaranteed by the Constitution, anyone who maliciously desecrates a place or an object intended for worship or a religious act guaranteed by the Constitution will be punished with a monetary penalty of 180 days fine at most.

#### **Art. 261bis 203**

Racial  
discrimination

Anyone who publicly incites hatred or discrimination against a person or group of people because of their racial, ethnic or religious affiliation; anyone who, publicly, propagates an ideology aimed at systematically demeaning or denigrating members of a race, ethnicity or religion; anyone who, for the same purpose, organizes or encourages propaganda actions or takes part in them; anyone who has publicly, by speech, writing, image, gesture, by assault or in any other way, demeaned or discriminated in a way that violates human dignity, a person or a group of people because of their race, ethnicity or religion or who, for the same reason, will deny, grossly minimize or seek to justify genocide or other crimes against humanity; anyone who refuses to a person or group of people, because of their racial, ethnic or religious affiliation, a service intended for public use, will be punished with a custodial sentence of not more than three years or a monetary penalty.

**Art. 262**

Attack on the  
peace of the dead

1. Anyone who grossly desecrates the place where a dead person rests, anyone who maliciously disturbs or desecrates a funeral procession or a funeral ceremony, anyone who desecrates or publicly outrages a human corpse, will be punished with a privative sentence of freedom of up to three years or a monetary penalty.

2. Anyone who, against the will of the beneficiary, removes a human corpse, part of a human corpse, or the ashes of a dead person will be punished with a custodial sentence of three years at least. more or a monetary penalty.

**Art. 263**

Acts committed  
in a state of  
culpable  
irresponsibility

1 Anyone who, being in a state of irresponsibility caused by drunkenness or intoxication due to their fault, commits an act punishable as a crime or misdemeanor will be punished with a monetary penalty of 180 days fine at most.

2 The penalty will be a custodial sentence of not more than three years or a monetary penalty, if the custodial sentence is the only penalty provided for by the provision which punishes the crime committed in this state.<sup>204</sup>

Title 12bis 205

**Genocide and crimes against humanity****Art. 264**

Genocide

Whoever, with the intention of destroying in whole or in part a national, racial, religious, ethnic, social or political group, is punishable by a custodial sentence for life or a custodial sentence of at least ten years, as such:

has. kills members of the group or seriously harms their physical or mental integrity;

b. subjects the members of the group to conditions of existence intended to bring about its total or partial destruction;

<sup>204</sup> New content according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan 1st 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>205</sup> Introduced by ch. I of the FL of March 24, 2000 (RO **2000** 2725; FF **1999** 4911). New content according to ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1 , 2011 (RO **2010** 4963; FF **2008** 3461).

vs. orders or takes measures intended to hinder births within the group;

d. transfers or forcibly transfers children from the group to another group.

#### Art. 264a

Crimes against  
humanity

1 Whoever, in the context of a widespread or systematic attack launched against the civilian population, is punishable by a custodial sentence of at least five years: a. intentionally kills a

has. Murder

person; b. premeditatedly kills numerous people

b. Extermination

or imposes living conditions on the population likely to lead to its destruction, with the intention of destroying it in whole or in part;

vs. Reduction in  
slavery

vs. disposes of a person by asserting a right of property over them, particularly in the context of human trafficking, sexual exploitation or forced labor;

d. Sequestration

d. inflicts on a person a serious deprivation of liberty in violation of the fundamental rules of international law;

e. Forced  
disappearances

e. with the intention of removing a person from the protection of the law for a prolonged period: 1. deprives him of his liberty upon mandate or with the consent of a State or a political organization, any indication of the fate which is reserved or on the place where it is then refused,

2. refuses any indication of the fate reserved for it or the place where it is located, on the mandate of a State or a political organization or in breach of a legal obligation;

f. Torture

f. inflicts great suffering on a person in his custody or under his control or seriously harms his bodily integrity or his physical or mental health;

g. Violation of  
the right  
to self-determination  
we sexual

g. rapes a female person, detains her while she was made pregnant against her will with the intention of changing the ethnic composition of a population, forces a person to undergo a sexual act of comparable seriousness, forces her into prostitution or forcibly sterilizes her; h. deports people from the area where they are legally

h. Deportation or  
forced transfer of  
population

located or forcibly transfers them;

i. Persecution and  
apartheid

i. seriously infringes the fundamental rights of members of a group of people by depriving them or stripping them of these rights for political, racial, ethnic, religious or social reasons or for any other reason contrary to international law, in relation with one of the acts referred to in Titles 12bis and 12ter or with the aim of systematically oppressing or dominating a racial group; j. commits any other act of a seriousness comparable to that of the crimes referred to in this

j. Other  
inhumane acts

paragraph and thus inflicts great suffering on a person or seriously harms their bodily integrity or their physical or mental health.

2 If the act is particularly serious, in particular if it affects a large number of people or the perpetrator acts with cruelty, the judge may impose a custodial sentence for life.

3 In less serious cases falling under para. 1, let. c to j, the judge may impose a custodial sentence of at least one year.

## Title 12ter 206 War crimes

### Art. 264b

1. Champ  
d'application

The arts. 264d to 264j are applicable in the context of an international armed conflict, including in a situation of occupation, and, if the nature of the offense does not exclude it, in the context of a non-international armed conflict.

### Art. 264c

2. Infractions  
serious to the  
conventions of  
Geneva

1 Anyone who commits, in the context of an international armed conflict, a serious breach of the Geneva Conventions of August 12, 1949, namely one of the following acts, is punishable by a custodial sentence of at least five years. -after targeting people or property protected by one of these conventions:

has. murder;

b. hostage-taking;

206 Introduced by ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO 2010 4963; FF 2008 3461).

207 Conv. of Geneva of August 12, 1949 for the improvement of the fate of the wounded and sick in the armed forces in the field (CG I), RS 0.518.12; conv. of Geneva of August 12, 1949 for the improvement of the lot of the wounded, sick and shipwrecked of the armed forces at sea (CG II), RS 0.518.23; conv. of Geneva of August 12, 1949 relating to the treatment of prisoners of war (CG III), RS 0.518.42; conv. of Geneva of August 12, 1949 relating to the protection of civilians in time of war (CG IV), RS 0.518.51.

- c. infliction on a person of great suffering or serious harm to their bodily integrity or to their physical or mental health, in particular by torture, inhuman treatment or biological experiments;
- d. destruction or appropriation of property not justified by military necessity and carried out on a large scale; e. forcing a person to serve in the armed forces of an enemy power; f. unlawful deportation, transfer or detention of persons; g. denial of a regular and impartial judgment before the infliction or the execution of a heavy sentence.

2 The acts referred to in para. 1 which are committed in the context of a non-international armed conflict are considered serious breaches of international humanitarian law if they are directed against a person or property protected by this law.

3 If the act is particularly serious, in particular if it affects a large number of people or the perpetrator acts with cruelty, the judge may impose a custodial sentence for life.

4 In less serious cases falling under para. 1, let. c to left, the judge can impose a custodial sentence of at least one year.

#### **Art. 264d**

3. Others  
war crimes a.  
Attack against  
civilians or  
civilian  
objects

1 Whoever, in the context of an armed conflict, directs an attack against:

- a. the civilian population as such or civilians who do not directly participate in hostilities;
- b. persons, installations, equipment or vehicles used as part of a humanitarian aid or peacekeeping mission in accordance with the Charter of the United Nations of June 26, 1945, when they are protected by international law -national humanitarian;
- vs. civilian objects, residential areas and undefended buildings or demilitarized zones which do not constitute military objectives;
- d. medical units, buildings, equipment or vehicles equipped with a distinctive sign provided for by international humanitarian law or whose protected character is recognizable despite the absence of a distinctive sign, hospitals or places where the sick and wounded are gathered;

e. cultural property, the people responsible for protecting it or the vehicles used for their transport or even buildings dedicated to religion, art, teaching, science or charitable action, when they are protected by international humanitarian law.

2 In particularly serious cases of attacks against people, the judge may impose a custodial sentence for life.

3 In less serious cases, the judge may impose a custodial sentence of at least one year.

#### Art. 264e

b. Immotivated  
medical  
treatment,

violation of the  
right to sexual  
self-determination  
or personal dignity

1 Whoever, in the context of an armed conflict, is punishable by a custodial sentence of at least three years:

has. seriously harms the bodily integrity or physical or psychological health of a person protected by international humanitarian law or puts that person in serious danger by subjecting them to a medical procedure which is not motivated by their state of health and is not consistent with generally accepted principles of medicine; b. rapes a female person protected by international humanitarian law, detains her

when she has been impregnated against her will with the intention of changing the ethnic composition of a population, coerces a protected person by international humanitarian law to undergo a sexual act of comparable gravity, forces her into prostitution or forcibly sterilizes her;

vs. seriously undermines the dignity of a person protected by international humanitarian law by treating them in a humiliating or degrading manner.

2 If the act is particularly serious, in particular if it affects a large number of people or the perpetrator acts with cruelty, the judge may impose a custodial sentence for life.

3 In less serious cases, the judge may impose a custodial sentence of at least one year.

#### Art. 264f

vs. . Recruitment  
or use of  
child soldiers

1 Anyone who conscripts or enlists children under the age of fifteen in the armed forces or in armed groups or makes them participate in an armed conflict is punishable by a custodial sentence of at least three years. .

2 If the act is particularly serious, in particular if it affects a large number of children or the perpetrator acts with cruelty, the judge may impose a custodial sentence for life.



3 In less serious cases, the judge may impose a custodial sentence of at least one year.

**Art. 264g**

d. Methods of war prohibited

1 Whoever, in the context of an armed conflict, is punishable by a custodial sentence of at least three years:

has. launches an attack which it knows or must presume will cause, in a manner disproportionate to the concrete and direct military advantage expected, loss of life among the civilian population, injuries to civilians, damage to civilian property or widespread, lasting and serious damage to the environment; b. uses a person protected by international humanitarian law as a shield to influence

combat operations; as a method of warfare, engages in pillage, illicitly appropriates property in any other manner, destroys or unnecessarily

c. confiscates property belonging to the enemy, deprives civilians of property essential to their survival or prevents the relief dispatch;

d. kills or wounds an opposing combatant through treachery or while he is out of action; e.

mutilates the corpse of an opposing combatant; f.

orders, by virtue of his power of command, that he gives no quarter or threatens the enemy; g. abuses the parliamentary ensign,

the flag, the uniform, the military insignia of the enemy or the United Nations, or the distinctive signs provided for by international humanitarian law;

h. as a member of an occupying power, transfers part of its civilian population into the occupied

zone or transfers all or part of the population of the occupied zone into or out of it.

2 If the act is particularly serious, in particular if it affects a large number of people or the perpetrator acts with cruelty, the judge may impose a custodial sentence for life.

3 In less serious cases, the judge may impose a custodial sentence of at least one year.

**Art. 264h**

e. Use of prohibited weapons

1 Whoever, in the context of an armed conflict, is punishable by a custodial sentence of at least three years:

has. uses poison or poisoned weapons; b. uses

biological or chemical weapons, including toxic or asphyxiating gases, materials or liquids; vs. uses bullets

that easily expand or flatten in the human body or bullets that explode in the human body;

d. uses weapons whose main effect is to injure by fragments which cannot be located by X-rays in the human body;

e. uses laser weapons whose main effect is to cause permanent blindness.

2 If the act is particularly serious, the judge may impose a custodial sentence for life.

**Art. 264i**

4. Breach of an armistice or peace. Crime against a parliamentarian. Delay in repatriation of prisoners of war

Anyone who:

has. continues hostilities after having official knowledge of the conclusion of an armistice or peace or otherwise violates the conditions of an armistice;

b. mistreats, insults or unduly detains an enemy parliamentarian or a person accompanying him;

vs. unjustifiably delays the repatriation of prisoners of war after the end of hostilities.

**Art. 264j**

5. Other violations of international humanitarian law

Anyone, in the context of an armed conflict, who in any way violates which is not repressed by arts. 264c to 264i, a norm of international humanitarian law the violation of which is punishable under customary international law or an international convention

recognized as binding by Switzerland is punishable by a custodial sentence of not more than three years or a monetary penalty.

**Title 12**quater<sup>209</sup>**Provisions common to titles 12bis and 12ter****Art. 264k**

Punishability  
from the superior

1 A superior who is aware of the fact that a subordinate is committing or preparing to commit one of the acts referred to in Titles 12bis and 12ter and who does not take appropriate measures to prevent it incurs the same penalty as the perpetrator. If he acts negligently, he is punished with a custodial sentence of up to three years or a monetary penalty.

2 A superior who is aware of the fact that a subordinate has committed one of the acts referred to in Titles 12bis and 12ter and who does not take appropriate measures to ensure the punishment of the author of this act is punished with a penalty custodial sentence of up to three years or a monetary penalty.

**Art. 264l**

Acts committed  
on the  
orders of others

The subordinate who commits one of the acts referred to in Titles 12bis and 12ter on the orders of a superior or in obedience to instructions binding him in a similar manner is punishable if he is aware, at the time of the facts, of the punishable nature of his act.

**Art. 264m**

Acts committed  
abroad

1 Anyone who commits abroad one of the acts referred to in Titles 12bis and 12ter or in art. 264k is punishable if he is in Switzerland and is not extradited or handed over to an international criminal court whose jurisdiction is recognized by Switzerland.

2 When the perpetrator is not of Swiss nationality and the act committed abroad was not directed against a Swiss national, the authorities may suspend the criminal prosecution or waive it, subject to preservation evidence, in the following cases:

has. a foreign authority or an international criminal court whose jurisdiction is recognized by Switzerland prosecutes the offense and the perpetrator is extradited or handed over to this court; b. the author is

no longer in Switzerland and will probably not return there-  
do not lie.

3 Art. 7, par. 4 and 5, is applicable, unless the acquittal, remission of sentence or prescription of the sentence abroad was intended to unduly protect the author from any sentence.

