

**Act C of 2012**  
**on the Criminal Code**

With a view to protecting inviolable and inalienable human rights, to defending the independence and territorial integrity of the country, and to protecting the nation's economic and financial interest,

taking into account Hungary's international legal commitments as well as European Union policies,

in order to enforce the State's exclusive jurisdiction in criminal matters,

Parliament has adopted the following Act:

**GENERAL PART**

**CHAPTER I**

**BASIC PROVISIONS**

**Principle of Legality**

*Section 1*

(1) Criminal liability may be established only in connection with a conduct that a legal instrument requires to be criminalized at the time when committed, with the exception of acts which are punishable under universally acknowledged rules of international law.

(2) A penalty or measure may not be imposed for a criminal offense that was not criminalized by legal instrument at the time when committed, or - in the case provided for in Subsection (2) of Section 2 - at the time when adjudicated.

**CHAPTER II**

**JURISDICTION IN CRIMINAL MATTERS**

**Temporal Scope**

*Section 2*

(1) Subject to the exceptions set out in Subsections (2)-(3), criminal offenses shall be adjudicated under the criminal law in effect at the time when they were committed.

(2) Where an act is no longer treated as a criminal offense, or if it draws a more lenient penalty under the new criminal law in effect at the time when it is adjudicated, this new law shall apply.

(3) The new criminal law shall apply with retroactive effect in connection with acts which are punishable under universally acknowledged rules of international law, if such acts did not constitute a criminal offense under Hungarian criminal law at the time when they were committed.

**Territorial and Personal Scope**

### *Section 3*

(1) Hungarian criminal law shall apply:

*a)* to criminal offenses committed in Hungary;

*b)* to criminal offenses committed on commercial ships or watercraft sailing, or aircraft flying under Hungarian flag outside the territory of Hungary;

*c)* to any act of Hungarian citizens committed abroad, which are criminalized in accordance with Hungarian law.

(2) Hungarian criminal law shall, furthermore, apply:

*a)* to any act committed by non-Hungarian citizens abroad, if:

*aa)* it is punishable as a criminal offense under Hungarian law and in accordance with the laws of the country where committed,

*ab)* it is recognized as an offense against the State, excluding espionage against allied armed forces, regardless of whether or not it is punishable in accordance with the law of the country where committed,

*ac)* it constitutes a criminal act under Chapter XIII or XIV, or any other criminal offenses which are to be prosecuted under international treaty ratified by an act of Parliament;

*b)* to any act committed by non-Hungarian citizens abroad against a Hungarian national or against a legal person or unincorporated business association established under Hungarian law, which are punishable under Hungarian law.

(3) In the cases described in Subsection (2) criminal proceedings are opened by order of the Prosecutor General.

## CHAPTER III

### CRIMINAL LIABILITY

#### **Criminal Offenses**

### *Section 4*

(1) ‘Criminal offense’ means any conduct that is committed intentionally or - if negligence also carries a punishment - with negligence, and that is considered potentially harmful to society and that is punishable under this Act.

(2) An ‘act harmful to society’ means any activity or passive negligence which prejudices or presents a risk to the person or rights of others, or the fundamental constitutional, economic or social structure of Hungary provided for in the Fundamental Law.

### *Section 5*

Criminal offences may be classified as felonies and misdemeanors. Felony is a crime committed intentionally which is punishable under this Act by imprisonment of two or more years. Every other criminal offense is a misdemeanor.

#### **Plurality of Offenses and Cumulative Offenses**

### *Section 6*

(1) 'Multiple counts of offenses' means when one or more acts committed by the same person result in more than one crime and they are adjudicated in the same proceedings.

(2) Multiple counts of offenses shall not cover a cumulative offense committed by a repetition of acts of the same kind, against the same victim, motivated by a single objective, and which may occur in brief intervals.

## **Intent**

### *Section 7*

A criminal offense is committed with intent if the person conceives a plan to achieve a certain result, or acquiesces to the consequences of his conduct.

## **Negligence**

### *Section 8*

'Negligence' means when a criminal offense is committed where the perpetrator is able to anticipate the possible consequences of his conduct, but carelessly relies on their non-occurrence, or fails to foresee such possible consequences through conduct characterized by carelessness and neglectfulness.

## **Responsibility for the Result as an Aggravating Circumstance**

### *Section 9*

The more severe consequences attached to the result as a qualifying circumstance of the crime may be applied if the perpetrator is at least charged with negligence in respect of the result.

## **Attempt**

### *Section 10*

(1) Any person who carries out an act with intent to commit a premeditated crime, without finishing it, shall be punishable for attempt.

(2) The sentence applicable to a completed criminal act shall also apply to attempt.

(3) The penalty may be reduced without limitation or dismissed altogether if the attempt has been carried out on an unsuitable subject, with an unsuitable instrument or by way of unsuitable means.

(4) Any person:

*a)* who voluntarily withdraws from the completion of the criminal act, or

*b)* who attempts to prevent the crime on his own volition,

shall not be prosecuted for attempt.

(5) If in the case provided for in Subsection (4) the attempt in itself constitutes another crime, the perpetrator shall be liable for prosecution for that crime.

## **Preparation**

### *Section 11*

(1) If it is expressly prescribed by this Act, any person who provides the means necessary for committing a criminal offense or facilitating that, and who invites, volunteers or undertakes to commit a crime, or agrees to commit a crime in league with others shall be punishable for preparation.

(2) Any person:

a) who voluntarily withdraws from the commencement of the criminal act,

b) who withdraws his invitation, offer, undertaking with a view to avoiding the perpetration, or attempts to pursue other contributors to withdraw from the criminal activity, provided that the commencement of the perpetration of the criminal offense does not take place for any reason, or

c) who reports to the authority the preparation before commencement of the perpetration of the criminal offense, shall not be prosecuted for preparation.

(3) If in the case provided for in Subsection (2) the preparation in itself constitutes another crime, the perpetrator shall be liable for prosecution for that crime.

## **The Perpetrator**

### *Section 12*

‘Perpetrator’ means the principal, the covert offender and the coactor (hereinafter referred to as “parties to a crime”), as well as the abettor and the aider (hereinafter referred to collectively as “accomplices”).

### *Section 13*

(1) Perpetrator is a person who actually commits a criminal act.

(2) Covert offender is a person who instigates the commission of an intentional offense by using a person who cannot be prosecuted for reason of minority or insanity, or for reason of acting under undue influence by coercion or duress, or under misconception.

(3) Coactor is a person who knowingly and voluntarily participates in a criminal act jointly with others, in full knowledge of each others activities.

### *Section 14*

(1) Abettor is a person who intentionally persuades another person to commit a crime.

(2) Accomplice is a person who knowingly and voluntarily helps another person to commit a crime.

(3) The penalties applicable to parties to a crime shall also apply to accomplices.

## **CHAPTER IV**

### **GROUND FOR TOTAL OR PARTIAL EXEMPTION FROM CRIMINAL RESPONSIBILITY**

#### *Section 15*

The perpetrator may be totally or partially exempted from criminal responsibility, or an act may be fully or partly exempted from criminalization on the following grounds:

a) being below the age of criminal responsibility;

b) insanity;

c) coercion and threat;

d) mistake;

e) justifiable defense;

f) means of last resort;

g) statutory authorization;

h) other grounds defined by law.

## **Minimum Age of Criminal Responsibility**

### *Section 16*

Persons under the age of fourteen years at the time the criminal offense was committed shall be exempt from criminal responsibility, with the exception of homicide [Subsections (1)-(2) of Section 160], voluntary manslaughter (Section 161), battery [Subsection (8) of Section 164], robbery [Subsections (1)-(4) of Section 365] and plundering [Subsections (2)-(3) of Section 366], if over the age of twelve years at the time the criminal offense was committed, and if having the capacity to understand the nature and consequences of his acts.

## **Insanity**

### *Section 17*

(1) Any person who has committed a criminal act in a state of impairment of the mind of a character such that it is impossible for the person so afflicted to understand the nature and consequences of his acts, shall not be prosecuted.

(2) The penalty may be reduced without limitation if the state of impairment of the perpetrator's mind is of a character such that it is difficult for him to understand the nature and consequences of his acts.

### *Section 18*

The provisions of Section 17 shall not apply to persons who engage in criminal activity under self-inflicted influence by alcohol or narcotic drugs.

## **Coercion and Threat**

### *Section 19*

(1) Any person who has committed a criminal act under undue influence by coercion or threat, depriving him of the capacity to act according to his own free will shall not be prosecuted.

(2) The penalty may be reduced without limitation if the coercion or threat deprives the perpetrator of the capacity to act according to his own free will.

## **Mistake**

### *Section 20*

(1) Any person who engages in a criminal act but he was unaware of the circumstances that made his act a crime shall not be prosecuted.

(2) Any person who commits an act on the mistaken assumption that it is not harmful to society and who has reasonable grounds for this presumption shall not be prosecuted.

(3) A mistaken assumption shall not exclude punishability if it is caused by negligence, and if the act is punishable under this Act if resulting from negligence.

## **Justifiable Defense**

### *Section 21*

Any person who uses such means of defense, which are not recognized as a deadly weapon, installed for his own protection and/or for the protection of others against the peril with which he is threatened in the event of an unlawful attack shall not be prosecuted for the injury the aggressor sustained in consequence, provided that the person on the defensive has done everything within his power to avoid the injury.

### *Section 22*

(1) No penalty shall be imposed upon a person for any action that is necessary to prevent an unlawful attack against his person or his property, or against the person or property of others, against the public interest, or an unlawful attack posing a direct threat in respect thereof.

(2) The unlawful attack shall be construed to pose an imminent danger of death if committed:

*a)* against a person

*aa)* at night,

*ab)* by displaying a deadly weapon,

*ac)* by carrying a deadly weapon, or

*ad)* in a gang;

*b)* by way of intrusion into the victim's home

*ba)* at night,

*bb)* by displaying a deadly weapon,

*bc)* by carrying a deadly weapon, or

*bd)* in a gang;

or

*c)* by way of illegal and armed intrusion into the fenced area of a home.

(3) Any person who exceeds the reasonable force of self-defense due to shock or justifiable aggravation shall not be prosecuted.

(4) The person assaulted shall not be liable to take evasive action so as to avoid the unlawful attack.

## **Means of Last Resort**

### *Section 23*

(1) Any person who engages in conduct to save his own person or property or the person or property of others from an imminent danger that cannot otherwise be prevented, or acts so in the defense of the public interest shall not be prosecuted, provided that the harm caused by the act does not exceed the peril with which he was threatened.

(2) No penalty shall be imposed upon a person who causes harm of the same or greater extent than the one for the prevention of which he made efforts for he was unable to recognize the magnitude of the harm due to shock or justifiable aggravation.

(3) The concept of means of last resort shall not apply to any person who is responsible for the danger or whose professional duty includes exposure to danger.

## **Statutory Authorization**

### *Section 24*

An act that is authorized by law or that is exempted from punishment by law shall not be criminalized.

## **CHAPTER V**

### **GROUND FOR EXEMPTION FROM CRIMINAL RESPONSIBILITY**

#### *Section 25*

Criminal responsibility shall be excluded:

- a) upon the death of the perpetrator;
- b) by statutory limitation;
- c) by clemency;
- d) upon voluntary restitution;
- e) under other grounds defined by law.

## **Statutes of Limitations**

### *Section 26*

(1) Save where Subsections (2)-(3) apply, and unless otherwise provided for by the Act on the Exclusion of Statutes of Limitation for Certain Crimes, prosecution is barred upon the lapse of time equal to the maximum penalty prescribed, or after not less than five years.

(2) In connection with voluntary manslaughter, intentional grievous bodily injury punishable by imprisonment of more than three years, kidnapping, trafficking in human beings, illegal restraint, including criminal offense against sexual freedom and sexual offenses - if at the time when the crime was committed the victim is under the age of eighteen years, and prosecution of the crime is statute barred before the perpetrator's twenty-third birthday - the limitation period is extended until the time the victim reaches the age twenty-three years, or until the time that such person would have reached the age of twenty-three years.

(3) No statute of limitations applies to the crimes defined in Chapters XIII and XIV, and to crimes which carry a maximum sentence of life imprisonment.

### *Section 27*

The first day of the period of limitation is:

- a) in case of a completed criminal act, the day when the crime is actually committed;
- b) in case of attempt and preparation, the day when the act resulting in consequence is carried out;
- c) in case of an act that is considered a criminal offense only if relates to a breach of duty, the last day that of which the perpetrator has to discharge his duty without the consequences set out in this Act;
- d) in case of criminal offenses which manifests in the maintenance of an infringement, on the day when the infringement ceases to exist.

#### *Section 28*

(1) The statute of limitation shall be interrupted by any action of the court, the public prosecutor, the investigating authorities, or - in international cases - by the minister in charge of the judicial system or the competent foreign authority taken against the perpetrator in connection with the crime. The period of limitation shall restart on the day of the interruption.

(2) If the criminal proceedings are suspended, the period of suspension shall not be included in the period of limitation. This provision shall not apply where criminal proceedings are suspended if the investigation failed to turn up evidence as to the perpetrator's identity, and if the perpetrator cannot be located or has become mentally ill.

(3) When a criminal proceeding is postponed or suspended on the grounds of exemption stemming from holding a public office, and by virtue of the fact that the immunity granted by law was not suspended by the body having powers to do so, the period of time of such delay shall not be included in the period of limitation. This provision shall not apply to criminal cases under private prosecution, where the case is presented by the private prosecutor.

(4) The period of deferral of prosecution, in the case of a conditional sentence, the period of probation and the period of work performed in reparation shall not be included in the period of limitation.

## **Active Repentance**

#### *Section 29*

(1) Any person who has committed any misdemeanor offense against life, physical integrity or health, against personal freedom, against human dignity and fundamental rights, any traffic offense, offenses against property or against intellectual property rights, or any crime punishable by imprisonment not exceeding three years, shall not be prosecuted if he has admitted his guilt before being indicted, and has provided restitution by way of the means and to the extent accepted by the injured party within the framework of a meditation process, or previously if approved in the meditation process. This provision shall also apply in connection with multiple counts of offenses, where the criminal offense against life, physical integrity or health, against personal freedom, against human dignity and fundamental rights, traffic offense, offense against property or against intellectual property rights is considered decisive.

(2) The penalty may be reduced without limitation if the perpetrator has admitted his guilt of having committed either of the crimes specified in Subsection (1), punishable by imprisonment not exceeding five years, before being indicted, and has provided restitution by way of the means and to the extent accepted by the injured party within the framework of a meditation process, or previously if approved in the meditation process. This provision shall also apply in connection with multiple counts of offenses, where the criminal offense against life, physical integrity or health, against personal freedom, against human dignity and fundamental rights, traffic offense, offense against property or against intellectual property rights is considered decisive.

(3) Subsections (1)-(2) shall not apply if the perpetrator:

- a) is a repeat offender or a habitual recidivist;



b) committed the crime in the framework of a criminal organization;

c) committed a crime resulting in death;

d) committed a criminal offense intentionally while on probation as a result of suspension of a prison sentence or, in consequence of the commission of an intentional criminal offense, after being sentenced to serve a prison term and before he has finished serving his sentence, or while released on probation or during the period of deferral of prosecution; or

e) has been a party to a meditation process on account of a previous criminal act of intent, and in consequence Subsection (1) or (2) hereof had been applied, if another criminal act had been committed within two years from the time of the final and binding ruling becoming enforceable.

## CHAPTER VI

### OTHER OBSTACLES OF CRIMINAL PROSECUTION

#### *Section 30*

Criminal prosecution shall be precluded lacking:

a) a private motion;

b) an official complaint.

### **Absence of Private Motion**

#### *Section 31*

(1) In specific cases defined in this Act the perpetrator of a criminal offense is punishable only on the basis of a private motion.

(2) The victim shall be entitled to lodge the private motion.

(3) If the victim is of limited legal capacity, the private motion may likewise be submitted by his legal representative, and if lacking legal capacity, it may be submitted exclusively by his legal representative. In these cases the guardian authority shall also be entitled to submit the private motion.

(4) If the victim who is entitled to submit the private motion dies, his relative shall be entitled to submit the private motion.

(5) The motion submitted against any one of the perpetrators shall apply to all perpetrators.

(6) A private motion may not be withdrawn.

### **Absence of Complaint**

#### *Section 32*

In specific cases defined in this Act the perpetrator of a criminal offense is punishable only on the basis of a complaint filed by the entitled party.

## CHAPTER VII

# PENALTIES

## *Section 33*

(1) Penalties are:

- a)* imprisonment;
- b)* custodial arrest;
- c)* community service work;
- d)* fine;
- e)* prohibition to exercise professional activity;
- f)* driving ban;
- g)* prohibition from residing in a particular area;
- h)* ban from visiting sport events;
- i)* expulsion.

(2) Deprivation of civil rights may be imposed as a form of additional penalty.

(3) Subject to the exceptions set out in Subsections (5) and (6) hereof, the punishments may be imposed concurrently as well.

(4) If the criminal offense committed carries a maximum sentence of three years of imprisonment, the term of imprisonment may be substituted by custodial arrest, community service work, fine, prohibition to exercise professional activity, driving ban, prohibition from residing in a particular area, ban from visiting sport events or expulsion, or by any combination of these.

(5) If the criminal offense committed carries a penalty of custodial arrest, this penalty may be substituted or combined with, community service work, fine, prohibition to exercise professional activity, driving ban, prohibition to exercise professional activity, ban from visiting sport events or expulsion, or by any combination of these.

(6) The following penalties may not be imposed concurrently:

- a)* imprisonment with custodial arrest or community service work;
- b)* expulsion with community service work or fine.

## **Imprisonment**

### *Section 34*

Imprisonment is imposed for a fixed duration or for a life term.

