

## **Relevant provisions of the German Criminal Code**

### **Section 331: Taking bribes**

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

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

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

### **Section 332: Taking bribes meant as an incentive to violating one's official duties**

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

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

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

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

### **Section 344: Intentionally or knowingly prosecuting innocent persons**

(1) Whosoever as a public official involved in a criminal proceeding other than a proceeding to order a non-custodial measure (section 11(1) No 8) intentionally or knowingly criminally prosecutes an innocent person or someone who otherwise may not by law be criminally prosecuted or makes efforts to bring about such a prosecution shall be liable to imprisonment

from one to ten years, in less serious cases to imprisonment from three months to five years. The 1st sentence above shall apply mutatis mutandis to a public official involved in a proceeding for the purpose of detention by a public authority.

(2) Whosoever as a public official involved in a proceeding to order a non-custodial measure (section 11(1) No 8) intentionally or knowingly criminally prosecutes someone who may not by law be prosecuted or makes efforts to bring about such a prosecution shall be liable to imprisonment from three months to five years. The 1st sentence above shall apply mutatis mutandis to a public official involved in

1. a proceeding to impose a summary fine; or
2. a disciplinary proceeding, disciplinary court or professional disciplinary court proceeding.

The attempt shall be punishable.

### **Section 345: Enforcing penal sanctions against innocent persons**

(1) Whosoever as a public official involved in the enforcement of a sentence of imprisonment, a custodial measure of rehabilitation and incapacitation or detention by a public authority enforces such a sentence, measure or detention although it may not by law be enforced shall be liable to imprisonment from one to ten years, in less serious cases to imprisonment from three months to five years.

(2) If the offender acts grossly negligently the penalty shall be imprisonment not exceeding one year or a fine.

(3) Whosoever as a public official involved in the enforcement of a sentence or a measure (section 11(1) No 8) other than in cases under subsection (1) above enforces a sentence or measure although it may not by law be enforced shall be liable to imprisonment from three months to five years. Whosoever as a public official involved in the enforcement of

1. juvenile detention;
  2. a summary fine or ancillary order under the law on summary offences;
  3. a fine or detention for disobedience of a judicial order; or
  4. a disciplinary proceeding, disciplinary court or professional disciplinary court proceeding,
- enforces such a sanction although it may not by law be enforced shall incur the same penalty. The attempt shall be punishable.

### **Section 344: Intentionally or knowingly prosecuting innocent persons**

(1) Whosoever as a public official involved in a criminal proceeding other than a proceeding to order a non-custodial measure (section 11(1) No 8) intentionally or knowingly criminally prosecutes an innocent person or someone who otherwise may not by law be criminally prosecuted or makes efforts to bring about such a prosecution shall be liable to imprisonment from one to ten years, in less serious cases to imprisonment from three months to five years.

The 1st sentence above shall apply mutatis mutandis to a public official involved in a proceeding for the purpose of detention by a public authority.

(2) Whosoever as a public official involved in a proceeding to order a non-custodial measure (section 11(1) No 8) intentionally or knowingly criminally prosecutes someone who may not by law be prosecuted or makes efforts to bring about such a prosecution shall be liable to imprisonment from three months to five years. The 1st sentence above shall apply mutatis mutandis to a public official involved in

1. a proceeding to impose a summary fine; or
2. a disciplinary proceeding, disciplinary court or professional disciplinary court proceeding.

The attempt shall be punishable.

### **Section 340: Causing bodily harm while exercising a public office**

(1) A public official who in the exercise of his duties causes bodily harm or allows it to be caused shall be liable to imprisonment from three months to five years. In less serious cases the penalty shall be imprisonment of not more than five years or a fine.

(2) The attempt shall be punishable.

(3) Sections 224 to 229 shall apply mutatis mutandis to offences under subsection (1) 1st sentence above

### **Section 240: Using threats or force to cause a person to do, suffer or omit an act**

(1) Whosoever unlawfully with force or threat of serious harm causes a person to commit, suffer or omit an act shall be liable to imprisonment not exceeding three years or a fine.

(2) The act shall be unlawful if the use of force or the threat of harm is deemed inappropriate for the purpose of achieving the desired outcome.

(3) The attempt shall be punishable.

(4) In especially serious cases the penalty shall be imprisonment from six months to five years. An especially serious case typically occurs if the offender

1. causes another person to engage in sexual activity or to enter into marriage;
2. causes a pregnant woman to terminate the pregnancy; or
3. abuses his powers or position as a public official.

### **Section 258a: Assistance given in official capacity**

(1) If the offender under section 258(1) is a public official involved in the criminal proceedings or the proceedings for measure (section 11(1) No 8), or in cases under section 258(2) is a

public official involved in the enforcement of the sentence or measure the penalty shall be imprisonment from six months to five years, in less serious cases imprisonment not exceeding three years or a fine.

(2) The attempt shall be punishable.

(3) Section 258(3) and (6) shall not apply.