<sup>209</sup> Introduced by ch. I 1 of the Federal Act of June 18, 2010 mod. of federal laws with a view to implementing the Rome Statute of the International Criminal Court, in force since Jan. 1, 2011 (RO 2010 4963; FF 2008 3461).

**Art. 264n**

Exclusion of  
relative  
immunity

The continuation of the acts referred to in Titles 12bis and 12ter and in art. 264k is not subject to any of the authorizations provided for by the following provisions:

- has. art. 7, par. 2, let. b, of the code of criminal procedure<sup>210</sup>; b. art. 14 and 15 of the law of March 14, 1958 on liability<sup>211</sup>; vs. art. 17 of the law of December 13, 2002 on Parliament<sup>212</sup>; d. art. 61a of the law of March 21, 1997 on the organization of government government and administration<sup>213</sup>; e. art. 11 of the law of June 17, 2005 on the Federal Court<sup>214</sup>;
- f. art. 12 of the law of June 17, 2005 on the Federal Administrative Tribunal<sup>215</sup> ;
- g. art. 16 of the law of March 20, 2009 on the Federal Patent Court<sup>216</sup>;
- h. art. 50 of the law of March 19, 2010 on the organization of criminal prosecution authorities<sup>217</sup>.

**Title 13****Crimes or offenses against the State and national defense****Art. 265**

1. Crimes  
or offenses against  
the State.  
High treason

Anyone who commits an act tending to modify by violence the Constitution or the Constitution of a canton<sup>218</sup>, to overthrow by violence the political authorities established by the Constitution, or to make them by violence unable to exercise their power,

210 RS **312.0**  
211 RS **170.32**  
212 RS **171.10**  
213 RS **172.010**  
214 RS **173.110**  
215 RS **173.32**  
216 RS **173.41**  
217 RS **173.71**  
218 RS **131.211/235**

or to detach by violence a part of the Swiss territory from the Confederation or a part of the cantonal territory from a canton, will be punished by a custodial sentence of at least one year<sup>219</sup>.

#### Art. 266

Infringement independently  
pendency of the  
Confederation

1. Anyone who commits an act tending to

undermine the independence of the Confederation or to endanger this independence, or to provoke,

on the part of a foreign power, in the affairs of the Confederation, interference of a nature to endanger the independence of the Confederation, will be punished by a custodial sentence of at least one year.

2.220 Anyone who enters into relations with the government of a foreign State or with one of its agents with the intention of provoking a war against the Confederation will be punished with a custodial sentence of at least three years.

In serious cases, the judge may impose a custodial sentence for life.

#### Art. 266bis 221

Companies  
and operations  
from abroad against  
the security of  
Switzerland

1 Anyone who, with the aim of provoking or supporting foreign enterprises or activities against the security of Switzerland, enters into contact with a foreign state, or with foreign parties, or with other organizations abroad, or with their agents, or will have launched or spread inaccurate or tendentious information, will be punished by a custodial sentence of up to five years or a monetary penalty.

2 In serious cases, the judge may impose a custodial sentence of at least one year.

#### Art. 267

Treason  
diplomatic

1. Anyone who intentionally reveals or makes accessible to a foreign State or one of its agents a secret that the interest of the Confederation requires to be kept,<sup>222</sup>

219 New expression according to ch. II 1 al. 11 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787). He was given this mod. throughout the Book.

220 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** I 16; FF **1949** I 1233).

221 Introduced by ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** I; FF **1949** I 1233).

222 New content according to ch. I of the FL of October 10, 1997, in force since April 1 , 1998 (RO **1998** 852; FF **1996** IV 533).

anyone who has falsified, destroyed, caused to disappear or removed titles or means of proof relating to legal relations between the Confederation or a canton and a foreign State and has thus intentionally compromised the interests of the Confederation or a canton, anyone who, in his capacity as representative of the Confederation, will have intentionally conducted negotiations with a foreign government to the detriment of the latter, will be punished by a custodial sentence of one year at least.

less.

2.223 Anyone who intentionally reveals or makes accessible to the public a secret that the interest of the Confederation requires it to be kept will be punished by a custodial sentence of up to five years or a monetary penalty.

3.224 The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

#### Art. 268

Moving official  
terminals

Anyone who removes, moves, makes unrecognizable, falsifies or falsely places a boundary marker or any other sign intended to mark the borders of the Confederation, a canton or a municipality will be punished with a custodial sentence. of up to five years or a monetary penalty.

#### Art. 269225

Violation of the  
territorial  
sovereignty of  
Switzerland

Anyone who enters Swiss territory contrary to international law will be punished with a custodial sentence or a financial penalty.

#### Art. 270

Attack on  
Swiss emblems

Anyone who, maliciously, removes, degrades, or acts in contempt of a Swiss emblem of sovereignty displayed by an authority, in particular the arms or the flag of the Confederation or a canton, will be punished with a fine. custodial sentence of up to three years or a monetary penalty.

223 Introduced by ch. I of the FL of October 10, 1997, in force since April 1, 1998 (RO 1998 852; FF 1996 IV 533).

224 Formerly ch. 2.

225 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO 1951 1; FF 1949 I 1233). See also RO 57 1364.

**Art. 271226**

Acts executed  
without rights  
for a foreign state

1. Anyone who, without being authorized to do so, has carried out on Swiss territory for a foreign State acts which fall within the public authorities, anyone who has carried out such acts for a foreign party or another foreign organization, anyone who favors such acts will be punished with a custodial sentence of not more than three years or a monetary penalty and, in serious cases, with a custodial sentence of at least one year.<sup>227</sup>

2. Anyone who, by using violence, trickery or threats, drags a person abroad to hand him over to an authority, party or other organization abroad, or to put his life or integrity at risk. physical danger, will be punished by a custodial sentence of at least one year.

3. Anyone who has prepared such a kidnapping will be punished with a custodial sentence or a financial penalty.

**Art. 272228**

2. Espionage.  
Political  
Intelligence  
Service

1. Anyone who, in the interest of a foreign state, or a foreign party or another foreign organization, and to the detriment of Switzerland or its nationals, inhabitants or organizations, has practiced an political intelligence service, or has organized such a service, anyone who has hired another for such a service or favored such actions, will be punished by a custodial sentence of up to three years or a monetary penalty.

2. In serious cases, the judge will impose a custodial sentence of at least one year. In particular, the fact of having incited acts likely to compromise the internal or external security of the Confederation or of having given false information of this nature will be considered serious.

**Art. 273**

Service of  
economic  
information

Anyone who has sought to discover a manufacturing or business secret to make it accessible to a foreign official or private organization, or to a foreign private company, or to their agents,

226 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO 1951 I; FF 1949 I 1233).

227 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

228 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO 1951 I; FF 1949 I 1233).

anyone who makes a manufacturing or business secret accessible to a foreign official or private organization, or to a foreign private company, or to their agents, will be punished with a custodial sentence of not

more than three years or a monetary penalty or, in serious cases, a custodial sentence of at least one year. In the event of a custodial sentence, a monetary penalty may also be imposed.<sup>229</sup>

#### Art. 274230

Service of  
military intelligence

1. Anyone who has collected military intelligence in the interest of foreigners and to the detriment of Switzerland or has organized such a service, anyone who has hired

another for such a service or favored such actions, will be punished with a custodial sentence of up

to three years or a monetary penalty.

In serious cases, the judge may impose a custodial sentence of at least one year.

2. Correspondence and materials will be confiscated.

#### Art. 275231

3. Setting up  
danger of  
the  
constitutional order.  
Attacks on

Anyone who commits an act tending to disturb or modify in an unlawful manner the order based on the Constitution or the Constitution of a canton<sup>232</sup>, will be punished with a custodial sentence of not more than five years or a monetary penalty.

constitutional order

#### Art. 275bis 233

Propagande  
subversive

Anyone who carries out foreign propaganda tending to overthrow by violence the constitutional order of the Confederation or a canton will be punished with a custodial sentence of up to three years or a monetary penalty.

<sup>229</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>230</sup> New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233).

<sup>231</sup> New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** I 16; FF **1949** I 1233).

<sup>232</sup> RS **131.211/235**

<sup>233</sup> Introduced by ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** I 16; FF **1949** I 1233).



**Art. 275ter 234**

Illicit groups

Anyone who has founded a group which aims or whose activity consists of carrying out acts punishable by arts. 265, 266, 266bis, 271 to 274, 275 and 275bis, anyone who

has joined such a group or is associated with its activities, anyone who has caused

the founding of such a group or has complied with its instructions, will be punished by a custodial

sentence of up to three years or a monetary penalty.

**Art. 276**

4. Violations of military security.  
Provocation and incitement to violation of military duties

1. Anyone who publicly provokes disobedience to a military order, a violation of service duties, refusal to serve or desertion, anyone who incites a person required to serve to

commit one of these offenses, will be punished by a custodial sentence of up to three years or a

monetary penalty.

2. The penalty will be a custodial sentence or a monetary penalty if the offender provoked or incited mutiny or conspiracy.

**Art. 277**

Falsification of establishment orders or instructions

1. Any person who intentionally forges, falsifies, destroys or causes to disappear an order to report for recruitment, an order to set up, a marching order or an instruction intended for citizens required to perform military service, the person who has makes use of such a counterfeit

or falsified order or instruction, will be punished with a custodial sentence or a financial penalty.

2. The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender acted negligently.

**Art. 278**

Obstructing military service

Anyone who prevents a soldier from doing his service or disturbs him in his service will be punished with a fine of up to 180 days.

234 Introduced by ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO 1951 I 16; FF 1949 I 1233).

## Title 14 Crimes against the popular will

### Art. 279

Violence

Anyone who, through violence or the threat of serious harm, prevents or disrupts a meeting, an election or a vote organized under the Constitution or the law, anyone who, through violence or the threat of Serious damage that prevents

or hinders the search for or submission of signatures intended to support a request for a referendum or initiative will be punishable by a custodial sentence of up to three years or a financial penalty.

### Art. 280

Violation of  
the right to vote

Anyone who, through violence or the threat of serious harm, prevents a voter from exercising their right to vote, or from signing a referendum or initiative request, anyone who, through violence or threat serious damage,

will have forced a voter to exercise one of these rights, or to exercise it in a specific way, will be punished by a custodial sentence of up to three years or a monetary penalty.

### Art. 281

Electoral  
corruption

Anyone who has offered, promised, granted or held a gift or other advantage to a voter, to encourage them either to exercise their right to vote in a specific way, or to give or refuse their support for a referendum request or initiative, the one who has offered, promised, granted or held a gift or other

advantage to a voter, so that he abstains from taking part in an election or a vote, the voter who has makes such an advantage promised or granted, will be punished by a custodial sentence of up to three

years or a monetary penalty.

### Art. 282

Voter  
fraud

1. Anyone who has counterfeited, falsified, destroyed or caused to disappear an electoral register,

anyone who, without having the right to do so, has taken part in an election, a vote or signed a request for a referendum or initiative, anyone who has falsified the

result of an election, a vote or the number of signatures collected in support of a request for reference

dum or initiative, in particular by adding, modifying, removing or crossing out ballots or signatures, by inaccurately counting the votes or signatures, or by noting the result by a report contrary to the truth, will be punished with custodial sentence of up to

three years or a monetary penalty.

2.235 If the offender acted in an official capacity, the penalty will be a custodial sentence of up to three years or a monetary penalty of at least 30 day fines. In the event of a custodial sentence, a monetary penalty may also be imposed.

#### Art. 282bis 236

Vote capture

Anyone who systematically collects, completes or modifies ballot papers or who distributes ballot papers thus completed or modified will be punished with a fine.

#### Art. 283

Violation du  
secret du vote

Anyone who, through illicit methods, succeeds in discovering in what way one or more voters are using their right to vote will be punished with a custodial sentence of up to three years or a monetary penalty.

#### Art. 284237

## Title 15 Offenses against public authority

#### Art. 285

Violence or  
threats against  
authorities and  
officials

1.238 Anyone who, by using violence or threat, prevents an authority, a member of an authority or an official from carrying out an act falling within their functions, forces them to carry out such an act or engages in criminal acts made on them while they were doing so, will be punished by a custodial sentence of up to three years or a monetary penalty.

235 New content according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan 1st 2007 (RO **2006** 3459; FF **1999** 1787).

236 Introduced by art. 88 hp. 1 of the LF of December 17 1976 on political rights, in force since July 1 , 1978 (RO **1978** 688; FF **1975** I 1337).

<sup>237</sup> Repealed by ch. I of the FL of March 18, 1971, with effect from July 1 , 1971 (RO **1971** 777; FF **1965** I 569).

238 New content according to ch. II 5 of the law of March 20, 2009 on railway reform 2, in force since Jan. 1 , 2010 (RO **2009** 5597; FF **2005** 2269, **2007** 2517).

Employees of companies defined by the law of December 20, 1957 on railways<sup>239</sup>, the law of March 20, 2009 on passenger transport<sup>240</sup> and the law of December 19, 2008 on rail freight transport<sup>241</sup> as well as employees of mandated organizations appointed in accordance with the Federal Law of June 18, 2010 on the security organs of public transport companies<sup>242</sup> and provided with authorization from the Federal Office of Transport are also considered as civil servants.<sup>243</sup>

2. If the offense was committed by a riotous crowd, all those who took part in the gathering will be punished with a custodial sentence of up to three years or with a monetary penalty.

Those among them who commit violence against people or property will be punished with a custodial sentence of up to three years or a monetary penalty of at least 30 days' fine.<sup>244</sup>

#### Art. 286<sup>245</sup>

Impediment  
from performing  
an official act

Anyone who prevents an authority, a member of an authority or a civil servant from carrying out an act falling within their duties will be punished with a fine of up to 30 days.