### *Section 35*

(1) If the court imposed a term of imprisonment, it shall be carried out in a jail, correctional institution or penitentiary.

(2) In view of the circumstances to be taken into consideration for sentencing, the type of incarceration may be prescribed one degree up or down. This provision shall not apply to life imprisonment imposed under Subsections (1)-(2) of Section 44 and Subsection (2) of Section 90.

## **Fixed-Term Imprisonment**

### *Section 36*

The minimum and the maximum duration of a fixed-term imprisonment shall be three months and twenty years, respectively; for crimes committed in the framework of a criminal organization, if the perpetrator is a repeat offender or a habitual recidivist, as well as in the case of cumulative sentences or the merger of sentences it shall be twenty-five years.

### *Section 37*

(1) A sentence of imprisonment imposed for a misdemeanor offense shall be carried out in a jail, except if the convicted perpetrator is a recidivist.

(2) A sentence of imprisonment imposed shall be carried out in a correctional institution if:

*a)* it has been imposed for a felony; or

*b)* it has been imposed for a misdemeanor, and the convicted perpetrator is a recidivist.

(3) A sentence of imprisonment imposed shall be carried out in a penitentiary if:

*a)* imposed for term of three years or more:

*aa)* for a criminal offense covered in Chapter XIII, XIV or XXIV,

*ab)* for a military offense carrying a maximum sentence of life imprisonment,

*ac)* for acts of terrorism [Subsections (1)-(2) of Section 314, Sections 315-316], terrorist financing [Subsections (1)-(2) of Section 318], unlawful seizure of a vehicle [Subsections (1)-(3) of Section 320], participation in a criminal organization [Subsection (1) of Section 321], criminal offenses with explosives or blasting agents (Section 324), criminal offenses with firearms and ammunition [Subsections (1)-(3) of Section 325], criminal offenses with weapons prohibited by international convention [Subsections (1)-(6) of Section 326], criminal offenses with military items and services [Subsections (1)-(4) of Section 329], criminal offenses with dual-use items [Subsections (1)-(3) of Section 330],

*ad)* homicide, unlawful drug trafficking, possession of narcotic drugs, kidnapping, trafficking in human beings, sexual violence, public endangerment, violation of international economic sanctions or aggravated cases of robbery [Subsection (2) of Section 160, Subsections (2)-(3) of Section 176, Subsections (1)-(2) of Section 177, Subsection (2) of Section 178, Subsection (2) of Section 179, Subsections (2)-(4) of Section 190, Subsections (2)-(6) of Section 192, Subsections (2)-(4) of Section 197, Subsections (2)-(3) of Section 322, Subsection (3) of Section 327, Subsections (3)-(4) of Section 365];

or

*b)* imposed for a term of two years or more, and the convicted perpetrator:

*ba)* is a repeat offender, or

*bb)* committed the crime in the framework of a criminal organization.

## **Release on Parole from Fixed-Term Imprisonment**

### *Section 38*

(1) If the sentence is for a fixed-term imprisonment, the court shall specify in the sentence the earliest date of eligibility for parole, or - in the case provided for in Subsection (4) hereof - preclude any eligibility for parole.

(2) If release on parole has not been excluded, the earliest date of eligibility shall:

*a)* fall on the next day when two-thirds of the sentence has been served;

*b)* in the case of recidivist, fall on the next day when three-quarters of the sentence has been served;

in either case, at least three months have to be served.

(3) If the sentence imposed is for less than five years of imprisonment, in cases deserving special consideration, the court may include a clause of eligibility for parole after one half of the sentence has been served. This provision may not be applied for repeat offenders.

(4) The following may not be released on parole:

*a)* repeat offenders, if their term of imprisonment is to be carried out in a penitentiary;

*b)* repeat offenders with a history of violence;

*c)* persons sentenced for criminal offenses committed in the framework of a criminal organization;

*d)* any person who has been sentenced to imprisonment for an intentional criminal offense committed after being previously sentenced for a term of imprisonment, before that term has been served in full or before the day when it ceases to be enforceable.

#### *Section 39*

(1) In the case of fixed-term imprisonment, the duration of parole shall be the same as the remaining part of the term of imprisonment, or not less than one year. Where Subsection (3) of Section 38 applies, the court in its ruling may set the duration of parole extended by at least one year and by not more than three years.

(2) If the time remaining from imprisonment is less than one year, and its execution has not been ordered, the sentence shall be deemed served upon the last day of the remaining part after the period of parole.

#### *Section 40*

(1) The court shall terminate the parole, if the prisoner is sentenced to a term of executable imprisonment:

*a)* during the time when released on parole for a crime committed after the date on which the decision of the court becomes enforceable, or

*b)* for a crime committed during the time when released on parole.

(2) If the prisoner is sentenced in addition to the punishment referred to in Subsection (1), the court may terminate the parole.

(3) In case of the termination of parole the time spent on parole shall not be included in the time of imprisonment.

(4) If during the period of parole the parolee is to serve a term of imprisonment for a criminal offense he has committed before the previous sentence became final, the period of parole shall be interrupted by the execution of this imprisonment, and the court shall postpone the earliest date for restarting the period of parole:

*a)* until the date when released on parole from the latter term of imprisonment, or

*b)* until the date when the term of imprisonment is executed, if release on parole from the latter term of imprisonment is excluded.

## **Life Imprisonment**

### *Section 41*

(1) Only persons over the age of twenty at the time of commission of the criminal act shall be sentenced to life imprisonment. This provision also applies to the life sentences imposed under Subsection (4) of Section 81 and Subsection (2) of Section 90.

(2) Life imprisonment shall be served in a penitentiary.

## **Release on Parole from Life Imprisonment**

### *Section 42*

In the event a sentence of life imprisonment is imposed, the court shall specify the earliest date of eligibility for parole, or shall preclude any eligibility for parole.

### *Section 43*

(1) If the court has not precluded eligibility for parole with a sentence of life imprisonment, the earliest date of release on parole shall be after serving twenty-five years, or at least forty years. The earliest time of release on parole shall be determined in years.

(2) The duration of parole in the case of life imprisonment shall be not less than fifteen years.

### *Section 44*

(1) In the event a sentence of life imprisonment is imposed, the court may deny the possibility of parole only in connection with the following crimes:

- a)* genocide [Subsection (1) of Section 142];
- b)* crimes against humanity [Subsection (1) of Section 143];
- c)* apartheid [Subsections (1) and (3) of Section 144];
- d)* aggravated cases of assault against a war emissary [Subsection (2) of Section 148];
- e)* assault on protected persons [Subsections (1)-(2) of Section 149];
- f)* use of a weapon prohibited by international convention [Subsection (1) of Section 155];
- g)* other war crimes (Section 158);
- h)* aggravated cases of homicide [Subsection (2) of Section 160];
- i)* aggravated cases of kidnapping [Subsections (3)-(4) of Section 190];
- j)* aggravated cases of trafficking in human beings [Subsection (6) of Section 192];
- k)* attempt to overturn constitutional order by force [Subsection (1) of Section 254];
- l)* aggravated cases of destruction [Subsection (2) of Section 257];
- m)* aggravated cases of prison riot [Subsection (4) of Section 284];
- n)* acts of terrorism [Subsection (1) of Section 314];

*o*) aggravated cases of unlawful seizure of a vehicle [Subsection (2) of Section 320];

*p*) aggravated cases of public endangerment [Subsection (3) of Section 322];

*q*) aggravated cases of mutiny [Subsection (4) of Section 442];

*r*) aggravated cases of assault on a superior officer or representative of public authority [Subsection (5) of Section 445];

if committed by using actual force against a person or a thing.

(2) The possibility of parole shall be denied if the perpetrator:

*a*) is a repeat offender with a history of violence; or

*b*) committed the criminal offense defined in Subsection (1) in the framework of a criminal organization.

#### *Section 45*

(1) If, while serving a term of life imprisonment, a prisoner is sentenced to a specific term of executable imprisonment for a criminal offense committed before being sentenced to life imprisonment, the court shall postpone the earliest date of release on parole for the duration of such specific term of executable imprisonment.

(2) If a prisoner who is released on parole from life imprisonment is sentenced to a specific term of executable imprisonment for a criminal offense committed before receiving such sentence of life imprisonment, the court shall revoke the parole and shall postpone the earliest date of release on parole for the duration of such specific term of executable imprisonment.

(3) If, while serving a term of life imprisonment, a prisoner is sentenced while serving a term of life imprisonment to a specific term of executable imprisonment for a criminal act committed before receiving such sentence of life imprisonment, the court shall postpone the earliest date of release on parole for the duration of such specific term of imprisonment or for a period of not less than five years and not more than twenty years.

(4) If a prisoner who is released on parole from life imprisonment is sentenced to a specific term of imprisonment for a criminal offense committed while serving such sentence of life imprisonment, the court shall terminate the parole and shall postpone the earliest date of release on parole for the duration of such specific term of imprisonment or for a period of not less than five years and not more than twenty years.

(5) If a prisoner who is released on parole from life imprisonment is sentenced to a specific term of imprisonment for a criminal offense committed after being released on parole from such life imprisonment, the court shall terminate the parole and shall postpone the earliest date of release on parole for the duration of such specific term of imprisonment or for a period of not less than five years and not more than twenty years.

(6) If the earliest date of release on parole from life imprisonment is postponed due to being sentenced for a specific term of imprisonment under Subsections (1), (2), (4) and (5) hereof, the earliest date of release on parole shall be determined taking into consideration the time of preliminary detention deducted from the fixed-term sentence, as well as the duration of any house arrest.

(7) A person sentenced to life imprisonment may not be released on parole if he is sentenced to another term of life imprisonment. The second sentence of life imprisonment shall not be carried out before the previous term of life imprisonment is executed.

(8)

## **Custodial Arrest**

#### *Section 46*

(1) The duration of custodial arrest shall be determined in days. The minimum and the maximum duration of custodial arrest shall be five days and ninety days, respectively.

(2) Custodial arrest shall be carried out in a penal institution.

## **Community Service Work**

### *Section 47*

(1) The duration of community service work shall be defined in hours; it may not be less than forty-eight hours and may not be more than three hundred and twelve hours.

(2) Unless otherwise provided for by law, the defendant shall perform the community service work at least on one day per week, on the weekly day of rest or on his day off, without any remuneration.

(3) The court ruling shall provide for the type of community service work to be performed.

(4) The person sentenced to community service work is obligated to perform the work prescribed. The work prescribed to be performed in community service is to be such that the defendant is presumed to be capable of performing, taking into consideration his health condition and education.

### *Section 48*

(1) If the defendant fails to comply with his work obligation for reasons within his control, the community service work, or the remaining part thereof, shall be substituted to imprisonment.

(2) The term of imprisonment imposed in place of community service work shall be carried out in a penal institution, in the jail section.

(3) The term of imprisonment imposed in place of community service work may be less than three months.

### *Section 49*

If the defendant is sentenced to a term of executable imprisonment for a criminal offense committed after being sentenced to community service work, and the community service work has not yet been carried out, the community service work or the remaining part thereof shall be substituted to imprisonment at the rate of four hours of community service work for one day of imprisonment. The duration of community service work remaining following substitution shall correspond to one day of imprisonment.

## **The Fine**

### *Section 50*

(1) When imposing a fine, the amount shall be determined in view of the severity of the criminal offense and divided evenly among a specific number of days, each day representing the same amount of money, determined in accordance with the financial situation and income, and the everyday needs of the perpetrator.

(2) The person who is sentenced to a fixed-term imprisonment for a criminal offense committed with the purpose of financial gain and has sufficient income or property shall also have a fine imposed.

(3) The minimum and the maximum number of days representing a fine shall be between thirty and five hundred forty days, respectively. The amount of fine for one day shall be minimum one thousand and maximum five hundred thousand forints.

(4) In its ruling the court may authorize the perpetrator - on account of his financial situation - to pay the fine in monthly installments within a maximum period of two years.

### *Section 51*

(1) If the defendant did not pay the fine, or if failed to pay a monthly installment where payment by installment had been authorized, the fine or the unpaid portion shall be substituted by the appropriate term of imprisonment.

(2) Where fine had been imposed in addition to a term of executable imprisonment, or if a suspended sentence is ordered to be carried out, the degree of security of the imprisonment carried out in substitution of the fine shall correspond to the original term. In other cases, where imprisonment is ordered in substitution of a fine it shall be served in a jail.

(3) The term of imprisonment imposed in place of a fine may be less than two months.

## **Prohibition to Exercise Professional Activity**

### *Section 52*

(1) Prohibition to exercise professional activity may be imposed upon a person who has committed a criminal offense:

*a)* through the violation of the rules of his/her profession requiring professional qualifications; or

*b)* knowingly, by using his profession.

(2) Paragraph *a)* of Subsection (1) shall also apply to any person who did not work in the profession in question at the time the criminal offense was committed, however, he/she has the necessary qualification for the profession in the exercise of which the offense was committed.

(3) In connection with any criminal offense against sexual freedom and sexual offenses, if at the time when the crime was committed the victim is under the age of eighteen years, the perpetrator may be banned from the exercise of any professional activity where it involves the responsibility for providing education, care, custody or medical treatment to a person under the age of eighteen years, or if it involves a recognized position of trust, authority or influence over such person.

### *Section 53*

(1) The prohibition to exercise professional activity may be ordered for a definite term, or permanently.

(2) The minimum duration of such prohibition shall be one year, its maximum duration shall be ten years. A person who is unsuitable or unworthy for the profession in question may have the privilege withdrawn permanently.

(3) The duration of prohibition to exercise professional activity shall begin when the sentence becomes enforceable. Where prohibition to exercise professional activity is ordered in addition to a term of imprisonment, the period of time of imprisonment served, and the period of time during which the convict withdraws himself from the execution of the imprisonment shall not be included in its duration. If the parole is not withdrawn, the time spent on parole shall be included in the duration of prohibition to exercise professional activity.

(4) The court may - upon request - exempt a person subject to permanent prohibition, if it was ordered ten years before and the person is found capable or worthy - if prohibition was ordered on the grounds of unworthiness - to engage in that profession. In the latter case, no exemption shall be granted if the criminal offense was committed in the framework of a criminal organization.

### *Section 54*

In the application of the present subtitle, the concept of profession shall likewise cover if the offender:

*a)* is a member or sole director of a body exercising general control of an economic operator;



- b) is a member of the supervisory board of a business association or cooperative;
- c) is a member of a sole proprietorship;
- d) is a private entrepreneur; or
- e) is an executive officer of a civil society organization as provided for in the act on civil society organizations.

## **Driving Ban**

### *Section 55*

(1) Driving privileges may be suspended with respect to a person who:

- a) committed a criminal offense through the violation of regulations relating to the controlled operation of a motor vehicle,
- b) uses a motor vehicle for any criminal activity.

(2) Driving ban shall be imposed for the criminal offenses of driving under the influence of alcohol or driving under the influence of drugs. In cases deserving special consideration, mandatory driving ban may be dismissed.

(3) Driving ban may be imposed for specific types (aircraft, railway, vessels or road transport) and categories of vehicles as well.

### *Section 56*

(1) Driving ban may be ordered for a definite term, or permanently.

(2) The duration of suspension of driving privileges shall include the period for which the perpetrator's driving license was confiscated on site in connection with the criminal offense before the time of delivery of the sentence of suspension of driving privileges, or it was surrendered to the competent authority.

(3) The minimum duration of driving ban shall be one month, its maximum duration shall be ten years. The period of driving ban shall be defined in months or in years, or in years and months.

(4) The duration of driving ban shall begin when the sentence becomes enforceable. Where driving ban is ordered in addition to a term of imprisonment, the period of time of imprisonment served, and the period of time during which the convict withdraws himself from the execution of the imprisonment shall not be included in its duration. If the parole is not withdrawn, the time spent on parole shall be included in the duration of driving ban.

(5) Any person who is unsuitable for operating a vehicle may have the privilege withdrawn permanently. The court may - upon request - exempt a person subject to permanent ban, if it was ordered ten years before and the person is found suitable to operate a vehicle.

## **Prohibition from Residing in a Particular Area**

### *Section 57*

(1) In the cases provided for in this Act, any person whose residence is deemed contrary to public interests shall be banished from one or more municipalities or from a designated part of a municipality or of the country.

(2) The minimum duration of banishment shall be one year, its maximum duration shall be five years.

(3) The duration of banishment shall begin when the sentence becomes enforceable. Where banishment is ordered in addition to a term of imprisonment, the period of time of imprisonment served, and the period of time during

which the convict withdraws himself from the execution of the imprisonment shall not be included in its duration. If the parole is not withdrawn, the time spent on parole shall be included in the duration of banishment.

## **Ban from Visiting Sport Events**

### *Section 58*

(1) Any person having committed a criminal offense during a sport event, or during the time of commute to or from the sport event, in connection with the sport event, may be banned by court order:

- a) from visiting any sport event held within the framework of competition organized by any sports association, or
- b) from entering any sports facility where a sport event held within the framework of competition organized by any sports association is held.

(2) The minimum duration of the ban shall be one year, its maximum duration shall be five years.

(3) The duration of the ban shall begin when the sentence becomes enforceable. Where a ban from visiting sport events is ordered in addition to a term of imprisonment, the period of time of imprisonment served, and the period of time during which the convict withdraws himself from the execution of the imprisonment shall not be included in its duration. If the parole is not withdrawn, the time spent on parole shall be included in the duration of the ban from visiting sport events.

## **Expulsion**

### *Section 59*

(1) Perpetrators of citizenship other than Hungarian, whose presence in the country is not desirable, shall be expelled from the territory of Hungary. Persons expelled shall leave the territory of the country and may not return for the duration of the term of expulsion.

(2) Persons granted asylum may not be expelled.

