

## Criminal Code

as of 15 August 1998 [ä Thamann-Übersetzung]

last adaptation: 16 August 2005

(...)

### Section 176: Sexual Abuse of Children

(1) Whoever commits sexual acts on a person under fourteen years of age (a child), or allows them to be committed on himself by the child, shall be punished with imprisonment from six months to ten years.

(2) Whoever induces a child to commit sexual acts on a third person, or to have them committed on the child by a third person, shall be similarly punished.

(3) In especially serious cases imprisonment of not less than one year shall be imposed.

(4) Whoever:

1. commits sexual acts in front of a child;
2. induces the child to commit sexual acts on his own body;
3. exerts influence on a child by writings (Section 11 subsection 3) to induce him to commit sexual acts on or in front of the perpetrator or a third person or by the perpetrator or a third person on the child, or
4. exerts influence on a child by showing him pornographic illustrations or images, by playing him audio recording media with pornographic content or by corresponding speech,

shall be punished with imprisonment from three months to five years.

(5) Whoever offers or is shown to have promised a child for an act under subsections (1) to (4) or who arranges with another to commit such an act, shall be punished with imprisonment from three months to five years.

(6) An attempt shall be punishable; this shall not apply for acts under subsection (4), numbers 3 and 4 and subsection (5).

### Section 176a: Serious Sexual Abuse of Children

(1) The sexual abuse of children shall be punished with imprisonment for no less than one year in cases under Section 176 subsections (1) and (2), if the perpetrator has been convicted in a final judgment of such a crime within the previous five years.

(2) The sexual abuse of children shall be punished with imprisonment for no less than two years in cases under Section 176 subsections (1) and (2), if:

1. a person over eighteen years of age completes an act of sexual intercourse or similar sexual acts with the child, which are combined with a penetration of the body, or allows them to be committed on himself by the child;
2. the act is committed jointly by more than one person; or
3. the perpetrator by the act places the child in danger of serious health damage or substantial impairment of his physical or emotional development.

(3) Whoever, in cases under Section 176 subsections (1) to (3), (4) nos. 1 or 2, or Section 176 subsection 6, acts as a perpetrator or other participant with the intent of making the act the object of a pornographic writing (Section 11 subsection (3)), which is to be disseminated pursuant to Section 184b subsections (1) to (3), shall be punished with imprisonment for not less than two years.

(4) In less serious cases under subsection (1), imprisonment from three months to five years shall be imposed, in less serious cases under subsection (2), imprisonment from one year to ten years.

(5) Whoever, in cases under Section 176 subsections (1) to (3), seriously physically abuses the child or places the child in danger of death, shall be punished with imprisonment for not less than five years.

(6) The time in which the perpetrator is in custody in an institution pursuant to order of a public authority shall not be credited to the term indicated in subsection (1). An act as to which judgment was rendered abroad shall be deemed equivalent in cases under subsection (1), to an act as to which judgment was rendered domestically, if under German criminal law it would have been such an act under Section 176 subsections (1) or (2).

### **Section 176b: Sexual Abuse of Children Resulting in Death**

If by the sexual abuse (Sections 176 and 176a) the perpetrator at least recklessly causes the death of the child, then the punishment shall be imprisonment for life or for not less than ten years.

### **Section 177: Sexual Coercion; Rape**

(1) Whoever coerces another person:

1. with force;
2. by a threat of imminent danger to life or limb; or
3. by exploiting a situation in which the victim is unprotected and at the mercy of the perpetrator's influence,

to suffer the commission of sexual acts of the perpetrator or a third person on himself or to commit them on the perpetrator or a third person, shall be punished with imprisonment for not less than one year.

(2) In especially serious cases the punishment shall be imprisonment for not less than two years. An especially serious case exists, as a rule, if:

1. the perpetrator completes an act of sexual intercourse with the victim or commits similar sexual acts on the victim, or allows them to be committed on himself by the victim, which especially degrade the latter, especially if they are combined with penetration of the body (rape); or
2. the act is committed jointly by more than one person.