Employees of companies defined by the law of December 20, 1957 on railways<sup>246</sup>, the law of March 20, 2009 on passenger transport<sup>247</sup> and the law of December 19, 2008 on rail freight transport<sup>248</sup> as well as employees of mandated organizations appointed in accordance with the Federal Law of June 18, 2010 on the security organs of public transport companies<sup>249</sup> and provided with authorization from the Federal Office of Transport are also considered as civil servants. <sup>250</sup>

239 RS **742.101**

240 RS **745.1**

241 RS **742.41**

242 RS **745.2**

243 New content according to art. 11 para. 2 of the Act of June 18, 2010 on the safety bodies of public transport companies, in force since October 1, 2011 (RO **2011** 3961; FF **2010** 821 845)

244 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

245 New content according to ch. II 5 of the law of March 20, 2009 on railway reform 2, in force since Jan. 1, 2010 (RO **2009** 5597; FF **2005** 2269, **2007** 2517).

246 RS **742.101**

247 RS **745.1**

248 RS **742.41**

249 RS **745.2**

250 New content according to art. 11 para. 2 of the Act of June 18, 2010 on the safety bodies of public transport companies, in force since October 1, 2011 (RO **2011** 3961; FF **2010** 821 845)

**Art. 287**

Theft of functions

Anyone who, with unlawful intent, usurps the exercise of a function or the power to give military orders will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 288**<sup>251</sup>**Art. 289**

Substraction of objects placed in the hands of the authority

Anyone who removes objects placed under the authority's control will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 290**

Breaking of seals

Anyone who breaks or removes an official mark, in particular a seal, affixed by the authority to enclose or identify an object, or who defeats its effect, will be punished with a custodial sentence of not more than three years or a monetary penalty.

**Art. 291**

ban break

1 Anyone who contravenes a decision of expulsion from the territory of the Confederation or a canton pronounced by a competent authority will be punished with a custodial sentence of up to three years or with a monetary penalty.

2 The duration of this sentence will not be counted against that of the expulsion.

**Art. 292**

Failure to comply with a decision of the authority

Anyone who does not comply with a decision served on them, under threat of the penalty provided for in this article, by a competent authority or official will be punished with a fine.

**Art. 293**

Publication of secret official debates

1 Anyone who, without having the right to do so, publishes all or part of the acts, an instruction or the debates of an authority which are secret by virtue of the law or a decision taken by the authority within the limits of its competence will be punished with a fine.

2 Complicity is punishable.

3 The judge may waive any penalty if the secrecy given to publicity is of little importance.<sup>252</sup>

<sup>251</sup> Repealed by ch. I 1 of the LF of December 22 1999 (Revision of the criminal law of corruption), with effect from May 1 , 2000 (RO **2000** 1121; FF **1999** 5045).

**Art. 294**

Violation of  
the ban on  
practicing  
profession

Anyone who, in defiance of the ban pronounced against him by criminal judgment, exercises a profession, an industry or a trade will be punished with a custodial sentence of not more than one year or with a monetary penalty. 253

**Art. 295254****Title 16****Crimes or misdemeanors likely to compromise relations with foreigners****Art. 296255**

Outrages to  
Foreign states

Anyone who, publicly, has insulted a foreign State in the person of its head, in its government or in the person of one of its diplomatic agents or one of its official delegates to a diplomatic conference sitting in Switzerland or one of its official representatives within an interstate institution or its organization established or based in Switzerland, will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 297256**

Insults against  
interstate  
institutions

Anyone who publicly insults an interstate institution or its organization established or based in Switzerland in the person of one of its official representatives will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 298**

Attack on  
national emblems  
foreigners

Anyone who, maliciously, removes, degrades or acts outrageously the emblems of sovereignty of a foreign State displayed publicly by an official representative of that State, in particular its weapons or its flag, will be punished with a custodial sentence of freedom of up to three years or a monetary penalty.

252 Introduced by ch. I of the FL of October 10, 1997, in force since April 1, 1998 (RO **1998** 852; FF **1996** IV 533).

253 New content of the phrase according to ch. II 1 al. 17 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>254</sup> Repealed by ch. II 3 of the LF of December 13, 2002, with effect from Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

255 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233).

256 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233).

**Art. 299**

Violation of territorial sovereignty foreign

1. Anyone who has violated the territorial sovereignty of a foreign State, in particular by improperly carrying out official acts on the territory of this State, anyone who has entered the territory

of a foreign State contrary to international law, will be punished a custodial sentence of up to three years or

a monetary penalty.

2. Anyone who, from Swiss territory, attempts to disrupt the political order of a foreign State by violence will be punished with a custodial sentence of up to three years or with a monetary penalty.

**Art. 300**

Acts of hostility against a belligerent or foreign troops

Anyone who, from the neutral territory of Switzerland, undertakes or favors acts of hostility against a belligerent, anyone who engages

in acts of hostility against foreign troops admitted to Switzerland, will be punished with a penalty deprivation of liberty

or a financial penalty.

**Art. 301**

Military espionage to the detriment of a Foreign state

1. Anyone who, on Swiss territory, collects military intelligence for a foreign state to the detriment of another foreign state or organizes such a service, anyone who engages others in such a service or encourages

such actions, will be punished a custodial sentence of up to three years or a monetary penalty.

2. Correspondence and materials will be confiscated.

**Art. 302257**

Pursuit

1 The crimes and offenses provided for in this title will only be prosecuted by decision of the Federal Council.

2 The Federal Council will only order prosecution if the request is made by the government of the foreign state in the cases provided for in art. 296 and by an organ of the interstate institution in the cases referred to in art. 297. During active service, he may order prosecution even in the absence of such a request.

257 New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO 1951 1; FF 1949 I 1233).

3 In the cases provided for in arts. 296 and 297, criminal action is prescribed by two years.<sup>258</sup>

## Title 17

### Crimes or offenses against the administration of justice

#### Art. 303

Slandering  
denunciation

1. Anyone who has denounced to the authorities, as the author of a crime or misdemeanor, a person he knew to be innocent, with a view to having criminal proceedings opened against him,

anyone who, in any other way, will have hatched clever machinations with a view to provoking the opening of criminal proceedings against a person he knew to be innocent, will be punished with a custodial sentence

or a financial penalty.

2. The penalty will be a custodial sentence of not more than three years or a monetary penalty if the slanderous denunciation relates to an infraction.

#### Art. 304

Induce  
to justice  
In error

1. Anyone who denounces to the authority an offense that he knows has not been committed, anyone who falsely

accuses himself to the authority of having committed an offense, will be punished with a custodial sentence.

freedom of up to three years or a monetary penalty.

2. In cases of very little seriousness, the judge may exempt the offender from any sentence.

#### Art. 305

Obstruction of  
criminal action

1 Anyone who has shielded a person from criminal prosecution or from the execution of a sentence or from one of the measures provided for in arts. 59 to 61, 63 and 64<sup>259</sup> will be punished by a custodial sentence of up to three years or a monetary penalty.

<sup>258</sup> New content according to ch. I of the LF of March 22, 2002 (Prescription of criminal action), in force since Oct. 1, 2002 (RO **2002** 2986; FF **2002** 2512 1579).

<sup>259</sup> New content of the phrase according to ch. II 2 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).



1bis Anyone who has removed a person from criminal proceedings opened abroad or from the execution of a custodial sentence or a measure falling under arts. will incur the same penalty. 59 to 61, 63 or 64 pronounced abroad for one of the crimes referred to in art. 101.260

2 The judge may exempt the offender from any punishment if his relations with the person favored by him are close enough to make his conduct excusable.

#### Art. 305bis 261

Whitening  
d'argent<sup>262</sup>

1. Anyone who commits an act likely to hinder the identification of the origin, the discovery or the confiscation of assets which he knew or must have presumed came from a crime, will be punished with a privative sentence of freedom of up to three years or a monetary penalty.

2. In serious cases, the penalty will be a custodial sentence of up to five years or a monetary penalty. In the event of a custodial sentence, a monetary penalty of up to 500 days fine is also imposed.<sup>263</sup>

The case is serious, particularly when the offender:

- a. acts as a member of a criminal organization;
- b. acts as a member of a gang formed to systematically engage in money laundering<sup>264</sup>; vs. achieves a significant turnover or gain through the business of money laundering.

3. The offender is also punishable when the main offense was committed abroad and when it is also punishable in the State where it was committed.<sup>265</sup>

260 Introduced by ch. I of the LF of October 9, 1981 (RO **1982** 1530; FF **1980** I 1216).  
New content according to ch. II 2 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

261 Introduced by ch. I of the FL of March 23, 1990, in force since August 1, 1990 (RO **1990** 1077; FF **1989** II 961).

262 New content according to art. 43 of the law of October 10, 1997 on money laundering, in force since April 1, 1998 (RO **1998** 892; FF **1996** III 1057).

263 New content of sentences according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

264 New content according to art. 43 of the law of October 10, 1997 on money laundering, in force since April 1, 1998 (RO **1998** 892; FF **1996** III 1057).

265 Rectified by the Editorial Commission of the Ass. fed. (art. 33 LREC; RO **1974** 1051).

**Art. 305ter 266**

Default  
vigilance in  
matters  
financial  
transactions  
and  
communication rights

1 Anyone who, in the exercise of their profession, has accepted, kept in custody or helped to place or transfer assets belonging to a third party and who has failed to verify the identity of the beneficial owner with the vigilance required by the circumstances, will be punished by a custodial sentence of up to one year or a monetary penalty.<sup>266</sup>

2 The persons referred to in para. 1 have the right to communicate to the Money Laundering Communication Office of the Federal Police Office the evidence founding the suspicion that assets originate from a crime.<sup>269</sup>

**Art. 306**

False  
declaration  
by a party  
in court

1 Any person who, being a party to a civil trial, gives a false statement on the facts of the case, after having been expressly invited by the judge to tell the truth and made aware of the criminal consequences, constituting a means of proof, will be punished by a custodial sentence of up to three years or a monetary penalty.

2 If the declarant has taken an oath or solemnly promised to tell the truth, the penalty will be a custodial sentence of up to three years or a monetary penalty of at least 90 days' fine.<sup>270</sup>

**Art. 307**

False witness-  
gnage,  
false report,  
false  
prosecution

1 Anyone who, being a witness, expert, translator or interpreter in court, makes a false statement on the facts of the case, provides a false report or report, or makes a false translation will be punished with a custodial sentence of up to five years or a monetary penalty.

2 If the declarant has taken an oath or solemnly promised to tell the truth, the penalty will be a custodial sentence of up to five years or a monetary penalty of at least 180 days.<sup>271</sup>

266 Introduced by ch. I of the FL of March 23, 1990, in force since August 1, 1990 (RO **1990** 1077; FF **1989** II 961).

267 New content according to ch. I of the FL of March 18, 1994, in force since August 1, 1994 (RO **1994** 1614; FF **1993** III 269).

268 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

269 Introduced by ch. I of the LF of March 18, 1994 (RO **1994** 1614; FF **1993** III 269).  
New content according to ch. I 1 of the Act of October 3, 2008 on the implementation of the revised recommendations of the Financial Action Task Force, in force since February 1, 2009 (RO **2009** 361; FF **2007** 5919).

270 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

271 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13, 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

3 The penalty will be a monetary penalty of up to 180 day fine<sup>272</sup> if the false declaration relates to facts which cannot exert any influence on the judge's decision.

#### Art. 308

Mitigations  
of combs

1 If the author of a crime or an offense provided for in arts. 303, 304, 306 and 307 has rectified his false denunciation or false declaration of his own initiative and before any harm to the rights of others has resulted, the judge may mitigate the penalty (art. 48a) ; he may also exempt the offender from any punishment.<sup>273</sup>

2 If the author of a crime or an offense provided for in arts. 306 and 307 made a false declaration because, by telling the truth, he would have exposed himself or one of his relatives to criminal prosecution, the judge may mitigate the sentence (art. 48a) .<sup>274</sup>

#### Art. 309<sup>275</sup>

Administrative  
cases and  
proceedings  
before  
international courts

The arts. 306 to 308 are also applicable:

- a. in proceedings before administrative courts, before arbitral tribunals and before authorities and officials of the administration having the capacity to receive testimony; b. to the procedure before international tribunals whose compulsory jurisdiction Switzerland recognizes.

#### Art. 310

Escape  
prisoners

1. Anyone who, by using violence, threats or trickery, causes a person arrested, detained, or interned in an establishment by decision of the authority to escape or provides assistance to them to escape will be punished with a custodial sentence of up to three years or a monetary penalty.

2. If the offense was committed by a riotous crowd, all those who took part in the gathering will be punished with a custodial sentence of up to three years or with a monetary penalty.

<sup>272</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>273</sup> New content of the phrase according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>274</sup> New content of the phrase according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>275</sup> New content according to ch. I 1 of the LF of June 22, 2001 (Infringements of the provisions on administration of justice before international tribunals), in force since July 1 , 2002 (RO **2002** 1491; FF **2001** 359).

Those among them who commit violence against people or property will be punished with a custodial sentence of up to three years or a monetary penalty of at least 30 days' fine.<sup>276</sup>

#### Art. 311

Inmate  
Mutiny

1. Prisoners or persons interned in an establishment by decision of the authority who have gathered with the intention of attacking, by mutual

agreement, an official of the establishment or any other person responsible for supervising them, of forcing, by violence or the threat

of violence, an official of the establishment or any other person responsible for supervising them to perform an act or to abstain from doing so, or to escape using violence, will be punished a custodial

sentence of not more than three years

or a monetary penalty of at least 30 days' fine.<sup>277</sup>

2. Those among them who have committed violence against people or property will be punished by a custodial sentence of up to five years or a monetary penalty of at least 90 days' fine.<sup>278</sup>

### Title 18 Offenses against official duties and professional duties

#### Art. 312

Abuse of authority

Members of an authority and civil servants who, with the intention of obtaining or obtaining an illicit advantage for themselves or a third party, or with the intention of harming others, have abused the powers of their office, will be punished with a penalty custodial sentence of up to five years or a monetary penalty.