(3) Expulsion may be imposed upon a person who has the right of free movement and residence or a person with the right of residence in the territory of Hungary under permanent resident or refugee status only in connection with the commission of a criminal offense that is punishable by imprisonment of five or more years.

(4) Expulsion may only be imposed upon a person sentenced to a term of imprisonment of ten years or more:

- a) who has been residing in the territory of Hungary legitimately for not less than ten years; or
- b) whose right to family union would be injured;

provided that the presence of the perpetrator in the country is assessed as posing a potential and considerable risk to public safety.

### *Section 60*

(1) Expulsion may be ordered for a definite term, or permanently.

(2) The minimum duration of a fixed-term expulsion shall be one year, its maximum duration shall be ten years.

(3) Permanent expulsion may be imposed upon a person who was sentenced to a term of imprisonment of ten years or more, and presence of the perpetrator in the country is assessed as posing a potential and considerable risk to public safety taking into account the severity of the criminal offense, the nature of the act and the connections of the perpetrator. A person with the right of free movement and residence may not be expelled permanently.

(4) The duration of expulsion shall begin when the sentence becomes enforceable. The period of time of imprisonment served shall not be included in the duration of expulsion.

(5) Upon request, the court may release a person subject to permanent expulsion from the effect of such expulsion if such person is deemed worthy and if ten years have passed since the expulsion.

## **Deprivation of Civil Rights**

### *Section 61*

(1) Any person who is sentenced to executable imprisonment for an intentional criminal offense, and is deemed unworthy of the right to participate in public affairs, shall be deprived of these rights.

(2) Persons deprived of civil rights:

*a)* shall not have the right to vote and may not participate in any referendum and popular initiative;

*b)* may not hold a public office;

*c)* may not serve in bodies or committees of popular representation, and may not participate in their work;

*d)* may not be delegated to hold a seat in the general assembly or body of an international organization created under international treaty ratified by an act of Parliament;

*e)* may not be promoted to any military rank;

*f)* may not be granted a domestic decoration and may not be given permission for the acceptance of a foreign decoration;

*g)* may not serve as a defense counsel or legal representative in official proceedings;

*h)* may not accept any office in public bodies and public foundations; and

*i)* may not serve as an executive officer of a civil society organization as provided for in the act on civil society organizations.

(3) Effective as of the operative date of a sentence for the deprivation of civil rights, the person in question shall forfeit any membership, position, office, military rank, mandate or decoration that of which is prohibited under Subsection (2) hereof.

### *Section 62*

(1) Deprivation of civil rights may be ordered for a definite term; the minimum duration shall be one year, and its maximum duration shall be ten years.

(2) The duration of the deprivation of civil rights shall begin when the sentence becomes enforceable. Where deprivation of civil rights is ordered, the period of time of imprisonment served, and the period of time during which the convicted perpetrator withdraws himself from the execution of the imprisonment shall not be included in its duration. If the parole is not withdrawn, the time spent on parole shall be included in the duration of deprivation of civil rights.

## **CHAPTER VIII**

### **MEASURES**

#### *Section 63*

(1) Measures are:

*a)* warning;

*b)* conditional sentence;

*c)* work performed in amends;

*d)* probation with supervision;

*e)* confiscation;

*f)* confiscation of property;

*g)* irreversibly rendering electronic information inaccessible;

*h)* involuntary treatment in a mental institution;

*i)* measures against legal persons imposed pursuant to the Act on Criminal Sanctions in Connection with the Criminal Liability of Legal Persons.

(2) Warning, conditional sentence and work performed in amends may be ordered independently, in place of a penalty.

(3) Probation with supervision may be imposed in addition to the penalty or measure. Probation with supervision may not be imposed in addition to expulsion.

(4) Confiscation of property and irreversibly rendering electronic information inaccessible may be ordered independently, or in addition to a penalty or measure.

## **Warning**

### *Section 64*

(1) Any person who engages in an act that represents a negligible degree of danger to society at the time of judgment or none at all, rendering unnecessary even the most lenient penalty or measure applicable in accordance with this Act - other than confiscation, confiscation of property and irreversibly rendering electronic information inaccessible - shall be given a warning.

(2) In issuing a warning the court or the public prosecutor expresses its disapproval and conveys its admonition advising against engaging in any criminal activity in the future.

## **Conditional Sentence**

### *Section 65*

(1) The court may defer the imposition of a sentence conditionally if it is for an infraction or felony punishable by imprisonment of up to three years if there are reasonable grounds to believe that probation will serve the purpose of rehabilitation.

(2) The following may not be released on probation:

*a)* recidivists;

*b)* persons sentenced for crimes committed in the framework of a criminal organization;

c) any person who has committed a criminal offense intentionally after having been sentenced to an executable term of imprisonment and before having finished serving his sentence; or

d) any person who has committed a criminal offense intentionally while on probation as a result of suspension of a prison sentence.

(3) The period of probation may be between one and three years; the duration shall be defined in years, or in years and months.

(4) The probationer may be placed under the supervision of a probation officer. If the probationer violates the rules of conduct of the probation, the term of probation may be extended once, by not more than one year.

#### *Section 66*

(1) The probation shall be terminated and punishment shall be imposed if:

a) the probationer is sentenced during the term of probation for a criminal offense committed before released on probation;

b) the probationer is sentenced for a criminal offense committed while on probation; or

c) the probationer seriously violates the rules of conduct of the probation.

(2) Apart from the cases provided for in Subsection (1), following the term of probation all charges against the probationer are dismissed.

### **Work Performed in Amends**

#### *Section 67*

(1) The court may defer the imposition of a sentence for one year if it is for an infraction or for a felony punishable by imprisonment not exceeding three years, and shall order work to be performed in amends if there are reasonable grounds to believe that it will serve the purpose of rehabilitation. Work performed in amends may be ordered concurrently with probation with supervision.

(2) Work performed in amends may not be imposed if the perpetrator:

a) is a recidivist;

b) committed the criminal offense in the framework of a criminal organization;

c) committed a criminal offense intentionally after having been sentenced to serve a prison term and before having finished serving his sentence; or

d) committed a criminal offense intentionally while on probation as a result of suspension of a prison sentence.

(3) The perpetrator shall have the option to perform work in amends either at or for the benefit of a State or local institution, at a public benefit civil society organization, or a church.

(4) The duration of work performed in amends shall be defined in hours; it may not be less than twenty-four hours and may not be more than one hundred and fifty hours.

#### *Section 68*

(1) If the perpetrator provides adequate proof within one year of having performed work in amends, all charges shall be dismissed.

(2) If the perpetrator fails to provide adequate proof of having performed work in amends, or if seriously violates the rules of conduct of the probation, the court shall impose a penalty. If the perpetrator is unable to provide adequate proof of having performed work in amends due to health reasons, the time limit for verification of having performed work in amends may be extended once, by not more than one year.

## **Probation with Supervision**

### *Section 69*

(1) A person may be placed under probation with supervision:

- a) for the duration of deferral of prosecution;
- b) for the duration of parole;
- c) for the duration of probation;
- d) concurrently with ordering work to be performed in amends;
- e) for the probation period of a suspended sentence;

if constant supervision of the perpetrator is deemed necessary to facilitate the reason for these actions.

(2) Probation with supervision shall be ordered:

- a) for the convicted perpetrator if released on parole from life imprisonment;
- b) for the recidivist if released on parole or sentenced to a term of imprisonment the execution of which is conditionally suspended.

### *Section 70*

(1) The duration of probation with supervision shall be the same:

- a) as the duration of the period of parole;
- b) the probation period of a conditional sentence;
- c) the probation period of a suspended sentence;
- d) the duration of deferral of prosecution;

up to five years, or up to fifteen years if the convicted perpetrator is released on parole from life imprisonment.

(2) Probation with supervision ordered concurrently with work to be performed in amends shall cover the period ending when the offender ordered to perform work in amends provides proof of having completed such work, not exceeding one year.

(3) In the case provided for in Subsection (1) of Section 69, the probation officer shall formulate an opinion upon completion of half of the term of supervision, but at least after one year, to have the person in question released from supervision if it is deemed devoid of purpose.

### *Section 71*

(1) The probationer shall observe the following probation measures:

- a) the rules of conduct laid down by legislation and the relevant resolution;
- b) maintain regular contact with the probation officer; and

c) provide information to the probation officer to the extent deemed necessary for the purpose of supervision.

(2) The ruling of the court, or the prosecutor in the case of deferred prosecution, may include specific rules of conduct to prescribe obligations and prohibitions with a view to the objectives of probation. The court or the prosecutor may order that the person released on probation:

a) must not maintain any contact with a specific person who took part in the commission of a crime;

b) must stay away from the victim of the crime, or from his/her residence, place of work or the educational institution he/she may attend, including any place frequented by the victim;

c) must refrain from visiting certain specific public places, public events, as well as certain specific public areas and places;

d) must refrain from consuming alcoholic beverages in public;

e) must report at the place and in the time prescribed, at the agency or person specified;

f) must contact the government employment agency, or report to the local authorities for public benefit employment;

g) must pursue specific studies;

h) must receive - subject to his/her consent - specific medical treatment or attend a therapeutic, curative procedure;

i) must attend group functions arranged by the probation officer or other programs organized by the community program officer of the probation service.

(3) In addition to the rules of conduct enumerated in Subsection (2), the court or the prosecutor may prescribe further rules of conduct, with particular regard to the nature of the criminal offense, the extent of damage and to enhance the social integration of the perpetrator.

## **Confiscation**

### *Section 72*

(1) An object shall be confiscated:

a) which is actually used or intended to be used as an instrument for the commission of a criminal offense;

b) which is created by way of a criminal act;

c) for which the criminal act was committed, or that was used for the transportation of this object in connection with the criminal act after the fact;

d) the possession of which is assessed as posing a potential risk to public safety, or is illegal.

(2) Media products, in which a criminal act is realized, shall be confiscated.

(3) In the cases provided for in Paragraphs a) and c) of Subsection (1), confiscation shall not be ordered if the object is not owned by the perpetrator, provided that the owner was unaware of the perpetration of the criminal act, unless confiscation is prescribed mandatory under international legal commitments.

(4) Confiscation shall be ordered, even if:

a) the perpetrator cannot be prosecuted for reason of minority or insanity, or due to other grounds for exemption from criminal responsibility;

*b)* the perpetrator had been given a warning;

*c)* it cannot be executed during the period of special protection specified by the Act on the Special Protection of Borrowed Cultural Goods.

(5) Confiscation of an object shall not be ordered if it falls within the scope of confiscation of property.

(6) Confiscated objects shall devolve upon the State unless otherwise prescribed by law.

(7) No confiscation shall be ordered after the lapse of the statute of limitations for the punishment of the act, or beyond a period of five years.

### *Section 73*

In the cases provided for in Paragraphs *a)* and *c)* of Subsection (1) of Section 72, confiscation may be omitted in exceptional cases if it would entail an unreasonable burden to the perpetrator or the owner, disproportionate to the severity of the criminal offense:

*a)* except if the omission of confiscation is precluded by any international legal obligation;

*b)* except if the perpetrator committed the criminal offense in the framework of a criminal organization;

*c)* with the exception of unlawful drug trafficking, possession of narcotic drugs, aiding in the manufacture or production of narcotic drugs, criminal offenses with materials used for the production or manufacture of narcotic drugs, illegal possession of new psychoactive substances, criminal offenses with performance enhancers, falsification of medicinal products, criminal offenses with toxic substances, criminal offenses with harmful consumer goods, damaging the natural environment, cruelty to animals, poaching fish, poaching game, organization of illegal animal fights, illegal use of any substance with ozone depletion potential, misappropriation of radioactive materials, illegal operation of nuclear installation, illegal possession of explosives and destructive devices, criminal offenses with firearms and ammunition, criminal offenses with weapons prohibited by international convention, criminal offenses with military items and services, criminal offenses with dual-use items or violation of legal liabilities relating to the keeping of dangerous dogs.

## **Confiscation of Property**

### *Section 74*

(1) The following shall be subject to confiscation of property:

*a)* any financial gain or advantage resulting from criminal activities, obtained by the offender in the course of or in connection with, a criminal act;

*b)* any financial gain or advantage obtained by an offender in connection with crimes committed in the framework of a criminal organization;

*c)* any financial gain or advantage obtained by an offender in connection with unlawful drug trafficking, in the course thereof;

*d)* any financial gain or advantage that was used to replace the financial gain or advantage obtained by the offender in the course of or in connection with, a criminal act;

*e)* any property that was supplied or intended to be used to finance the means used for the commission of a crime, the conditions required therefor or facilitating thereof;

*f)* any property embodying the subject of financial gain given or promised.



(2) Any financial gain or advantage resulting from criminal activities, obtained by the offender in the course of or in connection with, a criminal act, also if it served the enrichment of another person, shall be confiscated. If such gain or advantage was obtained by an economic operator, this economic operator shall be subject to confiscation of property.

(3) In the event of death of the perpetrator or the person profiteering as specified in Subsection (2), or the economic operator was transformed, the property transferred by succession shall be seized from the successor in title as specified in Subsection (1).

(4) In the absence of proof to the contrary, all assets obtained by the perpetrator:

*a)* in the framework of a criminal organization, in the case provided for in Paragraph *b)* of Subsection (1),

*b)* in the course of or in connection with drug trafficking, in the case provided for in Paragraph *c)* of Subsection (1),

shall be subject to confiscation.

(5) Confiscation of property may not be ordered:

*a)* in connection with assets reserved to cover any civil claim awarded during the criminal proceedings;

*b)* in connection with assets obtained in good faith for consideration;

*c)* in the case referred to in Paragraphs *b)* and *c)* of Subsection (1), if the property is proven to be legitimate.

#### *Section 75*

(1) Confiscation of property shall be ordered for a specific sum:

*a)* if the property is no longer accessible;

*b)* if the property to be seized subject to confiscation under Subsection (1) of Section 74 cannot be separated from other assets, or it would impose unreasonable difficulties;

*c)* in the case referred to in Paragraph *b)* of Subsection (5) of Section 74.

(2) Confiscation of property shall be ordered, even if:

*a)* the perpetrator cannot be prosecuted for reason of minority or insanity, or due to other grounds for exemption from criminal responsibility;

*b)* the perpetrator had been given a warning;

*c)* it cannot be executed during the period of special protection specified by the Act on the Special Protection of Borrowed Cultural Goods.

(3) Seized assets shall become the property of the State unless provided for by law to the contrary.

#### *Section 76*

For the purposes of this subtitle, any profits, intangible assets, claims of any monetary value and any financial gain or advantage shall be deemed assets.

## **Irreversibly Rendering Electronic Information Inaccessible**

#### *Section 77*

(1) Data disclosed through an electronic communications network shall be rendered irreversibly inaccessible:

- a) the publication or disclosure of which constitutes a criminal offense;
- b) which is actually used as an instrument for the commission of a criminal act; or
- c) which is created by way of a criminal act.

(2) The order for irreversibly rendering electronic information inaccessible shall be issued even if the perpetrator cannot be prosecuted for reason of minority or insanity, or due to other grounds for exemption from criminal responsibility, or if the perpetrator had been given a warning.

## **Involuntary Treatment in a Mental Institution**

### *Section 78*

(1) A person engaged in a violent crime against the person or in a punishable criminal offense that endangers the public shall be subjected to treatment in a mental institution if he cannot be prosecuted due to his mental condition, and there is reason to believe that he will commit a similar act, if the same crime carries a penalty of imprisonment of one or more years.

(2) Involuntary treatment in a mental institution shall be terminated if it is deemed devoid of purpose.

## **CHAPTER IX**

### **SENTENCING**

#### **Aim of Punishment**

##### *Section 79*

The aim of a punishment is to prevent - in the interest of the protection of society - the perpetrator or any other person from committing an act of crime.

#### **Sentencing Principles**

##### *Section 80*

(1) Punishment shall be imposed within the framework provided for in this Act, having in mind its intended objective, as consistent with the severity of the criminal offense, with the degree of culpability, the danger the perpetrator represents to society, and with other aggravating and mitigating circumstances.

(2) Where a sentence of imprisonment is delivered for a fixed term, the median of the prescribed scale of penalties shall be applicable. The median constitutes half of the sum of the lowest and highest penalties to be imposed.

(3) Where the upper limit of the sentence prescribed in the Special Part for any act of crime is to be increased according to this Act, the calculation specified in Subsection (2) shall be carried out in respect of such higher scale of penalties.

(4) If the court delivers a sentence of imprisonment, the length of imprisonment shall be determined without allowing for the opportunity of probation or parole.

#### **Cumulative Sentences**

### *Section 81*

- (1) In case of multiple counts of offenses a single cumulative sentence shall be imposed.
- (2) The penalty shall be imposed based on the types of punishment and according to the most severe one prescribed for the gravest of the multiple offenses to which it pertains.
- (3) If, in respect of a multiple count of charges, at least two is punishable by a fixed-term imprisonment, the upper limit of the applicable punishment shall be increased by one-half of the maximum penalty prescribed, however, it may not reach the total duration of the maximum sentences established for such criminal acts.
- (4) If, in respect of multiple counts of charges, at least three counts constitute violent crimes against persons committed at different times, the upper limit of the applicable penalty set out in Subsection (2) shall be doubled. If the upper limit of the applicable penalty increased as per the above would exceed twenty years, or if either of the said criminal offenses in the multiple counts carry a maximum sentence of life imprisonment, the perpetrator in question must be sentenced to life imprisonment. However, where this is permitted under the General Part of this Act, the penalty may be reduced without limitation.
- (5) The additional penalty may not exceed the highest measure or duration prescribed in this Act in the case of cumulative sentences.