(3) Imprisonment for not less than three years shall be imposed, if the perpetrator:

1. carries a weapon or another dangerous tool;
2. otherwise carries a tool or means in order to prevent or overcome the resistance of another person through force or threat of force; or
3. places the victim by the act in danger of serious health damage.

(4) Imprisonment for not less than five years shall be imposed, if:

1. the perpetrator uses a weapon or another dangerous tool during the act; or
2. the perpetrator:

a) seriously physically maltreats the victim through the act; or

b) places the victim in danger of death through the act.

(5) In less serious cases under subsection (1), imprisonment from six months to five years shall be imposed, in less serious cases under subsections (3) and (4), imprisonment from one year to ten years.

### **Section 178: Sexual Coercion and Rape Resulting in Death**

If the perpetrator through sexual coercion or rape (Section 177) at least recklessly causes the death of the victim, then the punishment shall be imprisonment for life or for not less than ten years.

### **Section 179: Sexual Abuse of Persons Incapable of Resisting**

(1) Whoever abuses another person, who is incapable of resisting:

1. because of a mental or emotional illness or disability, including an addiction or because of a profound consciousness disorder; or
2. physically,

in that he, by exploiting the incapability of resisting, commits sexual acts on the person, or allows them to be committed on himself by the person, shall be punished with imprisonment from six months to ten years.

(2) Whoever abuses a person incapable of resisting (subsection (1)), in that he induces the person, by exploiting the incapability of resisting, to commit sexual acts on a third person, or to allow them to be committed on the person by a third person, shall be similarly punished.

(3) In especially serious cases imprisonment for no less than one year shall be imposed.

(4) An attempt shall be punishable.

(5) Imprisonment for no less than two years shall be imposed, if:

1. the perpetrator completes an act of sexual intercourse or similar sexual acts with the victim, which are combined with a penetration of the body, or allows them to be committed on himself by the victim;
2. the act is committed jointly by more than one person; or
3. by the act the perpetrator places the victim in danger of serious health damage or substantial impairment of his physical or emotional development.

(6) In less serious cases under subsections (5), imprisonment from one year to ten years shall be imposed.

(7) Sections 177 subsection (4) no. 2 and 178 shall apply correspondingly.

*Section 180b (Repealed)*

*Section 181 (Repealed)*

### **Section 181a: Pimping**

(1) Whoever:

1. exploits another person who engages in prostitution; or
2. for a material benefit supervises another person's engagement in prostitution, determines the place, time, extent or other circumstances of the engagement in prostitution, or takes measures to prevent the person from giving up prostitution, and in that regard maintains a relationship with the person which goes beyond a particular case shall be punished with imprisonment from six months to five years.

(2) Whoever impairs another person's personal or financial independence through promoting that person's engagement in prostitution by procuring sexual relations on a commercial basis, and in respect thereof maintains such relations with the person concerned as go beyond the individual case shall be punished with imprisonment for not more than three years or a fine.

(3) Whoever commits the acts named in subsection (1), numbers 1 and 2 or the promoting indicated in subsection (2) in relation to his spouse, shall also be punished pursuant to subsections (1) and (2).

(...)

### **Section 232 Trafficking in Human Beings for the Purpose of Sexual Exploitation**

(1) Whoever exploits another person through a coercive situation or the helplessness that is associated with their stay in a foreign country to induce them to take up or continue in prostitution, to commit sexual acts on or in front of the perpetrator or a third party through which they are exploited, or to allow them to be committed on the person by the perpetrator or a third party, shall be punished with imprisonment from six months to ten years. Whoever induces a person under twenty-one years of age to take up or continue in prostitution or any of the other sexual acts designated in sentence 1 shall be similarly punished.

(2) An attempt is punishable.

(3) Imprisonment from one to ten years shall be imposed, if:

1. the victim of the offence is a child (Section 176 subsection (1));

2. the perpetrator seriously physically maltreats the victim through the act or places the victim in danger of death through the act; or

3. the perpetrator committed the offence on a commercial basis or as a member of a gang that has combined for the continued commission of such acts.