276 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

277 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

278 New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

**Art. 313**

Concussion

Any civil servant who, for the purpose of profit, collects taxes, emoluments or compensation not due or exceeding the legal rate will be punished with a custodial sentence of up to three years or a monetary penalty.

**Art. 314279**Unfair management  
of public  
interests

Members of an authority and civil servants who, with the intention of obtaining or providing an illicit advantage to a third party, have in a legal act harmed the public interests that they were tasked to defend will be punished with a custodial sentence. freedom of up to five years or a monetary penalty. In the event of a custodial sentence, a monetary penalty is also imposed.<sup>280</sup>

**Art. 315 and 316281****Art. 317282**Forgery in titles  
committed in the  
exercise of public  
functions

1. Civil servants and public officers who have intentionally created a false title, falsified a title, or misused the real signature or hand mark of another to fabricate a supposed title, civil servants and public officers who will have intentionally falsely noted in a title a fact having legal significance, in particular by falsely certifying the authenticity of a signature or a hand mark or the accuracy of a copy, will be punished with a privative sentence freedom of up to five years or a monetary penalty.

2. The penalty will be a fine if the offender acted negligently.

<sup>279</sup> New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1 , 1995 (RO **1994** 2290; FF **1991** II 933).

<sup>280</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1 , 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>281</sup> Repealed by ch. I 1 of the LF of December 22 1999 (Revision of the criminal law of corruption), with effect from May 1 , 2000 (RO **2000** 1121; FF **1999** 5045).

<sup>282</sup> New content according to ch. I of the FL of June 17, 1994, in force since Jan. 1 , 1995 (RO **1994** 2290; FF **1991** II 933).

**Art. 317bis 283**Acts no  
punishable

1 Anyone who, with the authorization of a judge, manufactures, modifies or uses securities to constitute or provide cover in the context of a secret investigation or who, with the authorization of the head of the Federal Department of Security defence, protection of the population and sports (DDPS), under art. 14c of the federal law of March 21, 1997 establishing measures aimed at maintaining internal security (LMSI)<sup>284</sup>, manufactures, modifies or uses titles to constitute or ensure one's borrowed identity is not punishable under arts. 251, 252, 255 and 317.

2 Anyone who, authorized to undertake a secret investigation or with the agreement of the head of the DDPS, manufactures or modifies securities according to art. 14c of SIMA for assumed identities is not punishable under arts. 251, 252, 255 and 317.

3 Anyone who manufactures, modifies or uses titles in execution of the federal law of December 23, 2011 on the extra-procedural protection of witnesses<sup>285</sup> is not punishable under arts. 251, 252, 255 and 317.<sup>286</sup>

**Art. 318**Fake medical  
certificate

1. Doctors, dentists, veterinarians and midwives who intentionally draw up a certificate contrary to the truth, when this certificate was intended to be produced to the authority or to procure an illicit advantage, or which if it was likely to harm the legitimate and important interests of third parties, will be punished by a custodial sentence of up to three years or a monetary penalty.

The penalty will be a custodial sentence of up to three years or a monetary penalty if the offender had requested, received or been promised special remuneration to draw up this certificate.

2. The penalty will be a fine if the offender acted negligently.

**Art. 319**Escape  
assistance

The official who helps in the escape or allows the escape of a person arrested, detained, or returned to an establishment

283 Introduced by art. 24 ch. 1 of the LF of June 20, 2003 on secret investigation (RO **2004** 1409; FF **1998** 3689). New content according to ch. 3 of the annex to the FL of December 23, 2011, in force since July 16, 2012 (RO **2012** 3745; FF **2007** 4773, **2010** 7147).

284 RS **120**

285 RS **312.2**

286 Introduced by ch. 3 of the annex to the FL of December 23, 2011 on protection extra-procedural procedure for witnesses, in force since Jan. 1, 2013 (RO **2012** 6715; FF **2011** 1).

by decision of the authority, will be punished with a custodial sentence of up to three years or with a monetary penalty.

#### Art. 320

Violation of  
official  
secrecy

1. Anyone who reveals a secret entrusted to him in his capacity as a member of an authority or civil servant, or of which he had knowledge due to his office or employment, will be punished with a custodial sentence of three years at most or a monetary penalty.

Revelation remains punishable even though the office or employment has ended.

2. The revelation will not be punishable if it was made with the written consent of the superior authority.

#### Art. 321

Violation of  
professional  
secrecy

1. Clergymen, lawyers, defenders in court, notaries, patent attorneys, controllers bound by professional secrecy under the code of obligations<sup>287</sup>, doctors, dentists, chiropractors, pharmacists, midwives, psychologists, as well as their auxiliaries, who will have revealed a secret entrusted to them by virtue of their profession or of which they had become aware in the exercise of it, will, upon complaint, be punished with a custodial sentence of up to three years or with a monetary penalty .<sup>288</sup>

Students who reveal a secret of which they became aware during their studies will be punished with the same penalty.

Revelation remains punishable even if the holder of the secret no longer practices his profession or has completed his studies.

2. The disclosure will not be punishable if it was made with the consent of the person concerned or if, at the suggestion of the holder of the secret, the higher authority or the supervisory authority authorized it in writing.

3. The provisions of federal and cantonal legislation establishing an obligation to inform an authority or to testify in court remain reserved.

<sup>287</sup> RS 220

<sup>288</sup> New content according to art. 48 hp. 1 of the Act of March 18, 2011 on the psychology professions, in force since April 1, 2013 (RO 2012 1929, 2013 915 975; FF 2009 6235).

**Art. 321bis 289**

Secret  
professional  
in medical  
research

1 Anyone who, without right, reveals a professional secret of which he became aware in the context of his research activity in the fields of medicine or public health will be punished under art. 321.

2 Professional secrecy may be lifted for research purposes in the fields of medicine or public health if a commission of experts gives authorization and if the interested party, after having been informed of his rights, did not expressly refuse consent.

3 The commission grants authorization in cases where:

has. the search cannot be carried out with anonymous data.

we;

b. it is impossible or particularly difficult to obtain the consent of the person concerned; vs. the interests

of research take precedence over the interest in maintaining the secret.

4 The commission limits the authorization of charges in order to guarantee data protection. She publishes the authorization.

5 The commission may grant general authorizations or provide other simplifications if the legitimate interests of the interested parties are not compromised and if the personal data are made anonymous from the start of the research.

6 The commission acts without instructions.

7 The Federal Council appoints the president and the members of the commission. It regulates the organization and procedure.

**Art. 321ter 290**

Violation of  
secret of posts  
and  
telecommunications

1 Anyone who, in his capacity as an official, employee or auxiliary of an organization providing postal or telecommunications services, transmits to a third party information on postal relations, payment traffic or telecommunications of customers, opened a closed mailing or sought to become aware of its contents or even provided a third party with the opportunity to engage in such an act will be punished by a custodial sentence of not more than three years or a monetary penalty.

2 Likewise, anyone who determines by deception a person bound by secrecy under para. 1 to violate this secret will be punished with

289 Introduced by ch. 4 of the annex to the LF of June 19, 1992 on data protection, in force since July 1, 1993 (RO **1993** 1945; FF **1988** II 421).

290 Introduced by ch. 2 of the annex to the law of April 30, 1997 on telecommunications, in force since Jan. 1, 1998 (RO **1997** 2187; FF **1996** III 1361).



custodial sentence of up to three years or a monetary penalty  
re.

3 Violation of postal secrecy or telecommunications secrecy remains punishable after the employment or office has ended.

4 Violation of postal secrecy or telecommunications secrecy is not punishable insofar as it is required to determine the rightful person or to prevent the occurrence of damage.

5 Art. 179octies as well as the provisions of federal and cantonal legislation establishing an obligation to inform an authority or to testify in court are reserved.

#### Art. 322291

Violation of  
the obligation of  
the media to  
to inform

1 Media companies are required to provide immediately and in writing to any person who requests it the address of the company's headquarters and the identity of the person responsible for the publication (Art. 28, paras. 2 and 3 ).<sup>292</sup>

2 Newspapers and periodicals must also mention in each edition the address of the headquarters of the media company, significant shareholdings in other companies as well as the name of the responsible editor. When an editor is responsible for only part of the newspaper or periodical, he will be designated as editor responsible for that part. A responsible editor will be designated for each part of the newspaper or periodical.

3 In the event of violation of this article, the head of the company will be punished with a fine. The designation of an intermediary person as responsible for the publication (art. 28, al. 2 and 3) is also punishable.<sup>293</sup>

#### Art. 322bis 294

Default  
opposition to a  
publication  
constituting an  
offense

The responsible person within the meaning of art. 28, par. 2 and 3, of a publication constituting an offense<sup>295</sup> will be punished by a custodial sentence of not more than three years or by a monetary penalty<sup>296</sup> if, intentional

291 New content according to ch. I of the FL of October 10, 1997, in force since April 1, 1998 (RO **1998** 852; FF **1996** IV 533).

292 New content of the phrase according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

293 New content of the sentence according to ch. II 2 of the LF of December 13. 2002, in force since on Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

294 Introduced by ch. I of the FL of October 10, 1997, in force since April 1, 1998 (RO **1998** 852; FF **1996** IV 533).

295 New content of the phrase according to ch. II 2 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

296 New phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

Actually, she did not object to the publication. If she acted negligently, the penalty will be a fine.<sup>297</sup>

## Title 19298 Corruption

### Art. 322ter

1. Corruption of Swiss public officials.

Corruption active

Anyone who has offered, promised or granted an undue advantage to a member of a judicial or other authority, to an official, to an expert, a translator or interpreter appointed by an authority, to an arbitrator or to a soldier, in favor of one of them or a third party, for the execution or omission of an act in relation to his official activity and which is contrary to his duties or depends on his power of appreciation, will be punishable by a custodial sentence of not more than five years or a monetary penalty.

### Art. 322quater

Corruption passive

Any person who, as a member of a judicial or other authority, as a civil servant, as an expert, translator or interpreter appointed by an authority, or as an arbitrator, has requested, has been promised or has accepted an undue advantage, in his favor or that of a third party, for the execution or omission of an act in relation to his official activity and which is contrary to his duties or depends on his power of appreciation will be punishable by a custodial sentence of not more than five years or a monetary penalty.

### Art. 322quinquies

Granting an advantage

Anyone who has offered, promised or granted an undue advantage to a member of a judicial or other authority, to an official, to an expert, a translator or interpreter appointed by an authority, to an arbitrator or to a soldier for that he fulfills the duties of his office will be punished by a custodial sentence of up to three years or by a monetary penalty.

### Art. 322sexies

Acceptance of a benefit

One who, as a member of a judicial or other authority, as a civil servant, as an expert, translator or interpreter

<sup>297</sup> New content of the sentence according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>298</sup> Introduced by ch. I 1 of the LF of December 22 1999 (Revision of the criminal law of corruption), in force since May 1, 2000 (RO **2000** 1121; FF **1999** 5045).

committed by an authority, or as an arbitrator, will have requested, been promised or accepted an undue advantage to fulfill the duties of his office will be punished by a custodial sentence

of not more than three years or monetary penalty.

#### Art. 322septies

2. Corruption of  
foreign public  
officials<sup>299</sup>

Anyone who has offered, promised or granted an undue advantage to a person acting for a foreign state or an international organization as a member of a judicial or other authority, as a civil servant, as an expert, translator or interpreter appointed by an authority, or as an arbitrator or soldier, in favor of this person or a third party, for the execution or omission of an act in relation to his official activity and which is contrary to his duties or depends on his power of appreciation, one who, acting for a foreign State or an international organization as a member of a judicial or other authority, as a civil

servant, as a 'expert, translator or interpreter appointed by an authority, as an arbitrator or soldier, will have requested, been promised or accepted, in his favor or in favor of a third party, an undue advantage for the execution or omission of an act in relation to his official activity and which is contrary to his duties or depends on his power of appreciation,<sup>300</sup>

will be punished by a custodial sentence of up to five years or a monetary penalty.

#### Art. 322octies

3. Dispositions  
municipalities

1. ...<sup>301</sup>

2. The advantages authorized by the service regulations and those which, being of minor importance, are in conformity with social customs, do not constitute undue advantages.

3. Individuals who perform public tasks are treated as public officials.

<sup>299</sup> New content according to art. 2 rooms. 2 of the AF of October 7, 2005 approving and implementing the conv. criminal law of the Council of Europe on corruption and prot. add. to the said conv., in force since July 1, 2006 (RO **2006** 2371; FF **2004** 6549).

<sup>300</sup> Para. 2 introduced by art. 2 rooms. 2 of the AF of October 7, 2005 approving and implementing work of the conv. criminal law of the Council of Europe on corruption and prot. add. to the said conv., in force since July 1, 2006 (RO **2006** 2371; FF **2004** 6549).

<sup>301</sup> Repealed by ch. II 2 of the LF of December 13, 2002, with effect from Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

## Title 20302

### Contraventions of provisions of federal law

#### Art. 323303

Non-compliance  
by the debtor of  
the rules of the  
debt  
enforcement or  
bankruptcy  
procedure

Will be punished with a fine: 304

1. The debtor who, notified in accordance with the law, has not attended in person a seizure or inventory taking and has not been represented there (art. 91, al. 1, ch. 1, 163, paragraph 2, 345, paragraph 1,305 LP306); 2. The debtor who, during a

seizure or the execution of a sequestration, has not indicated up to due date all the goods which belong to him, even those which are not in his possession, as well as its claims and other rights against third parties (art. 91, al. 1, ch. 2 and art. 275 LP); 3. The debtor who, when taking an inventory, does not completely indicate all the property belonging to

him, even those which are not in his possession, as well as his debts and other rights against third parties (art. 163, al. 2, 345, al. 1,307 LP); 4. The bankrupt who has not indicated all his assets to the bankruptcy office, or has not made them available to him (art. 222, al. 1, LP); 5. The bankrupt who, during the

duration of the liquidation, will not remain at the disposal of the bankruptcy administration, unless he has been expressly exempted (art. 229, al. 1, LP).