## **Commutation of Sentences**

### *Section 82*

- (1) A punishment less severe than the punishment applicable may be imposed, if the minimum sentence is deemed too harsh based on the principles of sentencing.
- (2) Within the meaning of Subsection (1), if the minimum sentence to be imposed for a criminal act is:
  - a) ten years of imprisonment, it may be reduced to a minimum of five years of imprisonment;
  - b) five years of imprisonment, it may be reduced to a minimum of two years of imprisonment;
  - c) two years of imprisonment, it may be reduced to a minimum of one year of imprisonment;
  - d) one year of imprisonment, it may be reduced to a lesser term of imprisonment.
- (3) In the case provided for in Paragraph *d*) of Subsection (2), imprisonment may be substituted by custodial arrest, community service work or fine, and these penalties may be imposed concurrently as well.
- (4) In respect of attempt or aiding and abetting, if the sentence to be imposed under Subsection (2) remains excessive, the next sentencing category of Subsection (2) shall be applied.
- (5) If this Act allows unlimited mitigation, the minimum sentence for any type of punishment may be imposed.

## **Sentencing in the Case of Waiver of the Right to Trial**

### *Section 83*

- (1) With the exceptions set out in Subsection (2), in the case of a waiver of the right to trial, the lower limits of the less severe penalties provided for in Subsection (2) of Section 82 shall be applied in sentencing.
- (2) In the case of waiver of the right to trial by a defendant who is cooperating, the term of imprisonment may not exceed:
  - a) three years in respect of crimes punishable by imprisonment not exceeding eight years;

b) two years in respect of crimes punishable by imprisonment not exceeding five years;

c) six months in respect of crimes punishable by imprisonment not exceeding three years.

(3) If waiver of the right to trial applies on account of a criminal offense punishable by imprisonment exceeding eight years, the more severe provisions on criminal offenses committed in the framework of a criminal organization shall not apply, and the penalty shall be imposed within the lower and upper limits prescribed by this Act for the offense in question.

#### *Section 84*

(1) In the case of waiver of the right to trial, the provisions on cumulative sentences shall apply in respect of multiple count of charges, with the proviso that the maximum penalty for multiple counts of criminal acts shall be imposed according to the one prescribed for the most severe of the penalties to be imposed under Subsections (1)-(2) of Section 83.

(2) If, in respect of a multiple count of charges, at least two is punishable by a fixed-term imprisonment under this Act, the maximum penalty applicable under Subsections (1)-(2) of Section 83 shall be increased by the median of the penalty prescribed, however, it may not reach the total duration of the maximum sentences established under Subsections (1)-(2) of Section 83 separately for the offenses in question.

## **Suspension of the Execution of Imprisonment**

#### *Section 85*

(1) The execution of a term of imprisonment of two years or less may be suspended conditionally, if there is reason to believe - particularly in view of the personal circumstances of the perpetrator - that the aim of the punishment may also be attained this way.

(2) Unless otherwise provided for in this Act, the period of probation shall be between one to five years, however, it may not be less than the term of imprisonment imposed. The period of probation shall be defined in years, or in years and months.

#### *Section 86*

(1) Execution of a sentence of imprisonment may not be suspended if the perpetrator:

a) is a repeat offender;

b) committed the crime in the framework of a criminal organization, or

c) committed a criminal offense intentionally before he has finished serving his sentence, or during the probation period of a conditional sentence.

(2) If a perpetrator is incarcerated on account of which the suspended sentence of imprisonment cannot be carried out, the period of probation shall be extended by the duration of the imprisonment.

(3) The provision contained in Subsection (2) shall also apply where community service work and fine is substituted by imprisonment.

(4) In the application of Subsections (2) and (3), the period of probation may exceed five years.

(5) Where the perpetrator has been sentenced several times to a prison term suspended for a period of probation, and the period of probation of these terms have not yet lapsed, all such periods shall apply concurrently.

(6) Simultaneously with the suspension of carrying out a sentence of imprisonment the perpetrator may be placed under the supervision of a probation officer. If the perpetrator is a recidivist he must be placed under probation with supervision.

#### *Section 87*

A suspended sentence shall be carried out if:

*a)* it is established during the period of probation that it has been suspended in contrast with the provisions set out in Subsection (1) of Section 86,

*b)* the perpetrator is sentenced to executable imprisonment for a crime committed during the period of probation, or

*c)* the perpetrator seriously violates the rules of conduct of the probation.

#### *Section 88*

In the event that a suspension of punishment is granted for reasons of clemency, the provisions pertaining to the carrying out of a suspended sentence shall apply *mutatis mutandis* when ordering the execution of such penalty.

### **Provisions Relating to Habitual and Repeat Offenders, and Repeat Offenders with a History of Violence**

#### *Section 89*

(1) In respect of habitual and repeat offenders - unless this Act provides otherwise - the maximum penalty applicable to another criminal offense committed shall increase by half in the case of imprisonment, however, it may not exceed twenty-five years. In respect of cumulative sentences and in respect of the waiver of the right to trial, the penalty set out in Subsection (3) of Section 81 and in Subsections (1)-(2) of Section 83, respectively, shall be increased by one half.

(2) The punishment of habitual and repeat offenders may be reduced on the basis of Subsection (1) of Section 82 only in cases deserving special consideration.

(3) The more severe legal consequences set out in Subsection (1) shall not apply if the Special Part of this Act prescribes sentencing for habitual recidivists to consider such as an aggravating circumstance.

#### *Section 90*

(1) Subsection (4) of Section 33 shall not apply to repeat offenders with a history of violence.

(2) The minimum sentence for violent crimes against the person, if committed by repeat offenders with a history of violence and if carrying a higher sentence, the maximum penalty prescribed for such crimes, if punishable by imprisonment, shall be doubled. If the maximum penalty increased as per the above would exceed twenty years, or if either of the said offenses carry a maximum sentence of life imprisonment, the perpetrator in question must be sentenced to life imprisonment.

(3) The punishment of repeat offenders with a history of violence:

*a)* shall not be reduced under Subsection (1) of Section 82;

*b)* may be reduced without limitation where this is permitted under the General Part of this Act.

### **Crimes Committed in the Framework of a Criminal Organization**

### *Section 91*

(1) Any person who has knowingly committed a criminal act in the framework of a criminal organization shall be subject to double of the maximum penalty prescribed for the crime in question, however, it shall not exceed twenty-five years. In respect of cumulative sentences and in respect of the waiver of the right to trial, the terms of penalties set out in Subsection (3) of Section 81 and in Subsections (1)-(2) of Section 83, respectively, shall apply.

(2) Any person committing a crime in the framework of a criminal organization shall be subject to banishment.

(3) Upon conviction for a crime committed in the framework of a criminal organization, the legal consequences prescribed in this Act for crimes committed in criminal association with accomplices cannot be applied.

## **Inclusion of Preliminary Detention and House Arrest**

### *Section 92*

(1) The entire duration of preliminary detention and house arrest shall be included in the final sentence, whether it is a term of imprisonment, custodial arrest, community service work or a fine.

(2) For the purposes of inclusion, one day of preliminary detention shall correspond to one day of imprisonment, one day of custodial arrest, one day's worth of fine or to four hours of community service work.

(3) For the inclusion of house arrest:

*a)* one day of imprisonment shall correspond, respectively, to five, four and three days of house arrest if served in a penitentiary, correctional institution or jail;

*b)* one day of custodial arrest shall correspond to two days of house arrest;

*c)* four hours of community service work shall correspond to one day of house arrest;

*d)* one day's worth of fine shall correspond to one day of house arrest.

(4) If any duration of preliminary detention or house arrest remains after the inclusions under Subsections (2) and (3) hereof, it shall be counted as one day of imprisonment.

## **Merger of Sentences**

### *Section 93*

(1) If the perpetrator is sentenced to more than one fixed-term imprisonment, the sentences imposed in a final judgment shall be included - in accordance with the relevant legislation - in a single sentence if the defendant has committed all crimes prior to the date when the first judgment was delivered.

(2) Merger may include sentences for executable terms of imprisonment, that were still pending at the time when ordering the merger of sentences, or which are being served consecutively.

(3) Where a suspended sentence is to be carried out subsequently, for the purposes of merger it shall be hereinafter treated as an executable term of imprisonment.

(4) The following may not be merged:

*a)* sentences which have been merged previously;

*b)* terms of imprisonment substituting a fine or community service work.

### *Section 94*

The term of merged sentences shall be determined as if imposing a cumulative sentence. Nevertheless, the term of merged sentences shall be at least equal to the most severe sentence and the minimum penalty or one-third of all penalties combined, however, it may not exceed the combined duration of all sentences.

*Section 95*

(1) In the case of the merger of offenses for which imprisonment is imposed to be executed in different degrees, the merged sentences shall be carried out in the most severe degree. However, if the term of imprisonment imposed in a merger of sentences is for three years or more, or, in case of a repeat offender, two or more years, the merged sentence shall be carried out in the degree determined accordingly.

(2) If the degree of execution to be established under Subsection (1) would constitute an unreasonable disadvantage for the convicted perpetrator, a lesser degree may be authorized.

*Section 96*

(1) Where prohibition to exercise professional activity, driving ban, prohibition from residing in a particular area, ban from visiting sport events or expulsion is ordered in addition to a term of imprisonment, and the terms of imprisonment had been merged in a single sentence, from the multiple counts of prohibition to exercise professional activity, driving ban, prohibition from residing in a particular area, ban from visiting sport events or expulsion, the one that carries more severe sanctions upon the convicted perpetrator shall be executed.

(2) Where deprivation of civil rights is imposed as an additional penalty, it may not be merged with other penalties. Where deprivation of civil rights is imposed in several counts, the one with the longest term shall be carried out.

## CHAPTER X

### EXONERATION FROM THE DETRIMENTAL CONSEQUENCES ATTACHED TO PRIOR CONVICTIONS

#### **Detrimental Consequences Attached to Prior Convictions**

*Section 97*

(1) Detrimental legal effects connected to any prior conviction for a criminal offense, and to having received a penalty or measure may be established by an act of Parliament.

(2) Information on prior convictions and on the penalties and measures imposed are contained in the relevant official public register until the time prescribed by law, after which no detrimental legal effects shall apply on account of such prior convictions against the convicted perpetrator.

#### **Scope of Exoneration**

*Section 98*

(1) Unless otherwise provided for by law, upon exoneration the convicted person in question is relieved from the detrimental consequences which are attached by law to any prior conviction.

(2) The person cleared by exoneration shall be deemed to have a clean criminal record, and - unless otherwise provided for by law - he cannot be required to give account of any conviction from which he has been exonerated.

(3) Where a new act of crime is committed, the exoneration shall not extend to those detrimental consequences which are attached by this Act to a previous conviction.

## **Mode of Exoneration**

### *Section 99*

The convicted person may be exonerated:

- a)* on the strength of this Act;
- b)* on the basis of a court ruling; or
- c)* by an act of clemency.

## **Statutory Exoneration**

### *Section 100*

(1) Exoneration shall take effect by virtue of this Act:

- a)* in connection with custodial arrest, fine and community service work on the day when the sentence becomes final;
- b)* in connection with prohibition to exercise professional activity, driving ban, prohibition from residing in a particular area and ban from visiting sport events on the day when the sentence becomes final;
- c)* in the case of expulsion, on the day when the penalty is executed or when it ceases to be enforceable;
- d)* in the case of a suspended sentence, on the last day of the probation period;
- e)* in the case of any term of imprisonment imposed due to a negligent misdemeanor, on the last day of serving the term of imprisonment or the day when it ceases to be enforceable;
- f)* in the case of imprisonment of one year or less imposed for an intentional criminal offense, after a period of three years following the last day of serving the term of imprisonment or the day when it ceases to be enforceable;
- g)* in the case of imprisonment between one year and five years imposed for an intentional criminal offense, after a period of five years following the last day of serving the term of imprisonment or the day when it ceases to be enforceable;
- h)* in the case of imprisonment between five years and ten years imposed for an intentional criminal offense, after a period of eight years following the last day of serving the term of imprisonment or the day when it ceases to be enforceable;
- i)* in the case of imprisonment of a fixed term of ten years or more imposed for an intentional criminal offense, after a period of ten years following the last day of serving the term of imprisonment or the day when it ceases to be enforceable.

(2) In the case of Paragraph *b)* of Subsection (1) exoneration shall not extend:

- a)* in the case of prohibition to exercise professional activity, to the right to pursue the profession in question;
- b)* in the case of a driving ban, to the right of exercising driving privileges;
- c)* in the case of prohibition from residing in a particular area, to the right of residing in the municipality or section of the country to which the prohibition pertains;
- d)* in the case of a ban from visiting sport events, to the right of visiting sport events.



(3) In the case of Paragraph *d*) of Subsection (1), the exoneration shall not take effect or it shall be withdrawn if the sentence is ordered to be carried out. In such a case, the rules of exoneration relating to executable terms of imprisonment shall apply.

## **Judicial Exoneration**

### *Section 101*

(1) The court may, upon request, exonerate a convicted perpetrator if found worthy and half of the period defined in Paragraphs *f*)-*i*) of Subsection (1) of Section 100 has already lapsed following the last day of serving the term of imprisonment or the day when it ceases to be enforceable.

(2) Worthiness shall be determined in light of the way of life the person has conducted since having served the punishment, furthermore, whether he has made amends for the injury caused by his act to the extent possible.

### *Section 102*

(1) The court may grant preliminary exoneration, if it suspends the sentence of imprisonment and the person in question is found worthy for exoneration.

(2) The preliminary exoneration shall be withdrawn if the suspended sentence is ordered to be carried out.

## **Uniform Exoneration**

### *Section 103*

If an additional penalty is imposed, the convicted perpetrator shall not be relieved from the detrimental consequences attached to prior convictions, and he may not be exonerated, insofar as the additional penalty is carried out or it did not cease to be enforceable.

## **Exoneration by Act of Clemency**

### *Section 104*

(1) The person exercising executive clemency may grant exoneration to a person if this may not otherwise take place in accordance with this Act.

(2) The person exonerated by an act of clemency shall be deemed to have a clean criminal record in respect of the detrimental consequences outside the penal framework.

## **CHAPTER XI**

### **PROVISIONS RELATING TO YOUNG PEOPLE**

#### **Basic Provisions**

### *Section 105*

(1) 'Juvenile offender' shall mean any person between the age of twelve and eighteen years at the time of committing a criminal offense.

(2) The provisions of this Act shall apply to juveniles with the exceptions set out in this Chapter.

### *Section 106*

(1) The principle objective of any penalty or measure imposed upon a juvenile is to positively influence the juvenile's development to become a useful member of society, and such penalty or measure should therefore have as a primary consideration the juvenile's guidance, education and protection.

(2) A penalty shall be imposed upon a juvenile when the application of a measure appears to be impractical. Only measures may be imposed upon a person who has not reached the age of fourteen years at the time the criminal offense was committed.

(3) A measure or penalty involving the deprivation of liberty may only be imposed against a juvenile offender if the aim of the measure or penalty cannot otherwise be achieved.

## **Active Repentance**

### *Section 107*

If the perpetrator is a juvenile, voluntary restitution may be provided also in misdemeanor cases under Subsection (1) of Section 29 and in connection with felonies which carry a sentence of imprisonment not exceeding five years.

## **Penalties and Measures**

### *Section 108*

(1) The measures to be imposed against juveniles shall inter alia include placement in a reformatory institution.

(2) No imprisonment, custodial arrest or community service work may be imposed in addition to being placed in a reformatory institution.

## **Imprisonment**

### *Section 109*

(1) The minimum term of imprisonment to be imposed upon juvenile offenders shall be one month for all types of criminal acts.

(2) The maximum term of imprisonment that may be imposed upon a juvenile offender over the age of sixteen years at the time the crime is committed shall be:

*a)* ten years for a crime that carries a maximum sentence of life imprisonment;

*b)* five years for a crime that carries a prison term of more than five years.

(3) The maximum term of imprisonment that may be imposed against a juvenile offender over the age of sixteen years at the time the crime is committed shall be:

*a)* fifteen years for a crime that carries a maximum sentence of life imprisonment;

*b)* ten years for a crime that carries a prison term of more than ten years;

*c)* five years for a crime that carries a prison term of more than five years.

(4) When calculating the period of limitation and for the purposes of the provisions pertaining to repeat offenders, the durations specified in Subsections (2)-(3) shall apply.

### *Section 110*

(1) A sentence of imprisonment imposed shall be carried out in a juvenile detention facility if:

a) the juvenile is sentenced to imprisonment of two years or more for a felony;

b) the juvenile is a recidivist and was sentenced to imprisonment of one year or more; or

c) the juvenile sentenced to imprisonment of one year or more and, within a period of three years prior to having committed a criminal offense intentionally, he was sentenced to confinement in a reformatory institution for an intentional criminal offense.

(2) Apart from the cases provided for in Subsection (1), a sentence of imprisonment imposed shall be carried out in a juvenile jail.

## **Custodial Arrest**

### *Section 111*

The minimum duration of custodial arrest to be imposed upon a juvenile shall be three days, its maximum duration shall be thirty days.

## **Community Service Work**

### *Section 112*

Community service work may only be imposed against juvenile offenders over the age of sixteen years at the time of sentencing.

## **The Fine**

### *Section 113*

(1) A fine may be imposed on a juvenile offender if he has independent earnings, income or sufficient assets.

(2) In the case of juvenile offenders the fine expressed in daily units shall be not less than fifteen and not more than two hundred and fifty days. The amount of fine for one daily unit shall be minimum five hundred and maximum fifty thousand forints.

(3) In the case of juvenile offenders, the fine, if cannot be enforced:

a) shall be substituted by community service work, where so permitted under Section 112; or

b) shall be substituted by imprisonment.