(4) Punishment for the acts named in subsection (3) will also be imposed on whoever:

1. induces another person with force, threat of appreciable harm, or trickery to take up or continue prostitution or any of the other sexual acts designated in subsection (1) sentence 1, or

2. seizes another person by force, threat of appreciable harm, or trickery to induce them to take up or continue prostitution or any of the other sexual acts designated in subsection (1) sentence 1.

(5) In less serious cases under subsection (1) imprisonment from three months to five years shall be imposed; in less serious cases under subsections (3) and (4) imprisonment from six months to five years shall be imposed.

(...)

### **Section 233: Trafficking in Human Beings for the Purpose of the Exploitation of Workers**

(1) Whoever exploits another person through a coercive situation or the helplessness that is associated with their stay in a foreign country to induce them into slavery, serfdom, or debt bondage, or to take up or continue work with him or a third party under working conditions that are strikingly disproportionate to the working conditions of other workers who perform the same or a comparable activity, shall be punished with imprisonment from six months to ten years. Whoever induces a person under twenty-one years of age into slavery, serfdom, or debt bondage, or to take up or continue work as designated in sentence 1 shall be similarly punished.

(2) An attempt is punishable.

(3) Section 232 subsections (3) through (5) shall apply *mutatis mutandis*.

### **Section 233a: Promotion of Trafficking in Human Beings**

(1) Whoever abets trafficking in human beings according to Section 232 or Section 233 by recruiting, promoting, passing on, harbouring, or picking up another person shall be punished with imprisonment from three months to five years.

(2) Imprisonment from six months to ten years shall be imposed, if:

1. the victim of the offence is a child (Section 176 subsection (1));

2. the perpetrator seriously physically maltreats the victim through the act or places the victim in danger of death through the act; or

3. the perpetrator committed the offence with force, the threat of appreciable harm, on a commercial basis, or as a member of a gang that has combined for the continued commission of such acts.

(3) An attempt is punishable.

(...)

### **Section 236 Trafficking in Children**

(1) Whoever, in gross neglect of his duties of care and upbringing, leaves his child, ward, or foster child under eighteen years of age with another indefinitely for compensation or with the intent of enriching himself or a third person, shall be punished with imprisonment for not more than five years or a fine. Whoever, in cases under sentence 1, takes the child, ward, or foster child in indefinitely and gives compensation therefore, shall be similarly punished.

(2) Whoever, without authorization:

1. procures the adoption of a person under eighteen years of age; or

2. engages in procurement activity which has as its goal that a third person takes in a person under eighteen years of age indefinitely,

and thereby acts for compensation or with the intent of enriching himself or a third person, shall be punished with imprisonment for not more than three years or a fine. If the perpetrator in cases under sentence 1 causes the procured person to be brought into Germany or abroad, then the punishment shall be imprisonment for not more than five years or a fine.

(3) An attempt shall be punishable.

(4) Imprisonment from six months to ten years shall be imposed, if the perpetrator:

1. acts for profit, on a commercial basis or as a member of a gang, which has combined for the continued commission of trafficking in children; or
2. by the act places the child or the procured person in danger of a substantial impairment of his physical or emotional development.

(5) The court may in its discretion mitigate the punishment (Section 49 subsection (2)) in cases under subsections (1) and (3) and in cases under subsections (2) and (3) or dispense with punishment under subsections (1) to (3) for participants whose guilt, taking into consideration the physical or emotional welfare of the child or the procured person, is slight.

(...)

#### **Section 240: Coercion**

(1) Whoever unlawfully with force or threat of an appreciable harm compels a human being to commit, acquiesce in or omit an act, shall be punished with imprisonment for not more than three years or a fine.

(2) The act shall be unlawful if the use of force or the threat of harm is deemed reprehensible in relation to the desired objective.

(3) An attempt shall be punishable.

(4) In especially serious cases the punishment shall be imprisonment from six months to five years. An especially serious case exists as a rule, if the perpetrator:

1. coerces another person to commit a sexual act or to enter into marriage;
2. coerces a pregnant woman to terminate the pregnancy; or
3. abuses his powers or position as a public official.

(...)