#### Art. 324308

Non-compliance  
by a third party of  
the rules of  
the debt  
enforcement or  
bankruptcy  
procedure or of the  
composition  
procedure

The following will be punished

with a fine: 1. Any adult person who has not indicated to the bankruptcy office all the property of a deceased or fugitive bankrupt with whom they were living together, or who has not placed them in the provision of the office (art. 222, al. 2, LP309); 2. The debtor of a bankrupt who has not

announced himself within the legal period (art. 232, al. 2, ch. 3, LP); 3. Any person who, either as a pledgee or in any

other capacity, holds property belonging to a bankrupt and who has not put them in the

302 Formerly title 19.

303 New content according to ch. 8 of the annex to the FL of December 16. 1994, in force since 1st Jan. 1997 (RO **1995** 1227; FF **1991** III1).

304 New content according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan 1st 2007 (RO **2006** 3459; FF **1999** 1787).

305 Currently "art. 341 para. 1".

306 RS **281.1**

307 Currently "art. 341 para. 1".

308 New content according to ch. 8 of the annex to the FL of December 16. 1994, in force since 1st Jan. 1997 (RO **1995** 1227; FF **1991** III1).

309 RS **281.1**

disposal of the bankruptcy office within the legal period (art. 232, al. 2, ch. 4, LP); 4. Anyone who, as a

pledgee, holds property belonging to a bankrupt and who has not handed them over to the liquidators at the expiration of the legal period (art. 324, al. 2, LP); 5. The third party who contravenes his obligation to inform and return

the objects in accordance with arts. 57a, al. 1, 91, al. 4, 163, al. 2, 222, al. 4, and 345, al. 1, 310 of the LP.

#### Art. 325

Non-compliance  
legal requirements  
on accounting

Anyone who, intentionally or through negligence, contravenes the legal obligation to keep regular accounts, whoever, intentionally or through negligence,

contravenes the legal obligation to keep his business books, letters and telegrams, will be punished of a fine.

#### Art. 325bis 311

Non-compliance  
legal requirements  
on the protection  
of tenants of  
residential  
and commercial  
premises

Anyone who, by threatening the tenant with disadvantages such as termination of the lease, prevents or attempts to prevent him from contesting the amount of the rent or other claims of the lessor, anyone who denounces the lease because that

the tenant safeguards or proposes to safeguard the rights conferred on him by the Code of Obligations<sup>312</sup>, anyone who, unlawfully, has applied or attempted to apply a rent or has asserted

or attempted to assert other claims following the failure of the conciliation attempt or following a judicial decision, will, upon complaint from the tenant, be punished with a fine.

#### Art. 326313

People  
legal entities,  
commercial companies and  
sole  
proprietorships  
1. ...

310 Currently "art. 341 para. 1".

311 Introduced by ch. II art. 4 of the LF of December 15. 1989 amending the CO (rental lease and farm lease), in force since July 1, 1990 (RO 1990 802; FF 1985 I 1369 in fine, disp. fin. tit. VIII and VIIIbis).

312 RS 220

313 Repealed by ch. II 3 of the LF of December 13 2002, with effect from Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

**Art. 326bis 314**

2. In the case  
of art. 325bis

1 If one of the offenses provided for in art. 325bis is committed in the management of a legal entity, a general partnership, a limited partnership or a sole proprietorship, or in any other way in the exercise of an activity for a third party, the criminal provisions are applicable to natural persons who committed the offense.

2 The head of the company or the employer, the principal or the principal who is aware of the offense or who became aware of it after the fact and who, although he had the opportunity to do so, fails to prevent it or removing its effects, incurs the same penalty as the author.

3 When the business manager or employer, the principal or the representative is a legal entity, a general partnership, a limited partnership, an individual enterprise or a collective without legal personality, the al . 2 applies to the bodies and their members, managing partners, effective managers or liquidators at fault.

**Art. 326ter 315**

Contravention  
to the provisions  
concerning  
trade  
names and  
names

Anyone who, to designate a branch or a subject registered in the commercial register, uses a name not in accordance with this registration and likely to mislead, anyone who, to designate a branch or a subject not

registered in the commercial register , uses a misleading name, anyone who creates the illusion that a foreign subject not registered in the commercial register

has its headquarters or a branch in Switzerland, is punished with a fine<sup>316</sup>.

**Art. 326quater 317**

False information  
from an institution

foresight in  
favor of  
personnel

Anyone who, in his capacity as an organ of an employee welfare institution, is legally required to inform the beneficiaries and the supervisory authorities and does not do so or gives information contrary to the truth will be punished with a fine.

314 Introduced by ch. II art. 4 of the LF of December 15. 1989 amending the CO (rental lease and farm lease), in force since July 1 , 1990 (RO **1990** 802; FF **1985** I 1369 in fine, disp. fin. tit. VIII and VIIIbis).

315 Introduced by ch. I of the FL of June 17, 1994 (RO **1994** 2290; FF **1991** II 933).  
New content according to ch. 5 of the annex to the FL of December 16. 2005 (Limited liability company law; adaptation of the rights of the limited liability company, the cooperative company, the commercial register and trade names), in force since Jan. 1, 2008 (RO 2007 4791 ; FF **2002** 2949 , **2004** 3745).

316 Rectified by the Editorial Commission of the Ass. fed. (art. 58 al. 2 LParl; RS **171.10**).

317 Introduced by ch. I of the FL of June 17, 1994, in force since Jan. 1 , 1995 (RO **1994** 2290; FF **1991** II 933).

**Art. 327318****Art. 328**

Counterfeiting of  
postal securities  
without intent to  
forge

1. Anyone who, with the intention of putting them into circulation as facsimiles, counterfeits Swiss or foreign postal securities without marking each item with a sign designating it as a facsimile, anyone who imports or puts it up for sale or in circulation of such facsimiles, will be punished with a fine.

2.319 Counterfeits will be confiscated.

**Art. 329**

Violation of  
military  
secrets

1. Anyone who, in an unlawful manner, has entered an establishment or any other place to which access is prohibited by the military authority, or has taken measurements of military establishments or objects of interest to the national defense, or has reproduced or published such statements, will be punished with a fine.

2. Attempt and complicity are punishable.

**Art. 330**

Trafficking in  
material  
sequestered or  
requisitioned by the army

Anyone who, in an illicit manner, has sold or acquired, given or received as pledge, consumed, caused to disappear, destroyed or put out of use objects sequestered or requisitioned by the army administration in the interest of national defense will be punished with a fine.<sup>320</sup>

**Art. 331**

Undue  
wearing of  
military uniform

Anyone who unlawfully wears the uniform of the Swiss army will be punished with a fine.<sup>321</sup>

**Art. 332322**

Lack of notice  
in case  
of finding

Anyone who has not given the notice prescribed in arts. 720, par. 2, 720a, and 725, al. 1, of the Swiss Civil Code 323, will be punished with a fine.

<sup>318</sup> Repealed by ch. 3 of the annex to the FL of December 22. 1999 on the monetary unit and means of payment, with effect from May 1, 2000 (RO **2000** 1144; FF **1999** 6536).

<sup>319</sup> New content according to ch. I of the LF of Oct. 5, 1950, in force since Jan. 5, 1951 (RO **1951** 1; FF **1949** I 1233).

<sup>320</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>321</sup> New content of the phrase according to ch. II 1 al. 16 of the LF of December 13. 2002, in force since Jan. 1, 2007 (RO **2006** 3459; FF **1999** 1787).

<sup>322</sup> New content according to ch. III of the Federal Act of October 4, 2002 (Animals), in force since 1er avril 2003 (RO **2003** 463; FF **2002** 3885 5418).

<sup>323</sup> RS **210**

**Book 3324****Entry into force and application of the penal code****Title 1****Relationship between the penal code and federal and cantonal laws****Art. 333**

Application of the general part of the penal code to other federal laws

1 The general provisions of this code are applicable to offenses provided for by other federal laws, unless these contain provisions on the subject.

2 In other federal laws:

has. imprisonment is replaced by a custodial sentence of more than one year;

b. imprisonment is replaced by a custodial sentence of up to three years or by a monetary penalty;

vs. imprisonment of less than six months is replaced by the monetary penalty, one month of imprisonment worth 30 days fine of maximum 3000 francs.

3 The offense punishable by a fine or arrest, or by a fine exclusively, is a contravention. The arts. 106 and 107 are applicable. Is reserved art. 8 of the federal law of March 22, 1974 on administrative criminal law<sup>325</sup>. The offense punishable, under another federal law which came into force before 1942, by a prison sentence not exceeding three months is also a contravention.

4 The duration of sentences which deviate from para. 2, the amounts of fines which deviate from art. 106, as well as art. 41.

5 If another federal law provides for the fine for a crime or misdemeanor, art. 34 is applicable. The rules on setting the fine which deviate from this article are not applicable. Is reserved art. 8 of the federal law of March 22, 1974 on administrative criminal law. If the fine is limited to an amount less than 1,080,000 francs, this limitation is removed; beyond that, it is maintained. In such a case, the maximum number of day fines is equivalent to the maximum amount of the fine incurred up to then divided by 3000.

6 Until the adaptation of other federal laws:

has. the limitation periods for criminal proceedings are increased by half the ordinary duration for crimes and misdemeanors and by double the ordinary duration for contraventions;

324 New content according to ch. III of the LF of December 13 2002, in force since Jan. 1, 2007 (RO 2006 3459; FF 1999 1787).

325 RS 313.0



- b. the limitation periods for criminal action for contraventions, which exceed one year, are increased by one time the ordinary duration; the rules on interruption and suspension of
- c. the limitation period for criminal proceedings are repealed; is reserved art. 11, par. 3, of the federal law of March 22, 1974 on administrative criminal law; d. the limitation period for criminal action no longer runs if, before its expiry, a first instance judgment has been rendered; the limitation periods for sentences are maintained for crimes and misdemeanors and increased by half for
- ii. contraven-tions; the rules on the suspension of the prescription of the sentence are maintained and the rules on interruption are repealed.
- f.

7 Contraventions provided for by other federal laws are punishable even when they were committed through negligence, unless it appears from the applicable provision that the contravention is punishable only if it was committed intentionally.

#### Art. 334

Reference to amended provisions or repealed

When a prescription of federal law refers to a provision modified or repealed by this code, the reference applies to the provision of this code which regulates the matter.

#### Art. 335

Cantonal laws

1 The cantons retain the power to legislate on police fines which are not the subject of federal legislation.

2 They can issue sanctions for violations of cantonal administrative law and procedural law.

**Title 2326** ...

#### Art. 336 to 338

<sup>326</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO 2010 1881; FF 2006 1057).

**Title 3327 ...****Art. 339 to 348****Title 4 Mutual assistance in police matters<sup>328</sup>****Art. 349<sup>329</sup>**

1. ...

**Art. 350**

2. Collaboration  
with  
INTERPOL.  
has.  
Competence<sup>330</sup> \_

1 The Federal Police Office assumes the tasks of a national central office within the meaning of the statutes of the International Criminal Police Organization (INTERPOL).

2 It is its responsibility to carry out exchanges of information between the federal and cantonal criminal prosecution authorities on the one hand and the national central offices of other States and the INTERPOL General Secretariat on the other hand.

**Art. 351**b. Tasks<sup>331</sup>

1 The Federal Police Office transmits criminal police information for the purposes of prosecuting offenses or ensuring the execution of sentences and measures.

2 He may transmit information relating to the criminal police for the purposes of preventing offenses if, in view of concrete elements, it is very probable that a crime or misdemeanor will be committed.

3 It can transmit information intended to search for missing people or identify unknown persons.

4 In order to prevent or elucidate crimes, the Federal Police Office may receive information from private individuals or give information to private individuals, if this is in the interest of the person concerned and if the latter has consented or the circumstances allow such consent to be presumed.

<sup>327</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>328</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>329</sup> Repealed by ch. 5 of Annex 1 to the Federal Act of June 13, 2008 on the police information systems of the Confederation, with effect from December 5, 2008 (RO **2008** 4989; FF **2006** 4819).

<sup>330</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>331</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

**Art. 352**

vs. Protection of  
data<sup>332</sup>

1 Exchanges of information relating to the criminal police are carried out in accordance with the principles of the law of March 20, 1981 on international mutual criminal assistance<sup>333</sup> and in accordance with the statutes and regulations of INTERPOL that the Federal Council has declared applicable.

2 The federal law of June 19, 1992 on data protection<sup>334</sup> governs the exchange of information carried out with a view to searching for missing persons and identifying unknown persons as well as those which are carried out for administrative purposes.

3 The Federal Police Office may transmit information directly to the national central offices of other countries if the receiving state is subject to INTERPOL data protection regulations.

**Art. 353**

d. Financial  
aid and  
compensation<sup>335</sup>

The Confederation may grant INTERPOL financial aid and compensation.

**Art. 354**

3. Collaboration for  
identification  
purposes  
of people<sup>336</sup>

1 The competent department records and lists the identification data collected and transmitted by cantonal, federal or foreign authorities in the context of criminal proceedings or in the performance of other legal tasks. In order to identify a wanted or unknown person, it compares this data with each other.

2 The following authorities may compare and process data pursuant to para. 1:

has. computer center of the Federal Department of Justice and Police; b.  
Federal Police Office; vs. border  
crossings; d. cantonal  
police authorities.