(4) The length of community service work imposed in substitution of a fine shall be determined where one day's worth of fine shall correspond to two hours of community service work. Moreover, where community service work is imposed in substitution of a fine, the provisions of Section 47 shall apply, with the proviso that its duration may differ from what is contained in Subsection (1) of Section 47.

(5) If a juvenile offender fails to voluntarily comply with his work obligation, the community service work, or the remaining part thereof, shall be substituted to imprisonment. Otherwise the provisions of Section 48 shall apply.

## **Expulsion**

### *Section 114*

Expulsion may be ordered against a juvenile offender if:

- a) sentenced to imprisonment of ten or more years;
- b) his presence in the country is assessed as posing a potential and considerable risk to public safety; and
- c) his right to respect for family life would not be injured.

## **Deprivation of Civil Rights**

### *Section 115*

A juvenile may be deprived of his civil rights only if sentenced to a term of imprisonment over one year.

## **Conditional Sentence**

### *Section 116*

- (1) A juvenile offender may be sentenced conditionally in connection with any crime.
- (2) The period of probation may be between one and two years.
- (3) The court shall order placement in a reformatory institution or impose a penalty in the case provided for in Subsection (1) of Section 66.

## **Work Performed in Amends**

### *Section 117*

Work to be performed in amends may only be imposed upon juvenile offenders over the age of sixteen years at the time of sentencing.

## **Prohibition from Residing in a Particular Area**

### *Section 118*

A juvenile who lives in an appropriate family environment may not be banned from the municipality in which his family is residing.

## **Probation with Supervision**

### *Section 119*

- (1) Juvenile offenders shall be placed under the supervision of a probation officer:
  - a) for the duration of the period of parole;
  - b) for the duration of probation;
  - c) for the duration of suspension of a prison sentence;
  - d) for the duration of temporary release from the reformatory institution;
  - e) for the duration of deferral of prosecution.

(2) In the case of juvenile offenders work performed in amends shall be ordered concurrently with probation with supervision.

## **Placement in a Reformatory Institution**

### *Section 120*

(1) The court shall order placement in a reformatory institution if proper education of the juvenile can only be provided in an institution. Placement in a reformatory institution may not be ordered against a person over the age of twenty years at the time of sentencing.

(2) The duration of placement in a reformatory institution may be between one year to four years.

### *Section 121*

(1) In ordering placement in a reformatory institution the court shall establish that the juvenile offender may be released from the reformatory institution temporarily after half of the duration of placement as ordered:

*a)* having spent at least one year in the institution, and

*b)* if there is reason to believe that the aim of the measure may also be achieved without further confinement in the reformatory institution.

(2) The duration of temporary release shall be the remaining part of confinement, but at least one year.

(3) The court shall terminate the temporary release if the juvenile is sentenced to any term of imprisonment during the temporary release - with the exception set out in Section 122 - or to placement in a reformatory institution. If the court imposes another penalty or measure against the juvenile, temporary release may be terminated.

(4) In case of the termination of temporary release the period spent on temporary release may not be included in the term of placement in the reformatory institution.

### *Section 122*

If the juvenile offender is sentenced to an executable term of imprisonment for a crime committed after being sentenced to placement in a reformatory institution during the period of placement in a reformatory institution or temporary release, the imprisonment shall be carried out. In that case the remainder of the duration of placement in a reformatory institution shall be substituted to imprisonment, with two days of placement in a reformatory institution substituted by one day of imprisonment.

## **Cumulative Sentences, Merger of Sentences**

### *Section 123*

(1) In the case of juvenile offenders, cumulative and merged sentences may not exceed:

*a)* twenty years of imprisonment in the case provided for in Paragraph *a)* of Subsection (3) of Section 109;

*b)* fifteen years of imprisonment in the cases provided for in Paragraph *a)* of Subsection (2) and Paragraph *b)* of Subsection (3) of Section 109;

*c)* seven years and six months of imprisonment in the cases provided for in Paragraph *b)* of Subsection (2) and Paragraph *c)* of Subsection (3) of Section 109.

(2) The term of imprisonment that may be imposed upon a juvenile offender may not exceed the measure defined in Paragraphs *a*) and *b*) of Subsection (1) even in the cases provided for in Subsection (4) of Section 81 and Subsection (2) of Section 90.

(3) Where placement in a reformatory institution and imprisonment is imposed concurrently, the imprisonment shall be carried out. The term of this imprisonment may be extended by not more than one year if it is deemed necessary for achieving the aim defined in Section 106. However, the duration of the extension may not amount to the remaining part of placement in the reformatory institution.

## **Consolidated Measures**

### *Section 124*

(1) If the court has sentenced a juvenile to several terms of placement in a reformatory institution that were still pending at the time when ordering a consolidated measure, or which are being served continuously, the court shall order the juvenile to confinement in a reformatory institution as a consolidated measure.

(2) The term of placement in reformatory institution ordered as a consolidated measure shall be imposed at least for the maximum term of placement, not to exceed the combined terms of placements ordered, or four years.

## **Inclusion of Preliminary Detention and House Arrest**

### *Section 125*

(1) The entire duration of preliminary detention and house arrest shall be included in the term of placement in a reformatory institution as ordered.

(2) For the purposes of inclusion, one day of preliminary detention and three days of house arrest shall correspond to one day of placement in a reformatory institution. If any duration of house arrest remains after the inclusion, it shall be counted as one day of placement in a reformatory institution.

## **Exoneration**

### *Section 126*

(1) A juvenile offender shall be exonerated by virtue of law:

*a*) on the day the sentence becomes final, if execution of the term of imprisonment imposed is conditionally suspended;

*b*) on the last day of serving the term of imprisonment or the day when it ceases to be enforceable, if sentenced to imprisonment of one year or less for an intentional criminal offense;

*c*) after a period of three years following the last day of serving the term of imprisonment or the day when it ceases to be enforceable, if sentenced to imprisonment between one to five years for an intentional criminal offense.

(2) The court may grant exoneration for a juvenile offender upon request, after having served a term of imprisonment of one year or more and imposed for an intentional criminal offense if he is found worthy of exoneration.

## **CHAPTER XII**

### **PROVISIONS RELATING TO MILITARY PERSONNEL**

## **The Offenders**

### *Section 127*

- (1) For the purposes of this Act, members of the regular force of the Hungarian Armed Forces, and the professional staff members of the police, the Parliament Guard, the department of corrections, the professional disaster management body and the civilian national security services shall be deemed servicemen.
- (2) The provisions of this Act shall apply to military personnel subject to the exceptions set out in this Chapter.
- (3) A military offense may only be committed by military personnel as perpetrator.

## **Criminal Acts Committed Against a Soldier of Another State**

### *Section 128*

(1) The provisions of Chapter XLV shall apply in respect of military personnel for having committed a criminal offense:

- a)* against a soldier of an allied army, or
- b)* against a soldier of another State when stationed in a foreign theater of operations and engaged in humanitarian activities, peacekeeping or humanitarian operations, or during any other foreign service, while engaged in joint maneuvers.

(2) For the purposes of Paragraph *a)* of Subsection (1) a soldier of an allied army shall mean a member of the police or civil defense service of the State of such allied armed force; and a soldier of another State and a member of the police or civil defense service of another State as well for the purposes of Paragraph *b)* of Subsection (1).

### *Section 129*

The provisions of Chapter XLV shall also apply in respect of military personnel for having committed a criminal offense:

- a)* while serving in allied armed forces;
- b)* while stationed in a foreign theater of operations and engaged in humanitarian activities, peacekeeping or humanitarian operations.

## **Grounds for Partial Exemption from Criminal Responsibility**

### *Section 130*

(1) A soldier may not be prosecuted for any act carried out as ordered, except if he was aware that carrying out the command constituted a criminal offense.

(2) The person giving the command shall also be liable for the criminal offense committed as ordered as perpetrator, if the soldier was aware that carrying out the command constituted a criminal offense; otherwise the person giving the command shall be prosecuted as a covert offender.

## **Grounds for Total Exemption from Criminal Responsibility**

### *Section 131*

Save where Subsection (1) of Section 66 applies, a perpetrator shall not be prosecuted for a military offense after one year from the date of being discharged from service.

## **Military Guardhouse**

### *Section 132*

(1) If the convicted person may be retained in service, imprisonment imposed for a misdemeanor for a term of one year or less, and custodial arrest shall be carried out in a military guardhouse, except if the convicted perpetrator is a recidivist.

(2) If the service relationship of the convicted perpetrator has terminated, the punishment or its remaining part shall be served in a jail.

## **Merger of Sentences**

### *Section 133*

The execution of a term of imprisonment imposed upon the merger of sentences shall be governed by Section 132.

## **Exclusion of Community Service Work**

### *Section 134*

Community service work may not be imposed upon military personnel during his service relationship.

## **Military Penalties**

### *Section 135*

(1) Military personnel may be subject to:

- a) loss of military rank; or
- b) dishonorable discharge;

in addition to other measures, or if the maximum sentence the criminal offense carries is three years of imprisonment or less, it may also be applied independently.

(2) Military penalties may not be imposed if the serviceman in question has been deprived of civil rights.

## **Additional Penalties under Military Law**

### *Section 136*

(1) Military personnel may be subject to:

- a) demotion, or
- b) extension of the waiting time,

imposed in addition to punishment.

(2) Additional penalties under military law may not be imposed concurrently with military penalties, or if the serviceman in question has been deprived of civil rights.



## **Loss of Military Rank**

### *Section 137*

- (1) 'Loss of military rank' shall mean when a soldier is deprived of his rank.
- (2) Loss of military rank shall be imposed if the perpetrator becomes unworthy of a rank.

## **Dishonorable Discharge**

### *Section 138*

Dishonorable discharge may be imposed if the perpetrator is deemed unworthy of service.

## **Military Demotion**

### *Section 139*

- (1) 'Military demotion' shall mean when a soldier is moved back one rank compared to his rank at the time of judgment of the crime.
- (2) Military demotion shall be imposed if the criminal offense harms the reputation of the rank, but no loss of military rank is necessary.
- (3) Simultaneously with the demotion, the time to be served in the lower rank shall be between one to two years, as ordered.

## **Extension of the Waiting Time**

### *Section 140*

- (1) 'Extension of waiting time' shall mean when the time a serviceman is required to wait for promotion to the next rank is extended. The extension shall be defined in years; its duration may not exceed half of the waiting time prescribed for the rank.
- (2) The waiting time shall be extended if the soldier has to merit the promotion by spending a longer waiting time.
- (3) As regards the members of the regular force of the Hungarian Armed Forces, the waiting time defined in Subsections (1) and (2) shall be construed as compulsory waiting periods.

## **Exoneration from the Detrimental Consequences Attached to Prior Convictions**

### *Section 141*

- (1) Exoneration shall take effect by the force of the law in connection with loss of military rank and dishonorable discharge on the day when the sentence becomes final.
- (2) The court may grant preliminary exoneration for a person from the detrimental consequences attached to prior convictions if it orders that the imprisonment be carried out in a military guardhouse. This exoneration shall take effect on the last day of serving the term of imprisonment or the day when it ceases to be enforceable.
- (3) The application of any additional penalty under military law shall not impede the exoneration of the person in question.

## **SPECIAL PART**

### **CHAPTER XIII**

#### **CRIMES AGAINST HUMANITY**

##### **Genocide**

###### *Section 142*

(1) Any person who - with the ultimate aim of the destruction, in whole or in part, of a national, ethnic, racial or religious group:

*a)* murders the members of the group;

*b)* causes serious bodily or mental injury to the members of the group;

*c)* constrains the group into living conditions threatening the demise of the group on the whole or certain members thereof;

*d)* takes any action aimed to prevent reproduction within the group;

*e)* abducts the children of the group and installs them into another group;

is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who engages in preparations for genocide shall be punishable by imprisonment between two to eight years.

##### **Crimes Against Humanity**

###### *Section 143*

(1) Any persons who - being part of a widespread or systematic practice:

*a)* commits murder;

*b)* forces the civilian population, in part or in whole, to live under conditions threatening the demise of that population or certain members thereof;

*c)* orders the displacement of the civilian population, in part or in whole, from their rightful place of residence;

*d)* engages in the trafficking in human beings or in exploitation in the form of forced labor;

*e)* deprives another person of his personal freedom, or unlawfully maintains his abduction;

*f)* forces another person to commit or tolerate sexual violence, forces others into prostitution or to bear a child, or into illegal abortion;

*g)* causes serious bodily or mental injury to others;

*h)* deprives other persons of their basic rights for reasons of their affiliation with a group on the grounds of political opinion, nationality, ethnic origin, culture, religion, sex or any other reason;

is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who engages in preparations for crimes against humanity is guilty of a felony punishable by imprisonment between two to eight years.

(3) In the application of this Section widespread or systematic assault on the civilian population shall include all conduct which covers the acts defined under Subsection (1) committed systematically against the civilian population aiming to implement or facilitate the policies of a State or organization.

## **Apartheid**

### *Section 144*

(1) Any person who - with the aim to establish dominion and maintain rule of a racial group of people over another racial group of people and/or with the aim of the systematic oppression of the other racial group:

*a)* murders the members of a racial group or groups;

*b)* forces a racial group or groups to live under conditions threatening the physical annihilation of the group or groups on the whole or to any extent;

is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who commits another crime of apartheid is punishable by imprisonment between five to fifteen years.

(3) The penalty shall be imprisonment between ten to twenty years, or life imprisonment, if the other crime of apartheid leads to particularly grave consequences.

(4) Any person who engages in preparations for apartheid is punishable:

*a)* by imprisonment between five to ten years in the cases defined in Subsection (1);

*b)* by imprisonment between two to eight years in the case defined in Subsection (2).

(5) For the purposes of Subsections (2)-(3), 'other apartheid crime' shall mean the crimes of apartheid defined in Article II *a)/(ii), a)/(iii), c), d), e), and f)* of the International Convention on the Suppression and Punishment of the Crime of Apartheid adopted on 30 November 1973 by the General Assembly of the United Nations Organization in New York, promulgated by Law-Decree No. 27 of 1976.

## **Criminal Responsibility of Superior Officers and Public Executives**

### *Section 145*

The penalties imposed upon the perpetrators of criminal offenses covered in this Chapter shall also apply:

*a)* to superior military officers and to persons purporting to be superior military officers (for the purposes of this Section hereinafter referred to collectively as "superior officer"), if a criminal offense covered in this Chapter is committed by a person under his de facto command and control, or under his de facto authority and control, and the superior officer knew that the criminal offense have been committed, or about preparations for such criminal offense, or should have known under the circumstances, and has not taken the measures within his power to prevent the criminal offense, or did not report the criminal offense promptly after gaining knowledge thereof;

*b)* to any high-ranking public official or foreign public official not covered under Paragraph *a)* (for the purposes of this Section hereinafter referred to as "public executive"), if a criminal offense covered in this Chapter is committed by a person under his de facto authority and control (for the purposes of this Section hereinafter referred to as "subordinate") in direct consequence of the public executive's failure to exercise supervision, if

*ba)* the public executive knew that the subordinate committed or made preparations for such criminal offense, or knowingly overlooked clear indications of the criminal offense being committed,

*bb)* the criminal offense involved activities falling within his de facto duties or responsibilities, and

*bc*) the public executive did not take the measures deemed necessary and justified within his power to prevent the criminal offense, or did not report the criminal offense promptly after gaining knowledge thereof.

## CHAPTER XIV

### WAR CRIMES

#### **Illegal Recruitment**

##### *Section 146*

(1) Any attempt to recruit personnel in the territory of Hungary for military service - other than for any allied forces -, paramilitary service in a foreign armed body, or any mediation of volunteers for such service shall be construed a felony punishable by imprisonment between one to five years.

(2) Any Hungarian citizen who voluntarily joins or offers to join any foreign armed body - other than the allied forces - that is involved in an armed conflict (national or international), or who participates in training in such an armed body shall be punishable in accordance with Subsection (1).

(3) Any person who recruits or mediates persons under the age of eighteen years in the territory of Hungary for military service, paramilitary service in a foreign armed body, or any mediation of volunteers for such service shall be punishable by imprisonment between two to eight years.

#### **Breach of Armistice**

##### *Section 147*

(1) Any person who breaches the conditions of armistice is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between five to ten years if the infringement of the armistice leads to particularly grave consequences.

#### **Assault Against a War Emissary**

##### *Section 148*

(1) Any person who abuses, illegally restrains the war emissary of the enemy or his companion, or otherwise applies violence against him is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who kills a war emissary or his companion shall be punishable by imprisonment between ten to twenty years or with life imprisonment.

#### **Assault on Protected Persons**

##### *Section 149*

(1) Any person who in time of war:

*a*) runs an offensive against protected persons;

*b*) runs an offensive which causes or is likely to cause death or serious injury to protected persons, where this is deemed manifestly excessive in relation to the concrete and direct military advantage anticipated;

is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who in time of war:

*a)* murders a protected person;

*b)* forces a protected person to live under conditions threatening the demise of the protected person;

*c)* forces a protected person to commit or tolerate sexual violence, forces a protected person into prostitution, or to bear a child or into illegal abortion;

*d)* deprives a protected person of his personal freedom;

*e)* orders the displacement of protected person from their rightful place of residence, or abducts protected persons, except where justified for military reasons;

is punishable by imprisonment between ten to twenty years or with life imprisonment.

(3) Any person who in time of war violates the right of self-determination of protected persons concerning medical procedures, or who causes serious bodily or mental injury to protected persons is punishable by imprisonment between five to fifteen years.

(4) Any person who in time of war denies access to the right to an effective remedy and to a fair trial for a protected person or a group of protected persons is punishable by imprisonment between two to eight years.

(5) Any person who engages in preparations for the criminal act referred to in Subsection (1) or (2) is punishable by imprisonment between one to five years.