<sup>332</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>333</sup> RS **351.1**

<sup>334</sup> RS **235.1**

<sup>335</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>336</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

3 Personal data relating to the identification data referred to in para. 1 are processed in separate information systems, namely the systems governed by the Federal Act of June 13, 2008 on police information systems of the Confederation<sup>337</sup>, the Federal Act of June 26, 1998 on asylum<sup>338</sup> and the federal law of December 16, 2005 on foreigners<sup>339</sup>. The information system based on DNA profiles is governed by the federal law of June 20, 2003 on DNA profiles<sup>340,341</sup>

4 The Federal Council:

has. regulates the modalities, in particular the responsibility for data processing, the categories of data entered, the retention period of this data and the collaboration with the cantons; b. designates the authorities which may enter and consult

personal data online and the authorities to which data may be communicated on a case-by-case basis; vs. regulates the procedural rights of the persons concerned, in particular the consultation of their data as well

as their rectification, archiving and destruction.

**Art. 355342**

4. ...

**Art. 355a343**

5. Collaboration  
with Europol a.  
Data exchange<sup>344</sup>

1 The Federal Police Office (fedpol) and the Federal Intelligence Service (SRC) may transmit personal data to the European Police Office (Europol), including sensitive data and profiles of the personality.<sup>345</sup>

337 RS **361**

338 RS **142.31**

339 RS **142.20**

340 RS **363**

341 New content according to ch. 5 of appendix 1 to the Federal Act of June 13, 2008 on systems of police information of the Confederation, in force since December 5. 2008 (RO **2008** 4989; FF **2006** 4819).

<sup>342</sup> Repealed by ch. 5 of Annex 1 to the Federal Act of June 13, 2008 on the police information systems of the Confederation, with effect from December 5. 2008 (RO **2008** 4989; FF **2006** 4819).

343 Introduced by art. 2 of the AF of October 7, 2005 approving and implementing Ac. between the Swiss Confederation and the European Police Office, in force since April 1, 2006 (RO **2006** 1017; FF **2005** 895).

344 New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

345 New content according to ch. I 3 of the O of December 4 2009 concerning the adaptation of disp. legal following the creation of the Intelligence Service of the Confederation, in force since Jan. 1, 2010 (RO **2009** 6921).

2 The transmission of this data is subject in particular to the conditions provided for in arts. 3 and 10 to 13 of the Agreement of September 24, 2004 between the Swiss Confederation and the European Police Office<sup>346</sup>.

3 When transmitting data to Europol, the Federal Police Office notifies it of their purpose as well as any processing restrictions to which it is itself subject by federal law or cantonal law.

**Art. 355b<sup>347</sup>**

b. Extension du  
mandate 348

The Federal Council is authorized to agree with Europol on a modification of the scope of the mandate, within the framework of art. 3, para. 3, of the Agreement of September 24, 2004 between the Swiss Confederation and the European Police Office<sup>349</sup>.

**Art. 355c<sup>350</sup>**

5bis. Cooperation  
within the  
framework  
of  
association agreements  
Schengen.  
Applicable right.

The federal and cantonal police bodies apply the provisions of the Schengen association agreements<sup>351</sup> in accordance with national legislation.

**Art. 355d<sup>352</sup>**

5ter ...

**346 RS 0.362.2**

**347** Introduced by art. 2 of the AF of October 7, 2005 approving and implementing Ac. between Switzerland and the European Police Office, in force since April 1, 2006 (RO **2006** 1017; FF **2005** 895).

**348** New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

**349 RS 0.362.2**

**350** Introduced by art. 3 rooms. 4 of the AF of December 17 2004 approving and implementing Ac. bilateral association agreements with the Schengen Area and the Dublin Area, in force since June 1, 2008 (RO **2008** 447; FF **2004** 5593).

**351** Ac. of October 26, 2004 between Switzerland, the EU and the EC on the association of Switzerland with the implementation, application and development of the Schengen acquis (RS **0.362.31**) ; Ac. of April 28, 2005 between Switzerland and Denmark relating to the creation of rights and obligations between these States in the field of Schengen cooperation (RS **0.362.33**); Ac. from Dec. 17 2004 between Switzerland, Iceland and Norway on the implementation, application and development of the Schengen acquis and on the criteria and mechanisms for determining the State responsible for examining a asylum application lodged in Switzerland, Iceland or Norway (RS **0.362.32**); Prot. from Feb. 28 2008 between Switzerland, the EU, the EC and Liechtenstein on Liechtenstein's accession to the Ac. between Switzerland, the EU and the EC on the association of Switzerland with the implementation, application and development of the Schengen acquis (RS **0.362.311**).

**352** Introduced by art. 3 rooms. 4 of the AF of December 17 2004 approving and implementing Ac. bilateral association agreements with the Schengen Area and the Dublin Area (RO **2008** 447; FF **2004** 5593). Repealed by ch. II of Annex 2 to the Federal Act of June 13, 2008 on the police information systems of the Confederation, with effect from December 5. 2008 (RO **2008** 4989; FF **2006** 4819).

**Art. 355e353**

5quarter. Bureau  
SIRENE

1 The Federal Police Office manages a centralized service (office SIRENE354) responsible for the N-SIS.

2 The SIRENE office is the contact, coordination and consultation authority for the exchange of information in relation to reports appearing in the SIS. It controls the formal admissibility of national and foreign alerts in the SIS.

**Art. 355f 355**

5quinquies.  
Judicial  
cooperation under  
the Schengen

1 Personal data transmitted or made available by a State bound by one of the Schengen356 association agreements (Schengen State) cannot be communicated to the competent authority of a third State or to an international organization unless under the following conditions:

Association  
Agreements:  
communication of  
data  
personal a. To  
a third state  
or to an  
international organization

has. the communication is necessary to prevent, establish or prosecute an offense or to execute a criminal decision;

b. the recipient is competent to prevent, record or prosecute an offense or to execute a criminal decision;

vs. the Schengen State which transmitted or made available the personal data has given its prior consent; d. the third State or

the international organization ensures a level of adequate data protection.

353 Introduced by art. 3 rooms. 4 of the AF of December 17 2004 approving and implementing Ac. bilateral association agreements with the Schengen Area and the Dublin Area, in force since June 1 , 2008 (RO **2008** 447; FF **2004** 5593).  
354 Supplementary Information Request at the National Entry.

355 Introduced by ch. 4 of the Act of March 19, 2010 implementing framework decision 2008/977/ JHA relating to the protection of personal data processed in the context of police and judicial cooperation in criminal matters, in force since March 1 dec. 2010 (RO **2010** 3387 3418; FF **2009** 6091).

356 The Ac. of association to Schengen include the Ac. following: a. Ac. of October 26, 2004 between Switzerland, the EU and the EC on the association of Switzerland with the implementation, application and development of the Schengen acquis (RS 0.362.31) ; b. Ac. of Oct. 26, 2004 in the form of an exchange of letters between the Council of the EU and Switzerland concerning the Committees which assist the European Commission in the exercise of its executive powers (RS 0.362.1) ; vs. Ac. from Dec. 17 2004 between Switzerland, Iceland and Norway on the implementation, application and development of the Schengen acquis and on the criteria and mechanisms for determining the State responsible for examining a asylum application lodged in Switzerland, Iceland or Norway (RS

**0.362.32**); d. Ac. of April 28, 2005 between Switzerland and Denmark on the implementation, application and development of the parts of the Schengen acquis based on the provisions. of Title IV of the Treaty establishing the

EC (RS **0.362.33**); e. Prot. from Feb. 28 2008 between the EU, the EC, Switzerland and Liechtenstein relating to the accession of Liechtenstein to the Ac. between Switzerland, the EU and the EC on the association of Switzerland with the implementation, application and development of the Schengen acquis (RS **0.362.33**).

2 In derogation from para. 1, let. c, personal data may be communicated if, in the specific case, the following conditions are met:

has. prior approval from the Schengen State cannot be obtained in good time;

b. communication is essential to prevent an immediate and serious danger for the public security of a Schengen State or a third State or to protect the essential interests of a Schengen State.

3 The competent authority shall immediately inform the Schengen State which transmitted or made available the personal data of the communications made pursuant to para. 2.

4 In derogation from para. 1, let. d, personal data may be communicated in the following cases:

a. the communication is necessary to safeguard the overriding interests worthy of protection of the data subject or a third party;

b. an overriding public interest requires it; vs.

sufficient guarantees ensure a level of protection adequate data.

**Art. 355g<sup>357</sup>**

b. To a natural or legal person

1 Personal data transmitted or made available by a Schengen State may only be communicated, in the specific case, to a natural or legal person located in a Schengen State under the following conditions:

a. special legislation or an international treaty provides for it; b. the

Schengen State which transmitted or made available the personal data has given its prior consent; vs. no overriding interest

worthy of protection of the data subject opposes the communication;

d. communication is essential: 1. for the

accomplishment of a legal task of the natural or legal person, 2. for the prevention, detection

or prosecution of an offense or the execution of a criminal decision ,

357 Introduced by ch. 4 of the Act of March 19, 2010 implementing framework decision 2008/977/JHA relating to the protection of personal data processed in the context of police and judicial cooperation in criminal matters, in force since March 1 dec. 2010 (RO **2010** 3387 3418; FF **2009** 6091).

3. to the prevention of an immediate and serious danger to the public security,
4. the prevention of a serious infringement of the rights of a third party this person.

2 The competent authority communicates the data to the natural or legal person with the express prohibition of using them for purposes other than those set by the authority.

**Art. 356 to 361358**

**Art. 362**

6. Notice regarding  
nant porno-  
graphy<sup>359</sup>

When an investigating authority finds that pornographic objects (art. 197, ch. 3) have been manufactured in the territory of a foreign State or that they have been imported, it immediately informs the ser -central vice established by the Confederation for the repression of pornography.

## Title 5

### Notice regarding offenses committed against minors

**Art. 363360**

**Art. 364361**

Right to notify

When it is in the interests of minors, persons bound by professional secrecy or official secrecy (art. 320 and 321) may notify the child protection authority of offenses committed against those -this.

<sup>358</sup> Repealed by ch. II 8 of Annex 1 to the CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>359</sup> New content according to ch. II 8 of annex 1 to the CPC of October 5, 2007, in force since on Jan. 1, 2011 (RO **2010** 1881; FF **2006** 1057).

<sup>360</sup> Repealed by ch. II 8 of Annex 1 CPC of Oct. 5, 2007, with effect from Jan. 1, 2011 (RO **2010** 1881; BBl **2006** 1057). Rectified by the Editorial Commission of the Ass. fed. Feb. 20 2013 (RO **2013** 845).

<sup>361</sup> New content according to ch. 14 of the annex to the Federal Act of December 19. 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).



## Title 6 Criminal record

### Art. 365

But

1 The Federal Office of Justice manages, in collaboration with other federal authorities and the cantons (art. 367, al. 1), a computerized criminal record containing sensitive data and personality profiles relating to convictions as well as sensitive data and personality profiles relating to requests for criminal records filed as part of ongoing criminal investigations.

These two types of data are processed separately in the computerized criminal record.

2 The locker serves the federal and cantonal authorities in carrying out the following tasks:<sup>362</sup>

has. conduct of criminal proceedings; b.

international procedures for mutual legal assistance and extradition;

vs. execution of sentences and measures; d.

civil and military security checks; e. taking and

lifting expulsion measures against foreigners under the federal law of March 26, 1931 on the residence and establishment of foreigners<sup>363</sup> and other administrative or judicial expulsion measures;

f. assessment of the indignity of the asylum seeker due to reprehensible acts, within the meaning of the law of June 26, 1998 on asylum<sup>364</sup>;

g. naturalization procedure; h.

delivery and withdrawal of the driving license and the student driver's license according to the federal law of December 19, 1958 on road traffic<sup>365</sup>;

i. implementation of consular

protection; j. statistical work within the meaning of

the federal law of October 9

1992 on federal statistics<sup>366</sup>;

<sup>362</sup> New content according to ch. 14 of the annex to the Federal Act of December 19, 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).

<sup>363</sup> [RS 1 113; RO **1949** 225, **1987** 1665, **1988** 332, **1990** 1587 art. 3 para. 2, **1991** 362 hp. II 11 1034 ch. III, **1995** 146, **1999** 1111 2253 2262 annex ch. 1, **2000** 1891 ch. IV 2, **2002** 685 hp. I 1,701 hp. I 1 3988 annex ch. 3, **2003** 4557 annex ch. II 2, **2004** 1633 ch. I 1 4655 hp. I 1, **2005** 5685 annex ch. 2, **2006** 979 art. 2 rooms. 1 1931 art. 18 ch. 1 2197 annex ch. 3 3459 annex ch. 1 4745 annex ch. 1, **2007** 359 annex ch. 1. RO **2007** 5437 annex ch. I]. See currently the LF of December 16, 2005 on foreigners (RS **142.20**).

<sup>364</sup> RS **142.31**

<sup>365</sup> RS **741.01**

- k.367 taking and lifting measures relating to child protection or the adult.
- l.368 exclusion from civil service under the federal law of October 6, 1995 on civil service<sup>369</sup>;
- m.370 assessment of suitability for certain assignments under the federal law of October 6, 1995 on civil service;
- n.371 decision of non-recruitment or admission to recruitment, decision of exclusion from the army or reintegration into the army and decision of degradation within the meaning of the federal law of February 3, 1995 on the army and the military administration (LAAM)<sup>372</sup>; o.373 determination of suitability for promotion or appointment in the army within the meaning of the LAAM; p.374 examination of the reasons preventing the surrender of the personal weapon within the meaning of the LAAM;
- q.375 decision of exclusion from the civil protection service within the meaning of the federal law of October 4, 2002 on the protection of the population and on civil protection<sup>376</sup>.

**Art. 366**

## Content

1 Persons convicted on the territory of the Confederation as well as Swiss citizens convicted abroad are mentioned in the criminal record.

2 The following are entered in the criminal record:

has. judgments for crime or misdemeanor, provided that a sentence or measure has been pronounced;

366 RS **431.01**

367 New content according to ch. 14 of the annex to the Federal Act of December 19, 2008 (Protection of adults, personal law and filiation law), in force since Jan. 1, 2013 (RO **2011** 725; FF **2006** 6635).

368 Introduced by ch. II 1 of the FL of October 3, 2008, in force since April 1, 2009 (RO **2009** 1093; FF **2008** 2379).

369 RS **824.0**

370 Introduced by ch. II 1 of the FL of October 3, 2008, in force since April 1, 2009 (RO **2009** 1093; FF **2008** 2379).

371 Introduced by ch. 1 of the annex to the LF of October 3, 2008 on army information systems, in force since January 1, 2010 (RO **2009** 6617; FF **2008** 2841).

372 RS **510.10**

373 Introduced by ch. 1 of the annex to the LF of Oct. 3, 2008 on army information systems, in force since Jan. 1, 2010 (RO **2009** 6617; FF **2008** 2841).

374 Introduced by ch. 1 of the annex to the LF of Oct. 3, 2008 on army information systems, in force since Jan. 1, 2010 (RO **2009** 6617; FF **2008** 2841).

375 Introduced by ch. 1 of the annex to the LF of October 3, 2008 on army information systems, in force since January 1, 2010 (RO **2009** 6617; FF **2008** 2841).

376 RS **520.1**

b. judgments pronounced for contraventions of this code or another federal law designated in an order of the Federal Council; communications from abroad which concern judgments

c. pronounced abroad and give rise to registration under this code;

d. the facts which lead to a modification of the registrations  
tees in the locker.

3 Judgments concerning minors are only recorded if they have been punished in relation to a crime or misdemeanor:

has. by deprivation of liberty (art. 25 DPMIn377); b. by a placement  
(art. 15 DPMIn); vs. by outpatient treatment (art.

14 DPMIn).378

4 Persons against whom criminal proceedings for a crime or offense are pending in Switzerland are also mentioned in the criminal record.379

#### Art. 367

Data processing  
and consultation

1 Personal data relating to the judgments referred to in art. 366, par. 1 to 3 are processed by the following authorities:380

has. the Federal Office of Justice; b.

criminal prosecution authorities;

c. military justice authorities; d. sentence

enforcement authorities;

iii cantonal coordination services.

2 Personal data relating to the judgments referred to in art. 366, par. 1, 2 and 3, let. a and b, can be consulted online by the following authorities: 381

a. the authorities listed in para. 1;

b. the Federal Public Prosecutor's Office; vs. the Federal  
Police Office, in the context of judicial police investigations;

#### 377 RS 311.1

378 Introduced by art. 44 hp. 1 of the juvenile criminal law of June 20, 2003, (RO **2006** 3545; FF **1999** 1787). New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

379 Formerly para. 3.

380 New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

381 New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

d. the Army Personnel Group; e.382 the Federal

Office for Migration;

f.383 ...

g. the cantonal immigration police authorities; h. the cantonal

authorities responsible for road traffic;

i. the federal authorities who carry out the security checks relating to persons referred to in art. 2, par. 4, let. c, of the federal law of March 21, 1997 establishing measures aimed at maintaining internal security<sup>384</sup>;

j.385 the executive body of the civil service; k.386 the

cantonal services responsible for exclusion from the civil protection service; l.387 the Witness Protection

Service, under the Federal Law of December 23, 2011 on the extra-procedural protection of witnesses<sup>388</sup>, for the execution of its tasks.

2bis Personal data relating to the judgments referred to in art. 366, par. 3, let. c, can also be consulted online by the following authorities:

has. the Army Conduct Staff, for decisions of non-recruitment or admission to recruitment, decisions of exclusion from the army or reintegration into the army and decisions of degradation within the meaning of the LAAM<sup>389</sup>, for the examination of the reasons preventing the handing over of the personal weapon within the meaning of the LAAM and for determining the suitability for promotion or appointment in the army within the meaning of the LAAM;

b. the federal authorities who carry out the security checks relating to persons referred to in art. 2, par. 4, let. c, of the law

<sup>382</sup> New content according to ch. I 3 of the O of November 3, 2004 relating to the adaptation of available legal following the meeting of the federal offices IMES and ODR, in force since Jan. 1, 2005 (RO **2004** 4655).

<sup>383</sup> Repealed by ch. I 3 of the O of November 3, 2004 relating to the adaptation of provision. legal following the meeting of the federal offices IMES and ODR, with effect from Jan. 1, 2005 (RO **2004** 4655).

<sup>384</sup> RS **120**

<sup>385</sup> Introduced by ch. II of the FL of March 21, 2003, in force since Jan. 1, 2004 (RO **2003** 4843; FF **2001** 5819).

<sup>386</sup> Introduced by ch. 1 of the annex to the LF of Oct. 3, 2008 on army information systems, in force since Jan. 1, 2010 (RO **2009** 6617; FF **2008** 2841).

<sup>387</sup> Introduced by ch. 3 of the annex to the FL of December 23, 2011 on protection extra-procedural procedure for witnesses, in force since Jan. 1, 2013 (RO **2012** 6715; FF **2011** 1).

<sup>388</sup> RS **312.2**

<sup>389</sup> RS **510.10**

of March 21, 1997 establishing measures aimed at maintaining internal security<sup>390</sup>; the criminal prosecution

c. authorities, for the conduct of criminal proceedings (art. 365, al. 2, let. a);

d. the coordination services of the cantons and the Federal Office of Justice, for the accomplishment of their legal tasks in the context of maintaining the register; the sentence enforcement authorities,

118. for the execution of sentences and measures (art. 365, al. 2, let. c).<sup>391</sup>

2ter The federal service responsible for criminal records immediately communicates to the army leadership staff, with a view to pursuing the goals set out in art. 365, par. 2, let. n to p: convictions for crime or misdemeanor;

a.

b. measures resulting in deprivation of liberty; decisions relating

c. to a failure of probation pronounced against conscripts or soldiers.<sup>392</sup>

2quater The service responsible for the criminal record communicates the identity of Swiss nationals over the age of 17 recorded in the criminal record according to para. 2ter. If the Army Conduct Staff determines that the person concerned is a conscript or a soldier, the responsible service transmits the data relating to the sentences handed down.<sup>393</sup>

2quinquies The communication and the report referred to in para. 2quater can be carried out through an interface between the SIPA and the criminal record.<sup>394</sup>

2sexies The Federal Sports Office may consult, upon written request, personal data relating to convictions in order to examine the reputation of a person before granting or withdrawing a "Youth and Sport" executive certificate.<sup>395</sup>

### 390 RS 120

391 Introduced by ch. 1 of the annex to the LF of October 3, 2008 on army information systems (RO **2009** 6617; FF **2008** 2841). New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

392 Introduced by ch. 1 of the annex to the LF of October 3, 2008 on army information systems (RO **2009** 6617; FF **2008** 2841). New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

393 Introduced by ch. 1 of the annex to the LF of October 3, 2008 on army information systems (RO **2009** 6617; FF **2008** 2841). New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

394 Introduced by ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2011 (RO **2010** 6015; FF **2009** 5331).

395 Introduced by arts. 34 hp. 1 and 36 of the Act of June 17, 2011 on the encouragement of sport and physical activity, in force since Oct. 1, 2012 (RO **2012** 3953; FF **2009** 7401).

3 The Federal Council may, if the number of requests for information justifies it, and after consultation with the Federal Data Protection and Transparency Officer<sup>396</sup>, extend the right of access referred to in para. 2 to other judicial and administrative authorities of the Confederation and the cantons until the entry into force of a federal law.

4 Personal data concerning requests for extracts from criminal records filed in the context of ongoing criminal investigations may only be processed by the authorities listed in para. 2, let. a to e and l.<sup>397</sup>

4bis The authority referred to in para. 2, let. j, may request in writing, with the consent of the person concerned, to consult the person's personal data relating to ongoing criminal investigations in order to carry out the task referred to in art. 365, par. 2, let. m.<sup>398</sup>

4ter The Federal Office of Sport may consult, upon written request, personal data relating to ongoing criminal investigations in order to examine the reputation of a person before awarding or suspending a "Youth and Sport" framework certificate. <sup>399</sup>

5 Each canton designates a coordination service for the processing of data recorded in the criminal record.

6 The Federal Council sets the terms, in particular with regard to: a. liability for data processing; b. the categories of data entered and their retention period; vs. collaboration with relevant authorities; d. the tasks of the coordination services; e. the right to information and other procedural rights aimed at protecting data subjects; data security; g. the authorities who can communicate personal data in writing, those who can enter data into the record, those who can consult the record and f. those to whom personal data can be communicated on a case-by-case basis;

h. electronic transmission of data to the Federal Statistical Office.

396 The designation of the administrative unit was adapted in application of art. 16 para. 3 of the O of November 17, 2004 on official publications (RS **170.512.1**).

397 New content according to ch. 3 of the annex to the FL of December 23, 2011 on the extra-procedural protection of witnesses, in force since Jan. 1, 2013 (RO **2012** 6715; FF **2011** 1).

398 Introduced by ch. II 1 of the FL of October 3, 2008, in force since April 1, 2009 (RO **2009** 1093; FF **2008** 2379).

399 Introduced by art. 34 hp. 1 of the Act of June 17, 2011 on the encouragement of sport and physical activity, in force since Oct. 1, 2012 (RO **2012** 3953; FF **2009** 7401).

**Art. 368**

Communication of  
facts giving rise to  
a  
inscription

The competent federal authority may communicate to the State of which the convicted person is a national the entries made in the criminal record.

**Art. 369**

Elimination of  
registration

1 Judgments which impose a custodial sentence are automatically eliminated when it has expired, at the end of the duration of the sentence fixed by the judgment:400

has. 20 years in the event of a custodial sentence of at least five years less;

b. fifteen years in the event of a custodial sentence of one year or more, but less than five years;

vs. ten years in the event of a custodial sentence of less than one year;

d.401 ten years in the event of deprivation of liberty according to art. 25 DPM in 402.

2 The deadlines set out in para. 1 are increased by one time the duration of a custodial sentence already recorded.

3 Judgments which impose a suspended custodial sentence, a suspended deprivation of liberty, a financial penalty, community service or a fine as the main penalty are automatically eliminated after ten years.403

4 Judgments which pronounce either an institutional measure accompanying a sentence, or exclusively an institutional measure are automatically eliminated:

has. after fifteen years in the event of a measure ordered under arts. 59 to 61 and 64;

b. after ten years in the event of placement in a closed establishment within the meaning of art. 15, par. 2, DPM in;

c.404 after seven years in the case of placement in an open institution or with individuals under art. 15, par. 1, DPM in. 405

400 New content according to art. 44 hp. 1 of the juvenile criminal law of June 20, 2003, in force since Jan. 1, 2007 (RO **2006** 3545; FF **1999** 1787).

401 Introduced by art. 44 hp. 1 of the juvenile criminal law of June 20, 2003, in force since on Jan. 1, 2007 (RO **2006** 3545; FF **1999** 1787).

402 RS **311.1**

403 New content according to ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

404 Introduced by ch. 2 of the annex to the FL of March 19, 2010, in force since Jan. 1, 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

405 New content according to ch. I of the LF of March 24, 2006 (Corrections regarding sanctions and criminal record), in force since Jan. 1, 2007 (RO **2006** 3539 3544; FF **2005** 4425).

4bis Judgments which exclusively pronounce outpatient treatment within the meaning of art. 63 are automatically eliminated after ten years. Judgments ordering outpatient treatment within the meaning of art. 14 DPM in are automatically eliminated after five years, if al. 1 to 4 do not apply to the calculation of the delay. 406

4ter Judgments which exclusively pronounce a measure within the meaning of arts. 66 to 67b or 48, 50 and 50a of the military penal code of June 13 , 1927407, in its version of March 21, 2003408 are automatically eliminated after ten years.409

5 The deadlines set out in para. 4 are increased by the duration of the balance of the sentence.

6 The deadline runs:

- has. from the day on which the judgment is enforceable, for judgments referred to in paras. 1, 3 and 4ter;
- b. from the day the measure is lifted or the person concerned is definitively released, for the judgments referred to in paras. 4 and 4bis.410

7 The registration must not be able to be reconstituted after its elimination. The eliminated judgment can no longer be used against the person concerned.

8 Entries made in the criminal record are not archived.

#### Art. 370

Right of  
consultation

1 Everyone has the right to consult the registration that concerns them in its entirety.

2 No copies can be issued.

#### Art. 371

Extracts from the locker  
judicial  
intended for  
individuals

1 Any person may request a written extract from their own criminal record from the Swiss central criminal records office. Judgments for crimes and misdemeanors are mentioned, as well as judgments for

406 Introduced by ch. I of the Federal Act of March 24, 2006 (Corrections regarding sanctions and criminal records (RO **2006** 3539; FF **2005** 4425). New content according to ch. 2 of the annex to the Federal Act of March 19, 2010, in force since Jan. 1 , 2013 (RO **2010** 6015, **2011** 487; FF **2009** 5331).

407 RS **321.0**

408 RO **2006** 3389

409 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1 , 2007 (RO **2006** 3539; FF **2005** 4425).

410 New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1 , 2007 (RO **2006** 3539; FF **2005** 4425).



contravention to the extent that a ban on practicing a profession (art. 67) has been imposed.<sup>411</sup>

2 Judgments concerning minors are mentioned in the extract from the criminal record only if the minor was convicted as an adult due to other offenses which must appear there.

3 The judgment pronouncing a sentence no longer appears on the extract from the criminal record when two thirds of the duration determining for the elimination of the registration under art. 369 have passed. 3bis A judgment pronouncing a suspended or partial suspended sentence no longer appears in the extract from the criminal record when the convicted person has successfully undergone probation.<sup>412</sup>

4 The judgment which pronounces either a measure accompanying a sentence or a measure exclusively no longer appears on the extract from the criminal record when half of the determining period for the elimination of the registration under art. 369 has expired.