## **Command to Liquidate Survivors**

### *Section 150*

Any person who in time of war gives an instruction or command to leave no survivors alive is guilty of a felony punishable by imprisonment between one to five years, insofar as the act did not result in a more serious criminal offense.

## **Human Shield**

### *Section 151*

(1) Any person who uses a protected person for the purpose of defending a specific area or military force from the enemy's military operations is guilty of a felony punishable by imprisonment between five to ten years.

(2) Any person who engages in preparations for the criminal offense referred to in Subsection (1) is punishable by imprisonment between one to five years.

## **Unlawful Enlistment**

### *Section 152*

(1) Any person who:

*a)* forces a protected person to serve in the armed forces or armed bodies of a hostile power that is known to him as the enemy,

*b)* forces any national of a hostile power to partake in military operations against his own nation,

is guilty of a felony punishable by imprisonment between five to ten years.

(2) Any person who engages in preparations for the criminal offense referred to in Subsection (1) hereof is punishable by imprisonment between one to five years.

(3) Any person who recruits or enlists a person under the age of eighteen years for the armed forces or armed bodies, or persuades such person to participate in war, or provides the means necessary for committing the said criminal offense or facilitating thereof, is punishable by imprisonment between five to fifteen years.

## **Assault on Protected Property**

### *Section 153*

(1) Any person who in time of war launches an attack on or assaults an establishment that is not recognized as a military objective and is therefore not protected by the military, that results in losses in such unprotected establishment, or is likely to result in extensive, prolonged and severe damage to the natural environment which would be deemed manifestly excessive in relation to the concrete and direct military advantage anticipated is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to ten years if the assault is directed against:

*a)* hospitals or any similar establishments for the treatment or placement of patients and casualties, or

*b)* cultural goods protected under international treaty.

(3) Any person who uses or utilizes cultural goods protected under international treaty, or the immediate surroundings thereof in support of military action, or makes such goods the object of theft, pillage, destruction or vandalism shall be punishable in accordance with Subsection (2).

(4) The penalty shall be imprisonment between five to fifteen years if the criminal offense referred to in Paragraph *b)* of Subsection (2) or in Subsection (3) is committed in connection with cultural goods placed under special or enhanced protection by international treaty, or the immediate surroundings thereof.

(5) For the purposes of this Section:

*a)* ‘cultural goods’ shall mean the cultural goods defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict signed in the Hague on 14 May 1954, and promulgated by Law-Decree No. 14 of 1957;

*b)* ‘cultural goods under special protection’ shall mean the cultural property defined in Article 8 of the Convention referred to in Paragraph *a)*;

*c)* ‘cultural goods under enhanced protection’ shall mean the cultural property defined in Article 10 of the Second Protocol to the Convention referred to in Paragraph *a)*, promulgated by Act XXIX of 2006.

## **War-Time Looting**

### *Section 154*

(1) Any person who, in a theater of operations or occupied territory:

*a)* engages in looting the property of civilians;

*b)* deprives the people of its own means of subsistence by way of the coercion of services or by other means, except where justified for military reasons;

is guilty of a felony punishable by imprisonment between one to five years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who loots the fallen, injured or sick on the battlefield is punishable by imprisonment between two to eight years.

## **Use of Weapons Prohibited by International Convention**

### *Section 155*

(1) Any person who uses or orders the use of a weapon or instrument of warfare prohibited by international convention in a theater of military operations or in an occupied territory is guilty of a felony punishable by imprisonment between ten to twenty years or life imprisonment.

(2) Any person who engages in preparations for the criminal act referred to in Subsection (1) is punishable by imprisonment between one to five years.

## **Assault Against a Humanitarian Organization**

### *Section 156*

Any person who runs an offensive against the staff, equipment, means, units or vehicles of a humanitarian organization, relief or peacekeeping organizations operating in time of war within the framework of the United Nations and in accordance with its Charter, if they are entitled to protection granted under international law in the event of armed conflict to protected persons and establishments is guilty of a felony punishable by imprisonment between five to ten years.

## **Criminal Offenses with Internationally Protected Signs and Marks**

### *Section 157*

Any person who in time of war misuses the sign of the red cross, red crescent or red crystal, or other signs serving a similar purpose and recognized internationally is guilty of a felony punishable by imprisonment between one to five years, insofar as the act did not result in a more serious criminal offense.

## **Other War Crimes**

### *Section 158*

Other war crimes and the penalties for such crimes are governed in Decree No. 81/1945 (II. 5.) ME, enacted into law by Act VII of 1945 and amended and supplemented by Decree No. 1440/1945 (V. 1.) ME.

## **Criminal Responsibility of Superior Officers and Public Executives**

### *Section 159*

The penalties imposed upon the perpetrators of criminal offenses covered in this Chapter shall also apply:

*a)* to superior military officers and to persons purporting to be military commanders (for the purposes of this Section hereinafter referred to collectively as “superior officer”), if a criminal offense covered in this Chapter is committed by a person under his de facto command and control, or under his de facto authority and control, and the superior officer knew that the criminal offense have been committed, or about preparations for such criminal offense, or should have known under the circumstances, and has not taken the measures within his power to prevent the criminal offense, or did not report the criminal offense promptly after gaining knowledge thereof;

*b)* to any high-ranking public official or foreign public official not covered under Paragraph *a)* (for the purposes of this Section hereinafter referred to as “public executive”), if a criminal offense covered in this Chapter is committed

by a person under his de facto authority and control (for the purposes of this Section hereinafter referred to as “subordinate”) in direct consequence of the public executive’s failure to exercise supervision, if

*ba*) the public executive knew that the subordinate committed or made preparations for such criminal offense, or knowingly overlooked clear indications of the criminal offense being committed,

*bb*) the criminal offense involved activities falling within his de facto duties or responsibilities, and

*bc*) the public executive did not take the measures deemed necessary and justified within his power to prevent the criminal offense, or did not report the criminal offense promptly after gaining knowledge thereof.

## CHAPTER XV

### CRIMES AGAINST LIFE, LIMB AND HEALTH

#### **Homicide**

##### *Section 160*

(1) Any person who kills another human being is guilty of a felony punishable by imprisonment between five to fifteen years.

(2) The penalty shall be imprisonment between ten to twenty years, or life imprisonment, if the homicide is committed:

*a*) deliberately with premeditation;

*b*) for financial gain;

*c*) with malice aforethought or with malicious motive;

*d*) with particular cruelty;

*e*) against a public official or a foreign public official during or because of his official proceedings, against a person performing public duties when carrying out such duties, or against a person providing assistance to or acting in defense of such persons performing official or public duties;

*f*) against more than one person;

*g*) endangering the life of a number of persons;

*h*) by a habitual recidivist;

*i*) against a person under the age of fourteen years;

*j*) against a person incapable of self-defense; or

*k*) against a person whose ability to defend himself is diminished due to his old age or disability.

(3) Any person who engages in preparations to commit homicide is punishable by imprisonment between one to five years.

(4) Any person who commits negligent homicide is guilty of a misdemeanor punishable by imprisonment between one to five years.

(5) Any person who persuades another to commit suicide shall be punishable in accordance with Subsection (1) if such person is under the age of fourteen years or is unable to express his will, and if the suicide is in fact committed.



(6) In the application of Paragraph *h*) of Subsection (2), the following shall be construed as crimes of similar nature within the meaning of habitual recidivism:

- a*) genocide [Paragraph *a*) of Subsection (1) of Section 142], voluntary manslaughter (Section 161);
- b*) aggravated cases of kidnapping and assault on a superior officer or representative of public authority [Subsection (4) of Section 190, Paragraph *a*) of Subsection (5) of Section 445];
- c*) acts of terrorism, unlawful seizure of a vehicle, and aggravated cases of mutiny, if causing death and the act is committed intentionally [Subsection (1) of Section 314, Subsection (2) of Section 320, Subsection (4) of Section 442].

## **Voluntary Manslaughter**

### *Section 161*

Any person who commits homicide with provocation or in the heat of passion is guilty of a felony punishable by imprisonment between two to eight years.

## **Aiding and Abetting Suicide**

### *Section 162*

(1) Any person who persuades another to commit suicide, or provides aid for suicide is guilty of a felony punishable by imprisonment between one to five years, if the suicide is attempted or committed.

(2) Any person over the age of eighteen years who persuades another person under the age of eighteen years to commit suicide, or provides aid for committing suicide is punishable by imprisonment between two to eight years, if the suicide is attempted or committed.

## **Abortion**

### *Section 163*

(1) Any person who engages in the removal or expulsion of a fetus is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years, if the abortion is committed:

- a*) on a commercial scale;
- b*) without the consent of the pregnant woman; or
- c*) causing severe bodily injury or danger to life.

(3) The penalty shall be imprisonment between two to eight years if the abortion results in the pregnant woman's death.

(4) Any woman who deliberately destroys her fetus or induces someone to do so is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Battery**

### *Section 164*

- (1) Any person who causes bodily harm to or injures the health of another person is guilty of battery.
- (2) If the injury or illness caused by battery takes less than eight days to heal, the perpetrator is guilty of the misdemeanor of simple battery punishable by imprisonment not exceeding two years.
- (3) If the injury or illness caused by battery takes more than eight days to heal, the perpetrator is guilty of the felony of aggravated battery punishable by imprisonment not exceeding three years.
- (4) The penalty for a felony shall be imprisonment not exceeding three years if the simple battery is committed:
  - a) with malice aforethought or with malicious motive;
  - b) against a person incapable of self-defense or unable to express his will; or
  - c) against a person whose ability to defend himself is diminished due to his old age or disability.
- (5) The penalty shall be imprisonment between one to five years if the simple battery results in permanent disability or serious health impairment.
- (6) The penalty shall be imprisonment between one to five years, if the aggravated battery is committed:
  - a) with malice aforethought or with malicious motive;
  - b) against a person incapable of self-defense or unable to express his will;
  - c) against a person whose ability to defend himself is diminished due to his old age or disability;
  - d) causing permanent disability or serious health impairment;
  - e) with particular cruelty.
- (7) Any person who engages in preparations for the criminal act referred to in Subsection (3) or (6) is guilty of a misdemeanor punishable by imprisonment not exceeding one year.
- (8) The penalty shall be imprisonment between two to eight years if the battery is life-threatening or results in death.
- (9) Any person who commits aggravated battery by way of negligence shall be punishable for misdemeanor by imprisonment:
  - a) not exceeding one year in the case defined in Subsection (3);
  - b) not exceeding three years in the cases defined in Paragraphs b)-c) of Subsection (6);
  - c) not exceeding five years in the case of causing a life-threatening injury.
- (10) The perpetrator of the criminal offense defined in Subsection (2) shall only be prosecuted upon private motion.

## **Professional Misconduct**

### *Section 165*

- (1) Any person who engages in misconduct in the course of engaging in his profession, thus causing imminent danger to the life, bodily integrity or health of another person or persons by his failure to act with reasonable care, or causes bodily harm, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.
- (2) The penalty shall be:

a) imprisonment for up to three years if the criminal offense results in permanent physical disability or a serious health impairment, or a mass catastrophe;

b) imprisonment between one to five years if the crime results in death;

c) imprisonment between two to eight years if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

(3) Any person who is responsible for causing imminent danger willfully is guilty of a felony punishable by imprisonment not exceeding three years in the case of Subsection (1), or by imprisonment between one to five years, between two to eight years, or between five to ten years in the case of Subsection (2), taking into account the distinction made therein.

(4) For the purposes of this Section, rules of a profession shall also cover the rules relating to the use and handling of firearms, blasting agents and explosives.

## **Failure to Offer Aid or Assistance**

### *Section 166*

(1) Any person who fails to offer aid or assistance as it may be expected of him to an injured person, or to a person whose life or bodily integrity is in imminent danger, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony, if the injured person dies, and his life could have been saved by aid.

(3) The penalty for felony shall be imprisonment not exceeding three years in the case of Subsection (1), or between one to five years in the case of Subsection (2), if the emergency situation is brought about by the perpetrator, or if he is otherwise obligated to help.

(4) The last phrase of Subsection (3) shall not apply against a person who is obligated to help on the basis of traffic regulations.

## **Failure to Provide Care**

### *Section 167*

Any person who fails to perform his obligation to provide care for a person who cannot care for himself due to his condition or old age, and thereby endangers the life, bodily integrity or health of the person in need of care, is guilty of a felony punishable by imprisonment not exceeding three years.

## **CHAPTER XVI**

### **MEDICAL PROCEDURES AND CRIMINAL OFFENSES AGAINST THE ORDER OF RESEARCH**

#### **Procedures on the Human Genome**

### *Section 168*

(1) Any person who performs a procedure on the human genetic structure, fetal genetic structure or the genetic structure of a human embryo for the purpose of changing the genetic structure thereof is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the procedure described in Subsection (1) results in permanent changes in the genome.

## **Illegal Use of Human Gametes**

### *Section 169*

(1) Any person who uses gametes from a cadaver or from a deceased fetus as part of a special procedure for the purpose of human reproduction is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who engages in preparations for the illegal use of human gametes is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Altering the Gender of an Unborn Child**

### *Section 170*

(1) Any person who performs a procedure for the purpose of altering the gender of an unborn child is guilty of a felony punishable by imprisonment between one to five years.

## **Violation of the Rules of Experimental Research on Humans**

### *Section 171*

Any person who performs a medical experiment on humans without or in deviation of, the authorization is guilty of a felony punishable by imprisonment between one to five years.

## **Violation of the Rules of Experimental Research with Embryos or Gametes**

### *Section 172*

(1) Any person who performs a medical experiment on human embryos or gametes without or in deviation of, the authorization, or creates a human embryo for scientific purposes, is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who:

- a)* transplants a human embryo into an animal;
- b)* inseminates a human gamete with an animal gamete, or vice versa;
- c)* implants a human embryo which was previously experimented with into a human body;
- d)* uses a human gamete which was previously used for experiment for human reproduction;
- e)* uses a non-human gamete or embryo for human insemination or for embryo implantation;
- f)* uses a human embryo to create several human embryos or animal embryos;

is punishable by imprisonment between two to eight years.

(3) Any person who engages in preparations for the criminal acts referred to in Subsection (2) is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(4) For the purposes of this Section human gamete shall also mean fetus gamete.

*Section 173*

(1) Any person who performs a scientific experiment on a human embryo for the purpose of manipulating the genetic structure of the embryo is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who:

*a)* uses a human embryo to create a specimen with characteristics different from those developed by conception, or with additional features; or

*b)* separates the cells of a human embryo;

is punishable by imprisonment between two to eight years.

(3) Any person who engages in preparations for the criminal act referred to in Subsection (2) is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Producing Genetically Identical Human Individuals**

*Section 174*

(1) Any person who produces genetically identical human individuals during experimental research or during a medical procedure is guilty of a felony punishable by imprisonment between five to ten years.

(2) Any person who engages in preparations for the criminal act described in Subsection (1) is punishable by imprisonment not exceeding three years.

## **Illegal Use of a Human Body**

*Section 175*

(1) Any person who illegally acquires, sells or trades for pecuniary gain human genes, cells, gametes, embryos, organs, tissues, or a cadaver or part(s) of such, or a deceased fetus, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the illegal use of human body is committed by an employee of a healthcare service provider acting for purposes relating to his profession.

(3) The penalty shall be imprisonment between one to five years in the case provided for in Subsection (1) or imprisonment between two to eight years in the case provided for in Subsection (2) if the illegal use of human body is committed:

*a)* against a person under the age of eighteen years;

*b)* on a commercial scale; or

*c)* in criminal association with accomplices.

(4) Any person who engages in preparations for the illegal use of a human body is guilty of a misdemeanor punishable by imprisonment not exceeding one year in the case provided for in Subsection (1), or with imprisonment not exceeding two years in the cases provided for in Subsections (2) and (3).

(5) For the purposes of this Section embryo shall also mean an embryo removed from the mother's uterus as well as those produced in special procedures for the purpose of human reproduction, which are not placed into the uterus.

## **CHAPTER XVII**

## CRIMINAL OFFENSES AGAINST HEALTH

### Drug Trafficking

#### *Section 176*

(1) Any person who offers or supplies narcotic drugs or is engaged in the distribution or trafficking in narcotic drugs is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to ten years if the criminal act is committed:

*a)* in criminal association with accomplices;

*b)* by a public official or a person entrusted with public functions, acting in such official capacity; or

*c)* in any facility of the Hungarian Armed Forces or law enforcement agencies, or the facilities of the Nemzeti Adó- és Vámhivatal (*National Tax and Customs Authority*).

(3) The penalty shall be imprisonment between five to twenty years or life imprisonment if the criminal act is committed in respect of a substantial quantity of narcotic drugs.

(4) Any person who provides material assistance for the criminal acts defined in Subsections (1)-(3) shall be punishable as set forth therein.

(5) Any person who offers or supplies a small quantity of narcotic drugs shall be punishable:

*a)* for a misdemeanor by imprisonment not exceeding two years in the case of Subsection (1);

*b)* by imprisonment between one to five years in the cases defined in Paragraphs *b)*-*c)* of Subsection (2).

(6) Any person who:

*a)* is engaged in preparations for the criminal offenses defined in Subsections (1) and (2) is punishable by imprisonment not exceeding three years;

*b)* is engaged in preparations for the criminal offense defined in Subsection (3) is punishable by imprisonment between one to five years.

#### *Section 177*

(1) Any person over the age of eighteen years who:

*a)* offers or supplies narcotic drugs to a person under the age of eighteen years;

*b)* is engaged in the distribution of or trafficking in narcotic drugs by using a person under the age of eighteen years;

*c)* inside or in the proximity of a building serving the purpose of education, public learning, child welfare or child protection activities:

*ca)* offers or supplies narcotic drugs,

*cb)* engaged in the distribution of or trafficking in narcotic drugs,

is guilty of a felony punishable by imprisonment between five to ten years.