5 After the expiry of the deadlines referred to in al. 3 and 4, the judgment remains mentioned on the extract from the criminal record if this extract contains another judgment for which this period has not yet expired.

## **Title 7**

### **Execution of sentences and measures, probation assistance, establishments**

#### **Art. 372**

1. Obligation to  
carry out  
sentences and  
measures

1 The cantons execute the judgments rendered by their criminal courts under this code. They are required, against reimbursement of costs, to execute judgments rendered by the criminal authorities of the Confederation.

2 Decisions rendered in criminal matters by the police authority or any other competent authority, as well as orders from the indictment authorities, are deemed to be judgments.

3 The cantons guarantee the uniform execution of sanctions.<sup>413</sup>

411 New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

412 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

413 Introduced by ch. II 2 of the Act of October 6, 2006 (reform of financial equalization), in force since January 1, 2008 (RO **2007** 5779; FF **2005** 5641).

**Art. 373**

2. Penalties  
monetary  
penalties, fines,  
fees and forfeitures.  
Execution

Once enforced, any decision rendered under federal or cantonal criminal legislation is enforceable throughout Switzerland with regard to financial penalties, fines, costs and confiscations.

**Art. 374**

Attribution of  
product

1 The proceeds of financial penalties, fines and confiscations pronounced under this code belong to the cantons.

2 In cases judged by the Court of Criminal Affairs, this product belongs to the Confederation.

3 The allowance granted to the injured party under art. 73 is reserved.

4 The provisions of the federal law of March 19, 2004 on the sharing of confiscated assets<sup>414</sup> are reserved.<sup>415</sup>

**Art. 375**

3. Work  
of general interest

1 The execution of work of general interest is the responsibility of the cantons.

2 The competent authority determines the nature and form of the work of general interest to be carried out.

3 When carrying out work of general interest, the maximum number of working hours set by law may be exceeded. The provisions on occupational safety and health protection apply.

**Art. 376**

4. Support  
probation

1 The cantons organize probation assistance. They can entrust this task to private associations.

2 Probation assistance is generally the responsibility of the canton in which the person in care has their domicile.

**Art. 377**

5.  
Establishments for execution  
of sentences and  
measures.  
Obligation of the  
cantons to  
create and  
operate them

1 The cantons create and operate the establishments and sections of establishments necessary for the execution of sentences in open and closed environments and for the reception of prisoners in semi-detention or working outside.

2 They may also provide separate sections for certain groups of prisoners, including:

414 RS 312.4

415 Introduced by ch. 1 of the annex to the Federal Law of March 19, 2004 on the sharing of values confiscated assets, in force since August 1, 2004 (RO 2004 3503; FF 2002 423).

- has. for women; b. for prisoners of specific age groups; vs. for prisoners undergoing very long or very short penalties;
- d. for prisoners who require special care or treatment or who receive training or improvement.

3 They also create and operate the establishments provided for by this code for the execution of measures.

4 They ensure that the regulations and operation of establishments for the execution of sentences and measures comply with this code.

5 They promote staff training and development.

#### **Art. 378**

Collaboration  
intercantonale

1 The cantons may conclude agreements on the joint creation and operation of establishments for the execution of sentences and measures or secure the right to use establishments of other cantons.

2 The cantons inform each other of the particularities of their establishments, in particular the possibilities of care, treatment and work that they offer; they collaborate on the distribution of prisoners.

#### **Art. 379**

Establishments  
private

1 The cantons may entrust to establishments managed by private operators the execution of sentences in the form of semi-detention or external work as well as that of the measures referred to in arts. 59 to 61 and 63.

2 These establishments are placed under the supervision of the cantons.

#### **Art. 380**

Costs

1 The costs of carrying out sentences and measures are the responsibility of the cantons.

2 The condemned person is obliged to contribute to the costs of the execution to an appropriate extent:

- has. by compensation of these with work services in the establishment for the execution of sentences and measures;
- b. in proportion to his income and his fortune, if he refuses to carry out the work assigned to him, although he meets the requirements of arts. 81 or 90, para. 3;

vs. by imputation of part of the gain he makes through an activity in the context of semi-detention, external work or external work and housing.

3 The cantons issue provisions to specify the terms of the condemned person's participation in the costs.

**Title 7a416**

## **Responsibility in the event of lifting of life internment**

### **Art. 380a**

1 When an authority decides to lift the life internment ordered against a person or to release on parole a person interned for life and that person again commits one of the crimes referred to in art. 64, par. 1bis, the public body to which the authority belongs is liable for the resulting damage.

2 The provisions of the Code of Obligations<sup>417</sup> on unlawful acts apply to recourse against the perpetrator of the crime as well as to the limitation period for action for damages or compensation for moral harm.

3 Recourse action against members of the authority is governed by cantonal law or by the law of March 14, 1958 on liability<sup>418</sup>.

## **Title 8 Pardon, amnesty, revision**

### **Art. 381**

1. Grace.  
Skill

For judgments rendered under this code or another federal law, the right of pardon will be exercised:

- has. by the Federal Assembly, in cases judged by the Court of Criminal Affairs or a federal administrative authority;
- b. by the competent authority of the canton, in cases judged by the cantonal authorities.

### **Art. 382**

Appeal for clemency

1 The appeal for clemency may be filed by the convicted person, by his legal representative and, with the consent of the convicted person, by his defender, by his spouse or by his registered partner.<sup>419</sup>

<sup>416</sup> Introduced by ch. I of the FL of December 21. 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

<sup>417</sup> RS **220**

<sup>418</sup> RS **170.32**

2 In matters of political crimes or offenses and offenses related to a political crime or offense, the Federal Council or the cantonal government may, in addition, automatically open a pardon procedure.

3 The authority which exercises the right of pardon may decide that a rejected appeal cannot be renewed before the expiration of a specific period.

#### **Art. 383**

Effect

1 By the effect of grace, all the sentences pronounced by a judgment passed into force can be remitted, totally or partially, or commuted to more lenient sentences.

2 The extent of grace is determined by the act which grants it.

#### **Art. 384**

2. Amnesty

1 The Federal Assembly may grant amnesty in criminal cases to which this code or another federal law applies.

2 Amnesty excludes the prosecution of certain offenses or certain categories of perpetrators and entails the remission of the corresponding sentences.

#### **Art. 385**

3. Review

The cantons are required to provide for an appeal for review in favor of the convicted person against judgments rendered under this code or another federal law, when serious facts or means of proof of which the judge was not aware during the first trial come to be invoked.

## **Title 9**

### **Preventive measures, additional provisions and general transitional provisions**

#### **Art. 386420**

1. Measurements  
preventive

1 The Confederation may take information and educational measures or other measures aimed at avoiding offenses and preventing delinquency.

2 It can support projects aimed at the goal mentioned in para. 1.

419 New content according to ch. 18 of the annex to the law of June 18, 2004 on partnership, in force since Jan. 1, 2007 (RO **2005** 5685; FF **2003** 1192).

420 In force since Jan. 1, 2006 according to the O of Dec. 2. 2005 (RO **2005** 5723).

3 It may engage with organizations which implement measures provided for by para. 1 and support or create such organizations.

4 The Federal Council decides on the content, objectives and terms of preventive measures.

#### Art. 387

2. Additional provisions enacted by the Federal Council

1 After consulting the cantons, the Federal Council may enact provisions concerning:

has. the execution of general penalties and additional penalties, as well as penalties and measures enforceable simultaneously;

b. the transfer of the execution of sentences and measures to another canton;

vs. the execution of sentences and measures pronounced against sick, infirm or elderly people;

d. execution, under the conditions referred to in art. 80, sentences and measures pronounced against women;

e. remuneration for the prisoner's work referred to in art. 83.

1bis The Federal Council enacts the provisions relating to the commission responsible for judging the possibilities of treating persons interned for life (art. 64c, al. 1), in particular the appointment of members and their remuneration, as well as the procedure and the organization.<sup>421</sup>

2 The Federal Council may enact special provisions on the separation of establishments in the canton of Ticino on a proposal from the competent cantonal authority.

3 It may provide that data removed from the criminal record may be retained for research purposes if the protection of personality is guaranteed and the principles of data protection are respected.

4 He may, on a trial basis and for a fixed period:

has. introduce or authorize new penalties or measures and new forms of execution as well as modify the scope of application of existing sanctions and forms of execution;

b. provide for or authorize the delegation of the execution of custodial sentences to establishments managed by private operators who meet the requirements of this code in

<sup>421</sup> Introduced by ch. I of the FL of December 21. 2007 (Lifetime internment of extremely dangerous offenders), in force since August 1, 2008 (RO **2008** 2961; FF **2006** 869).

matters of execution of sentences (arts. 74 to 85, 91 and 92); these establishments are placed under the supervision of the cantons.

5 The cantonal implementing provisions relating to the experimentation of new sanctions and new forms of execution of sentences and measures and to the execution of sentences in establishments managed by private operators (para. 4) are not valid only if they have been approved by the Confederation.

#### **Art. 388**

3. General transitional provisions. Execution of previous judgments

1 Judgments pronounced in application of the old law are executed according to the old law. The exceptions provided for in paras. 2 and 3.

2 If the new law does not punish the act for which the conviction was pronounced, the sentence or measure pronounced under the old law is no longer carried out.

3 The provisions of the new law relating to the regime for the execution of sentences and measures and the rights and obligations of the detainee also apply to perpetrators convicted under the old law.

#### **Art. 389**

Prescription

1 Unless otherwise provided by law, the provisions of the new law concerning the limitation period for criminal proceedings and penalties are also applicable to the perpetrators of acts committed or judged before the entry into force of the new law if they are more favorable than those of the old law.

2 The time during which the limitation period ran before the entry into force of the new law is taken into account.

#### **Art. 390**

Infractions punished upon complaint

1 For offenses punishable only by complaint, the time limit for filing a complaint is calculated according to the law in force at the time of the offense.

2 When an offense for which the old law prescribed automatic prosecution can only be punished upon complaint under the new law, the time limit for filing a complaint runs from the date of entry into force of this right. If the prosecution was already initiated on that date, it is only continued upon complaint.

3 When the new law prescribes automatic prosecution for an offense which could only be punished upon complaint under the old law, the offense committed before the entry into force of the new law is punishable only upon complaint.

**Art. 391**

4. Cantonal  
implementing  
provisions

The cantons communicate to the Confederation the laws implementing this code.

**Art. 392**

5. Entry into  
force of  
this code

This code comes into force on January 1 , 1942.

**Final provisions of the modification of March 18, 1971****Final provisions of the modification of  
December 13, 2002***1. Execution of sentences*

1 Art. 46 is applicable to the revocation of the stay granted by a judgment pronounced under the old law. The judge may order, instead of the custodial sentence, a monetary penalty (art. 34 to 36) or community service (art. 37 to 39).

2 Accessory penalties such as incapacity to exercise an office or function (former art. 51424), loss of paternal authority or guardianship (former art. 53425), expulsion under a criminal judgment (former art. 55426), the ban on drinking establishments (former art. 56427) are abolished by the entry into force of the new law if they were pronounced under the old law.

3 The provisions of the new law relating to the execution of custodial sentences (art. 74 to 85, 91 and 92), probation assistance, rules of conduct and optional social assistance (art. . 93 to 96) also apply to perpetrators convicted under the old law.

422 FL of March 18, 1971, in force since July 1 , 1971 (RO **1971** 777;  
FF **1965** I 569) and, for arts. 49 hp. 4 para. 2, 82 to 99, 370, 372, 373, 379 hp. 1 para.  
2, 385 and 391, since Jan. 1 , 1974 (RO **1973** 1840). Repealed by ch. IV of the FL of  
December 13 2002, with effect from Jan. 1 , 2007 (RO **2006** 3459 3535; FF **1999** 1787).

423 RO **2006** 3459; FF **1999** 1787

424 RO **1971** 777

425 RS **3** 193

426 RO **1951** 1

427 RS **3** 193



*2.428 Pronouncement and execution of measures*

1 The provisions of the new law relating to measures (art. 56 to 65) and their execution (art. 90) also apply to the perpetrators of acts committed or judged before their entry into force. However:

- a. the subsequent pronouncement of internment within the meaning of art. 65, par. 2, is only admissible if internment would also have been possible on the basis of art. 42 or 43, ch. 1, par. 2, from the old law;
- b. the placement of young adults in work education centers (art. 100bis in its version of March 18, 1971<sup>429</sup>) and the measures applicable to young adults (art. 61) must not last more than four years.

2 Within twelve months from the entry into force of the new law, the judge examines whether the people who are interned according to arts. 42 or 43, ch. 1, par. 2, of the old law meet the conditions for a therapeutic measure (art. 59 to 61 or 63). If so, the judge orders this measure; otherwise, internment continues in accordance with the new law.

*3. Criminal record*

1 The provisions of the new law relating to criminal records (art. 365 to 371) also apply to judgments pronounced under the old law.

2 Within six months of the entry into force of the new law, the competent authority automatically eliminates the registrations concerning:

- a. educational measures (art. 91 in its version of March 18, 1971<sup>430</sup>), with the exception of those which were pronounced under art. 91, ch. 2, in its version of March 18, 1971;
- b. special treatments (art. 92, in its version of March 18 1971);
- c. work restrictions (art. 95, in its version of March 18, 1971).<sup>431</sup>

3 Registrations deleted under the old law no longer appear in extracts from the criminal record intended for individuals.<sup>432</sup>

428 New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

429 RO **1971** 777

430 RO **1971** 777

431 New content according to ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

*4. Establishments implementing measures*

The cantons must create establishments for the execution of the measures referred to in arts. 59, par. 3, and 64, al. 3, within ten years following the entry into force of these amendments.

432 Introduced by ch. I of the Act of March 24, 2006 (Corrective measures regarding sanctions and criminal records), in force since Jan. 1, 2007 (RO **2006** 3539; FF **2005** 4425).

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