(2) The penalty shall be imprisonment between five to twenty years or life imprisonment if the criminal act is committed:

*a)* in respect of a substantial quantity of narcotic drugs;

*b)* in criminal association with accomplices;

*c)* by a public official or a person entrusted with public functions, acting in such official capacity.

(3) Any person who provides material assistance for the criminal acts defined in Subsections (1)-(2) shall be punishable as set forth therein.

(4) Any person who commits the criminal offense defined in Paragraph *a)* or Subparagraph *ca)* of Subsection (1) in respect of a small quantity of narcotic drug is punishable by imprisonment between one to five years, or between two to eight years if committed by a public official or a person entrusted with public functions, acting in such official capacity.

(5) Any person who engages in preparations for the criminal act described in Subsection (1) or (2) is punishable by imprisonment not exceeding three years.

## **Possession of Narcotic Drugs**

### *Section 178*

(1) Any person who produces, manufactures, acquires, possesses, imports or exports, or transports narcotic drugs in transit through the territory of Hungary is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be:

*a)* imprisonment between two to eight years, if the criminal offense is committed:

*aa)* on a commercial scale,

*ab)* in criminal association with accomplices,

*ac)* by a public official or a person entrusted with public functions, acting in such official capacity;

*b)* imprisonment between five to ten years if the criminal act is committed in respect of a substantial quantity of narcotic drugs;

*c)* imprisonment between five to fifteen years if the criminal act is committed in respect of a particularly substantial quantity of narcotic drugs.

(3) Any person who provides material assistance for the criminal acts defined in Subsections (1)-(2) shall be punishable as set forth therein.

(4) Any person who engages in preparations for the criminal acts described in Subsections (1)-(2) is guilty of a felony punishable by imprisonment not exceeding three years.

(5) If the criminal act is committed in respect of a small quantity of narcotic drugs, the penalty shall be:

*a)* for a misdemeanor imprisonment not exceeding two years in the case of Subsection (1);

*b)* imprisonment not exceeding three years in the cases defined in Subparagraphs *aa)* and *ac)* of Subsection (2).

(6) Any person who consumes narcotic drugs, or acquires or possesses a small quantity of narcotic drugs for own consumption is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

### *Section 179*

(1) Any person over the age of eighteen years who produces, manufactures, acquires or possesses narcotic drugs:

*a)* by using a person under the age eighteen years; or

*b)* inside or in the proximity of a building serving the purpose of education, public learning, child welfare or child protection activities;

is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person over the age of eighteen years who, by using a person under the age of eighteen years, imports or exports, or transports narcotic drugs in transit through the territory of Hungary is punishable in accordance with Subsection (1).

(3) The penalty shall be:

*a)* imprisonment between five to ten years if the criminal offense is committed:

*aa)* in criminal association with accomplices,

*ab)* on a commercial scale,

*ac)* by a public official or a person entrusted with public functions, acting in such official capacity;

*b)* imprisonment between five to ten years if the criminal act is committed in respect of a substantial quantity of narcotic drugs;

*c)* imprisonment between five to twenty years or life imprisonment if the criminal act is committed in respect of a particularly substantial quantity of narcotic drugs.

(4) Any person who provides material assistance for the criminal acts defined in Subsections (1)-(3) shall be punishable as set forth therein.

(5) Any person who engages in preparations for the criminal act described in Subsections (1)-(3) is guilty of a felony punishable by imprisonment not exceeding three years.

(6) If the criminal act is committed in respect of a small quantity of narcotic drugs, the penalty shall be for a felony:

*a)* imprisonment not exceeding three years in the cases of Subsections (1) and (2);

*b)* imprisonment between one to five years in the cases defined in Subparagraphs *ab)* and *ac)* of Subsection (3).

#### *Section 180*

(1) Any person who produces, manufactures, acquires or possesses a small quantity of narcotic drugs for own consumption shall not be prosecuted if the perpetrator has admitted to have committed the criminal offense and if able to produce a document before being sentenced in the first instance to verify that he has been treated for drug addiction for at least six consecutive months or that he has participated in a drug rehabilitation program or a preventive-consulting service relating to dependency.

(2) The provisions of Subsection (1) shall not apply if inside a period of two years before the criminal offense was committed:

*a)* prosecution was deferred, and/or the investigation or the proceedings was suspended upon the perpetrator having agreed to receive treatment for drug addiction or to participate in a drug rehabilitation program or a preventive-consulting service relating to dependency, or

*b)* the perpetrator was found guilty of unlawful drug trafficking or possession of narcotic drugs.



(3) In the cases provided for in Subsections (1), (5)-(6) of Section 178 and in Subsections (1)-(2) and (6) of Section 179, if Subsection (1) does not apply, the penalty may be reduced without limitation if the perpetrator provides information for the identification of the dealer of narcotic drugs before being indicted.

## **Inciting Substance Abuse**

### *Section 181*

(1) Any person over the age of eighteen years who:

*a)* persuades or makes any attempt to persuade a person under the age of eighteen years to engage in the pathological indulgence of a substance or agent that has a narcotic effect but is not classified as a drug, or

*b)* makes any attempt to persuade a person under the age of eighteen years to use narcotic drugs;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person over the age of eighteen years who offers assistance to a person under the age of eighteen years to engage in the pathological indulgence of a substance or agent that has a narcotic effect but is not classified as a narcotic drug is punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

## **Aiding in the Manufacture or Production of Narcotic Drugs**

### *Section 182*

(1) Any person who:

*a)* produces, acquires, supplies, imports or exports, or transports in transit through the territory of the Hungary,

*b)* engaged in the distribution of or trafficking in,

materials, equipment and/or accessories for the production or manufacture of narcotic drugs is guilty of a felony punishable by imprisonment between one to five years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who provides material assistance for the criminal act defined in Subsection (1) shall be punishable as set forth therein.

(3) The penalty shall be imprisonment between two to eight years if:

*a)* the criminal offense defined in Subsection (1) is committed in criminal association with accomplices;

*b)* the criminal offense defined in Paragraph *a)* of Subsection (1) is committed on a commercial scale.

(4) Any person who engages in preparations for the criminal act referred to in Subsection (1) or (3) is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(5) Any person who has been providing assistance for the production of narcotic drugs shall be exonerated from punishment if he confesses the act to the authorities before they become aware thereof; surrenders to the authorities the materials, equipment and/or accessories in his possession, and cooperates with the authorities in finding other persons who are engaged in the production of narcotic drugs.

## **Criminal Offenses with Drug Precursors**

### *Section 183*

(1) Any person who:

*a)* possesses or places on the market or transports, or is engaged in intermediary activities with drug precursors prescribed in the relevant legislation of the European Union without authorization, or by exceeding the scope of the authorization;

*b)* acquires drug precursors prescribed in the relevant legislation of the European Union by way of making a false statement;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who breaches the notification obligation relating to the distribution or transportation of or intermediary activities with drug precursors prescribed in the relevant legislation of the European Union is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) For the purposes of this Section:

*a)* ‘legislation of the European Union’ shall mean Regulation (EC) No. 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors (for the purposes of this Subsection hereinafter referred to as “Regulation 273/2004/EC”), and Council Regulation (EC) No. 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (for the purposes of this Subsection hereinafter referred to as “Council Regulation 111/2005/EC”);

*b)* ‘placing on the market’ shall have the meaning defined in Article 2*c)* of Regulation 273/2004/EC;

*c)* ‘transport’ shall have the meaning defined in Article 2*c)* and *d)* of Council Regulation 111/2005/EC;

*d)* ‘intermediary activity’ shall have the meaning defined in Article 2*e)* of Council Regulation 111/2005/EC;

*e)* ‘notification obligation’ shall have the meaning defined in Article 8(1) of Regulation 273/2004/EC and in Article 9(1) of Council Regulation 111/2005/EC.

## **Illegal Possession of New Psychoactive Substances**

### *Section 184*

(1) Any person who:

*a)* imports or exports, or transports new psychoactive substances in transit through the territory of Hungary;

*b)* manufactures, supplies, offers, places on the market or deals with new psychoactive substances;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) In the application of this Section, ‘new psychoactive substance’ shall have the meaning defined in the Act on Medicinal Products for Human Use and on the Amendment of Other Regulations Related to Medicinal Products.

## **Criminal Offenses with Performance Enhancers**

### *Section 185*

(1) Any person who:

*a)* manufactures or produces;

*b)* supplies, offers, places on the market;

*c)* prescribes by way of medical or veterinary prescription;

controlled performance enhancing drugs for enhancing performance in sports is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal act is committed on a commercial scale or in criminal association with accomplices.

(3) The penalty shall be imprisonment between two to eight years if:

*a)* the criminal offense results in supplying controlled performance enhancing drugs to a person under the age of eighteen years;

*b)* the criminal offense provided for in Paragraph *a)* or *b)* of Subsection (1) is committed by a person over the age of eighteen years by using a person under the age of eighteen years.

(4) Any person who engages in preparations for the criminal acts referred to in Subsections (1)-(3) is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(5) Any person over the age of eighteen years who persuades another person under the age of eighteen years to use controlled performance enhancing drugs, or provides aid to such person for using controlled performance enhancing drugs is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(6) For the purposes of this Section, 'controlled performance enhancing drug' shall mean substances listed - in terms of active ingredient - as anabolic steroids, peptide hormones, growth factors and their congener, hormone antagonists and modulators, and which are listed in the Government Decree on the Promulgation of Annex I to the International Convention Against Doping in Sports.

## **Falsification of Health Care Products**

### *Section 186*

(1) Any person who:

*a)* falsifies health care products or produces falsified health care products;

*b)* supplies, offers, places on the market or deals with false or falsified health care products, or health care products which have not been authorized in Hungary;

*c)* imports or exports, or transports in transit through the territory of Hungary false or falsified health care products, or acquires and/or possesses such in unreasonable quantities;

*d)* acquires and/or possesses health care products which have not been authorized in Hungary in unreasonable quantities, or imports or exports, or transports in transit through the territory of Hungary such products;

*e)* uses an original document related to health care products for commercial purposes for reasons other than for which such document was intended;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty in the cases provided for in Paragraphs *a)* and *b)* of Subsection (1) shall be:

*a)* imprisonment between one to five years if the criminal offense results in permanent disability or serious health impairment;

*b)* imprisonment between two to eight years if the criminal offense results in death.

(3) Any person who commits the criminal offense defined in Subsection (1):

*a)* as a healthcare employee;

*b)* as an employee of an authorized manufacturer, wholesaler or public supplier; or

*c)* in criminal association with accomplices;

is punishable by imprisonment between one to five years.

(4) The penalty under Subsection (3) shall be imposed if false or falsified health care products, or health care products which have not been authorized in Hungary are widely distributed to users.

(5) For the purposes of this Section:

*a)* 'health care product' shall mean medicinal products, veterinary medicinal products, medical devices, in vitro diagnostic medical devices, and investigational medicinal products;

*b)* 'unreasonable quantity' shall mean any quantity that goes beyond what is considered to serve the personal needs of a specific person;

*c)* 'health care product not authorized in Hungary' shall inter alia mean medical devices placed on the market without a conformity evaluation test, and any product in which active ingredients are used in violation of the statutory provisions on the composition of a given product. Authorized health care product shall inter alia cover any medicinal product which does not have a marketing authorization in Hungary, in connection with which the conduct defined in Paragraph *b)* or *d)* of Subsection (1) is carried out, where this is subject to authorization or notification in accordance with the relevant legislation.

## **Charlatanry**

### *Section 187*

(1) Any person who unlawfully engages in activities under the pretenses of a medical practice for compensation or on a regular basis, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty for a felony shall be imprisonment not exceeding three years, if charlatanry is committed by feigning entitlement to practice medicine.

(3) For the purposes of this Section 'authorized medical practitioner' shall mean:

*a)* a person who has a degree received at a domestic university for general medicine or dentistry;

*b)* a person who has an adapted degree received at a foreign university for general medicine or dentistry provided with a certificate of equivalence;

*c)* a foreign citizen who has been authorized to engage in medical activities without the adaptation of his degree; provided in all cases that he has not been banned by court order from practicing medicine.

(4) Banishment may also be imposed against persons engaged in charlatanry.

## **Criminal Offenses with Toxic Substances**

### *Section 188*

(1) Any person who - without proper authorization - prepares, possesses, uses or distributes poison, or who fails to take the measures prescribed for the prevention of any illegal use of poisons or for the protection of others is guilty of a misdemeanor punishable by custodial arrest, insofar as the act did not result in a more serious criminal offense.

(2) In the application of this Section, 'poison' shall mean a dangerous substance or mixture which, based on their toxicological properties, endanger human life if inhaled, ingested or if they penetrate the skin, or likely to cause substantial damage or serious injury.

## **Criminal Offenses with Harmful Consumer Goods**

### *Section 189*

(1) Any person who prepares or possesses any consumer goods for the purpose of distribution that is harmful to health is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who places harmful consumer goods on the market is guilty of a felony punishable by imprisonment not exceeding three years.

(3) The penalty shall be imprisonment between one to five years if the criminal act is committed:

*a)* in respect of harmful consumer goods of a substantial quantity or value;

*b)* in criminal association with accomplices; or

*c)* on a commercial scale.

(4) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding one year.

(5) The person who committed the criminal offenses defined in Subsections (1) and (4) shall not be prosecuted if he makes every effort, upon gaining knowledge of the harmful nature of the consumer goods, to regain possession of the harmful consumer goods in question, or to prevent their being placed on the market.

## CHAPTER XVIII

### OFFENCES AGAINST PERSONAL FREEDOM

#### **Kidnapping**

##### *Section 190*

(1) Any person who deprives another person of his personal freedom:

*a)* by the use of force or direct threat against life or bodily integrity, or

*b)* rendering him defenseless or unable to express his will, or by taking advantage of such condition,

and makes his release dependent upon the performance of a demand is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty for kidnapping shall be imprisonment between five to fifteen years if committed:

*a)* against a person under the age of eighteen years;

*b)* in criminal association with accomplices;

*c)* by displaying a deadly weapon;

*d)* by carrying a deadly weapon, or

*e)* against a public official or a foreign public official, in respect of that capacity.

(3) The penalty shall be imprisonment between five to twenty years or life imprisonment, if the kidnapping:

*a)* is committed against a person under the age of fourteen years;

*b)* results in particularly great damage; or

*c)* results in death.

(4) The penalty shall be imprisonment between ten to twenty years or life imprisonment, if the kidnapping also involves murder.

(5) Any person who engages in preparations for kidnapping is punishable by imprisonment not exceeding three years.

(6) The punishment of a person who voluntarily terminates the act of kidnapping before grave consequences have resulted therefrom may be reduced without limitation.

## **Misprision of Kidnapping**

### *Section 191*

Any person who has positive knowledge of preparations being made for kidnapping, and fails to promptly inform the person against whom it is planned or fails to report it at the earliest opportunity to the authorities is guilty of a felony punishable by imprisonment not exceeding three years, if the kidnapping has been attempted or completed.

## **Trafficking in Human Beings**

### *Section 192*

(1) Any person who:

*a)* sells, purchases, exchanges, or transfers or receives another person as consideration; or

*b)* transports, harbors, shelters or recruits another person for the purposes referred to in Paragraph *a)*, including transfer of control over such person;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbors or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if trafficking in human beings is committed:

*a)* against a person held in captivity;

*b)* by force or by threat of force;

*c)* by deception;

*d)* by tormenting the aggrieved party;

*e)* against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognized position of trust, authority or influence over the victim;

*f)* for the unlawful use of the human body;

*g)* by a public official, acting in an official capacity;

*h)* in criminal association with accomplices; or

*i)* on a commercial scale.

(4) The penalty shall be imprisonment between five to ten years, if:

a) the criminal offense provided for in Subsection (2) is committed against a person under the age of eighteen years;

b) the criminal offense provided for in Subsection (2) is committed against a person held in captivity, and either of the aggravating circumstances under Paragraphs *b)-i)* of Subsection (3) apply; or

c) the criminal offense provided for in Subsection (2) results in particularly great damage or danger to life.

(5) The penalty shall be imprisonment between five to fifteen years if:

a) the criminal offense provided for in Subsection (2) is committed against a person under the age of fourteen years;

b) the criminal offense provided for in Subsection (2) is committed against a person under the age of eighteen years, and either of the aggravating circumstances under Subsection (3) apply;

c) the criminal offense provided for in Subsection (2) is committed against a person under the age of eighteen years, and results in particularly great damage or danger to life; or

d) the criminal offense provided for in Subsection (2) is committed against a person under the age of eighteen years for the purpose of child pornography.

(6) The penalty shall be imprisonment between five to twenty years or life imprisonment if:

a) the criminal offense provided for in Subsection (2) is committed against a person under the age of fourteen years, and either of the aggravating circumstances under Subsection (3) apply;

b) the criminal offense provided for in Subsection (2) is committed against a person under the age of fourteen years, and results in particularly great damage or danger to life; or

c) the criminal offense provided for in Subsection (2) is committed against a person under the age of fourteen years for the purpose of child pornography.

(7) Any person who engages in preparations for trafficking in human beings is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(8) In the application of this Section, 'exploitation' shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation.

## **Forced Labor**

### *Section 193*

(1) Any person who forces another person by taking advantage of his vulnerable situation, or by force or by threat of force, to perform work against his will, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the crime of forced labor is committed:

a) by tormenting the victim;

b) by causing a significant injury of interests; or

c) against a person under the age of eighteen years.

## **Violation of Personal Freedom**

*Section 194*

(1) Any person who deprives another person of his personal freedom is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the violation of personal freedom is committed:

- a)* against a person under the age of eighteen years;
- b)* with malice aforethought or with malicious motive;
- c)* by tormenting the victim;
- d)* against a person incapable of self-defense;
- e)* by displaying a deadly weapon;
- f)* by carrying a deadly weapon;
- g)* causing a significant injury of interests; or
- h)* by the unlawful impersonation of an authority.

(3) The penalty shall be imprisonment between two to eight years if the criminal offense is committed against a person under the age of eighteen years, and either of the aggravating circumstances under Paragraph *b)* or *c)* of Subsection (3) apply.

## **Duress**

*Section 195*

Any person who compels another person by force or by threat of force to do, or to refrain from doing, some act, and thereby causes a considerable injury of interest, is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

## **CHAPTER XIX**

### **SEXUAL FREEDOM AND SEXUAL OFFENSES**

#### **Sexual Exploitation**

*Section 196*

(1) Any person who forces another person to perform or tolerate sexual activities is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty for sexual exploitation shall be imprisonment between two to eight years if committed:

- a)* against a person under the age of eighteen years;
- b)* by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of trust, authority or influence over the victim.



(3) The penalty shall be imprisonment between five to ten years if sexual exploitation is committed against a person under the age of fourteen years.

## **Sexual Violence**

### *Section 197*

(1) Sexual violence is a felony punishable by imprisonment between two to eight years if committed:

*a)* by force or threat against the life or bodily integrity of the victim;

*b)* by exploiting a person who is incapable of self-defense or unable to express his will, for the purpose of sexual acts.

(2) Sexual violence shall also include, and the penalty shall be imprisonment between five to ten years if the perpetrator commits a sexual act upon a person under the age of twelve years, or forces such person to perform a sexual act.

(3) The penalty shall be imprisonment between five to ten years if the criminal act described in Subsection (1) is committed:

*a)* against a person under the age of eighteen years;

*b)* by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of trust, authority or influence over the victim; or

*c)* by more than one person on the same occasion, in full knowledge of each other's acts.

(4) The penalty shall be imprisonment between five to fifteen years if:

*a)* the criminal offense defined in Paragraph *a)* of Subsection (1) and in Paragraph *b)* or *c)* of Subsection (3) is committed against a person under the age of twelve years; or

*b)* the provisions of Paragraph *b)* or *c)* of Subsection (3) also apply to the criminal offense defined in Paragraph *a)* of Subsection (3).

(5) Any person who provides the means necessary for or facilitating the commission of sexual violence is guilty of a felony punishable by imprisonment not exceeding three years.

## **Sexual Abuse**

### *Section 198*

(1) Any person who engages in sexual activities with a person under the age of fourteen years, or persuades such person to engage in sexual activities with another person is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person over the age of eighteen years who attempts to persuade a person under the age of fourteen years to engage in sexual activities with him or with another person is punishable by imprisonment not exceeding three years.

(3) If the victim is a family member of the perpetrator, or is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if the sexual abuse is made of a recognized position of trust, authority or influence over the victim, the penalty shall be:

*a)* imprisonment between two to eight years in the case defined in Subsection (1);

*b)* imprisonment between one to five years in the case defined in Subsection (2).

(4) Any person over the age of eighteen years who engages in sexual activities with a person over the age of fourteen years and under the age of eighteen years where abuse is made of a recognized position of trust, authority or influence over such person is punishable by imprisonment not exceeding three years.

## **Incest**

### *Section 199*

(1) Any person who engages in sexual activities with his relative in direct line is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who has sexual intercourse with his or her sibling shall be punishable for a misdemeanor with imprisonment not exceeding two years.

(3) A descendant shall not be prosecuted for the criminal offense defined in Subsection (1) if under the age of eighteen years at the time the act is committed.

## **Pandering**

### *Section 200*

(1) Any person who solicits a person for sexual activities for another person for financial gain is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who offers or solicits a person under the age of eighteen years for prostitution shall be punishable in accordance with Subsection (1) for pandering.

(3) The penalty shall be imprisonment between one to five years if pandering is committed on a commercial scale.

(4) The penalty shall be imprisonment between two to eight years if pandering as defined in Subsection (1) is committed:

*a)* against a person under the age of eighteen years;

*b)* by a family member or against a person who is in the care, custody or supervision of such family member, or if abuse is made of a recognized position of trust, authority or influence over the victim;

*c)* by deception, by force or by threat of force.

(5) The penalty shall be imprisonment between five to ten years if Paragraph *c)* of Subsection (4) also applies to pandering as under Paragraph *a)* or *b)* of Subsection (4).

(6) Any person who conspires to engage in the crime of pandering on a commercial scale is punishable by imprisonment not exceeding three years.

## **Procuring for Prostitution or Sexual Act**

### *Section 201*

(1) Any person who:

*a)* persuades another person to engage in prostitution;

*b)* makes available a building or another place for another person to engage in prostitution;

c) provides assistance for the prostitution of a person under the age of eighteen years;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years for persuading a person under the age of eighteen years to engage in prostitution.

(3) Any person who maintains or operates a brothel, or provides material assistance for the operation of a brothel is punishable by imprisonment between one to five years.

## **Living on Earnings of Prostitution**

### *Section 202*

Any person who supports himself wholly or in part from the earnings of a person engaging in prostitution is guilty of a felony punishable by imprisonment not exceeding three years.

## **Exploitation of Child Prostitution**

### *Section 203*

(1) Any person who endeavors to profit from the exploitation of the prostitution of a person under the age of eighteen years is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who gives money or any other form of remuneration for sexual activities with a person under the age of eighteen years is punishable in accordance with Subsection (1).

(3) Any person who is supported partly or wholly by profiting from the exploitation of the prostitution of a person under the age of eighteen years is punishable by imprisonment between one to five years.

(4) Any person who maintains or operates a brothel, or provides material assistance for the operation of a brothel where the exploitation of the prostitution of a person under the age of eighteen years takes place is punishable by imprisonment between two to eight years.

## **Child Pornography**

### *Section 204*

(1) Any person who:

a) obtains or have in his possession pornographic images of a person or persons under the age of eighteen years is punishable for a felony by imprisonment not exceeding three years,

b) produces, offers, supplies or makes available pornographic images of a person or persons under the age of eighteen years is punishable by imprisonment between one to five years,

c) distributes, deals with or makes pornographic images of a person or persons under the age of eighteen years available to the general public is punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Paragraph b) of Subsection (1) is committed against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognized position of trust, authority or influence over the victim.

(3) Any person who provides material assistance for the criminal act defined in Paragraph c) of Subsection (1) shall be punishable by imprisonment between one to five years.

(4) Any person who:

*a)* persuades a person or persons under the age of eighteen years to participate in a pornographic production is punishable by imprisonment not exceeding three years,

*b)* gives a role to a person or persons under the age of eighteen years in a pornographic production is punishable by imprisonment between one to five years.

(5) Any person who:

*a)* offers to a person or persons under the age of eighteen years to participate in a pornographic material;

*b)* participates in a pornographic production in which a person or persons under the age of eighteen years also participate;

*c)* provides material assistance for the involvement of a person or persons under the age of eighteen years in a pornographic production;

is punishable by imprisonment not exceeding three years.

(6) Any person who provides the means necessary for or facilitating the production or distribution of or trafficking in pornographic material on a person or persons under the age of fourteen years is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(7) For the purposes of this Section:

*a)* 'pornographic material' shall mean any video, movie or photograph or other form of recording that displays sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanor,

*b)* 'pornographic production' means an act or show to display sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanor.

## **Indecent Exposure**

### *Section 205*

(1) Any person who exposes him/herself before another person in an indecent way for arousing or for the satisfaction of his/her sexual desire is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person over the age of eighteen years who exposes him/herself before another person under the age of fourteen years in an indecent way for arousing or for the satisfaction of his/her sexual desire is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

(3) Insofar as the act does not result in a more serious criminal offense, any person who exposes him/herself before another person in an indecent way shall be punishable in accordance with Subsection (1) if such conduct violates the victim's dignity.

## **Prohibition from Residing in a Particular Area**

### *Section 206*

Prohibition from residing in a particular area may be imposed against any person found guilty of the exploitation of child prostitution, procuring for prostitution or sexual act, living on earnings of prostitution or indecent exposure.

## **Private Motion**

*Section 207*

The criminal offenses defined in Subsection (1) of Section 196, Paragraph *a* of Subsection (1) of Section 197 and in Subsection (3) of Section 205 may only be prosecuted upon private motion, except for the case if any crime that is punishable not on private motion is also committed in connection therewith.

## CHAPTER XX

### OFFENSES AGAINST CHILDREN AND AGAINST FAMILY LAW

#### **Abuse of a Minor**

*Section 208*

(1) A person who is given custody of a minor to maintain and care for the person in his charge - including the domestic partner of the parent or guardian exercising parental custody, as well as any parent who has been deprived of the right of parental custody, if living in the same household or in the same home with the minor - and who seriously violates the obligations arising from such duty and thereby endangers the physical, intellectual, moral or mental development of the minor, is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person over the age of eighteen years who:

*a*) persuades or makes any attempt to persuade a person under the age of eighteen years to commit a criminal or misdemeanor offense, or to engage in immoral conduct,

*b*) offers a person under the age of eighteen years for the commission of a crime,

is punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

#### **Child Labor**

*Section 209*

Any person who:

*a*) violates the statutory provisions on the employment of persons under the age of eighteen years; or

*b*) employs a third-country national under the age of eighteen years without authorization to undertake gainful employment;

is guilty of a felony punishable by imprisonment not exceeding three years.

#### **Preventing the Exercise of Visitation Rights**

*Section 210*

(1) Where a person has been granted custody of a minor by virtue of an administrative decision, and this person willfully prevents the person holding visitation rights to exercise this right in spite of being sanctioned to enforce this person's right to establish and maintain contact with the minor is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The perpetrator shall not be prosecuted if he complies with his obligation to provide for the exercise of visitation rights before being sentenced in the first instance, and begins to make amends for the forms of visitation previously denied.

## **Changing of the Custody of a Minor**

### *Section 211*

(1) Any person who takes away a minor from the person who has been granted custody by final decision of the competent authority, without the consent of the custodian, with the purpose of changing custody permanently, or keeps the minor hidden or in secret, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Any person who uses force or threat against life or bodily integrity in carrying out the criminal offense of apprehension defined in Subsection (1) is guilty of a felony punishable by imprisonment not exceeding three years.

## **Nonsupport**

### *Section 212*

(1) Any person who willfully fails to provide child support awarded by final decision of the competent authority pursuant to statutory provisions is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who willfully fails to provide support awarded by final decision of the competent authority pursuant to statutory provisions, and thus exposes the entitled party to serious deprivation, is guilty of a felony punishable by imprisonment not exceeding three years.

(3) The perpetrator shall not be punishable on the basis of Subsection (1), and in the case of Subsection (3) his penalty may be reduced without limitation if he satisfies his obligation before a ruling is adopted in the first instance.

## **Domestic Violence**

### *Section 212/A.*

(1) Any person who, on a regular basis:

*a)* seriously violates human dignity or is engaged in any degrading and violent conduct,

*b)* misappropriates or conceals any assets from conjugal or common property, and thus causing serious deprivation,

against the parent of his/her child, or against a family member, former spouse or domestic partner living in the same household or dwelling at the time of commission or previously, against his/her conservator, person under conservatorship, guardian or person under guardianship is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who commits:

*a)* battery under Subsection (2) of Section 164 or slander under Subsection (2) of Section 227 against a person defined in Subsection (1) is guilty of a felony punishable by imprisonment not exceeding three years;

*b)* battery under Subsections (3) and (4) of Section 164, or violation of personal freedom or duress under Subsection (1) of Section 194 against a person defined in Subsection (1) is guilty of a felony punishable by imprisonment between one to five years.

(3) Banishment may also be imposed against persons found guilty of domestic violence.

(4) The perpetrator of the criminal offense defined in Subsection (1) shall only be prosecuted upon private motion.

## **Violation of Family Status**

*Section 213*

(1) Any person who alters or terminates the family status of another person is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years, if the violation of family status is committed:

*a)* by an employee of a healthcare service provider or a child welfare or child protection institution, acting for purposes relating to his profession;

*b)* by a person responsible for providing care, custody or guidance to a person under the age of eighteen years.

(3) If the violation of family status is committed by an employee of a healthcare service provider or a child welfare or child protection institution by way of negligence, acting for purposes relating to his profession, such person shall be guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Plural Marriage**

*Section 214*

Any person who enters into a new marriage while engaged in a previous marriage, or who enters into marriage with a married person is guilty of a felony punishable by imprisonment not exceeding three years.

## **CHAPTER XXI**

### **CRIMES AGAINST HUMAN DIGNITY AND FUNDAMENTAL RIGHTS**

#### **Violation of the Freedom of Conscience and Religion**

*Section 215*

Any person who:

*a)* restricts another person in his freedom of conscience by force or by threat of force;

*b)* prevents another person from freely exercising his religion by force or by threat of force;

is guilty of a felony punishable by imprisonment not exceeding three years.

#### **Violence Against a Member of the Community**

*Section 216*

(1) Any person who displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if violence against a member of the community is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by causing a significant injury of interest;
- d) by tormenting the aggrieved party;
- e) in a gang; or
- f) in criminal association with accomplices.

(4) Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Violation of the Freedom of Association and Assembly, and Participation in Electoral Rallies**

### *Section 217*

Any person who unlawfully prevents another person in the exercise of his right to association or assembly, or to participate in electoral rallies by force or by threat of force is guilty of a felony punishable by imprisonment not exceeding three years.

## **Violation of the Right of Self-Determination in Medical Procedures**

### *Section 218*

(1) Any person who, without the consent or permission of the entitled party, performs:

- a) a medical procedure in connection with the alteration of the human genome or the genetic structure of an embryo, in connection with human reproduction or with altering the gender of an unborn child;
- b) experimental research on humans with embryos or gametes;
- c) a procedure to remove an organ or tissue for transplantation purposes, or an organ or tissue transplant;

which is subject to prior consent, or fails to disclose the information required by law for the exercise of the right of consent or permission, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who removes an organ or tissue from a cadaver in spite of a statement of prohibition shall be punishable in accordance with Subsection (1).

(3) Any person who negligently performs a medical procedure, medical research, organ or tissue removal or organ or tissue transplant which is subject to prior consent or permission, as described in Subsection (1), without the consent or permission of the entitled party, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Misuse of Personal Data**

### *Section 219*

(1) Any person who, in violation of the statutory provisions governing the protection and processing of personal data:



a) is engaged in the unauthorized and inappropriate processing of personal data; or

b) fails to take measures to ensure the security of data;

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty in accordance with Subsection (1) above shall also be imposed upon any person who, in violation of the statutory provisions governing the protection and processing of personal data, fails to notify the data subject as required, and thereby imposes significant injury to the interests of another person or persons.

(3) Any misuse of personal data shall be punishable by imprisonment not exceeding two years if committed in connection with special data.

(4) The penalty shall be imprisonment not exceeding three years for a felony if the misuse of personal data is committed by a public official or in the course of discharging a public duty.

## **Misuse of Public Information**

### *Section 220*

(1) Any person who, in violation of the statutory provisions governing access to public information:

a) withholds public information from the requesting party, or refuses to disclose public information in spite of being ordered to do so by final court ruling;

b) falsifies or renders inaccessible any public information; or

c) provides access to or publishes any public information that is untrue or has been falsified;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the misuse of public information is committed for unlawful financial gain.

## **Illegal Entry into Private Property**

### *Section 221*

(1) Any person who enters into or remains in, the home or other property or the confines attached to such, of another person by force, threat, or by the unlawful impersonation of an authority, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who enters into or remains in, the home or other property or the confines attached to such, against the will of the tenant or owner of such property, or with deception:

a) at night;

b) by displaying a deadly weapon;

c) by carrying a deadly weapon; or

d) in a gang;

is guilty of a felony punishable by imprisonment not exceeding three years.

(3) Any person who prevents another person to enter his home or other property, or the confines attached to such:

a) in the manner defined in Subsection (1), shall be punishable in accordance with Subsection (1);

b) in the manner defined in Subsection (2), shall be punishable in accordance with Subsection (2).

(4) The penalty shall be imprisonment between one to five years for a felony if the act defined in Subsection (1) is committed in the manner described in Subsection (2).

## **Harassment**

### *Section 222*

(1) Any person who engages in conduct intended to intimidate another person, to disturb the privacy of or to upset, or cause emotional distress to another person arbitrarily, or who is engaged in the pestering of another person on a regular basis, is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

(2) Any person who, for the purpose of intimidation:

*a)* conveys the threat of force or public endangerment intended to inflict harm upon another person, or upon a relative of this person, or

*b)* giving the impression that any threat to the life, physical integrity or health of another person is imminent,

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) Any person who commits the act of harassment:

*a)* against his/her spouse or former spouse, or against his/her domestic partner or former domestic partner,

*b)* against a person under his/her care, custody, supervision or treatment, or

*c)* if abuse is made of a recognized position of trust, authority or influence over the victim,

shall be punishable by imprisonment not exceeding two years in the case provided for in Subsection (1), or by imprisonment not exceeding three years for a felony in the case provided for in Subsection (2).

## **Invasion of Privacy**

### *Section 223*

(1) Any person who reveals any private secret he has obtained in a professional or official capacity without due cause is guilty of a misdemeanor punishable with custodial arrest.

(2) The penalty shall be imprisonment not exceeding one year if the criminal offense causes a substantial injury of interest.

## **Mail Fraud**

### *Section 224*

(1) Any person who:

*a)* destroys a sealed consignment containing communication which belongs to another person, or opens or obtains such consignment for the purpose of gaining knowledge of the contents thereof, or conveys such to an unauthorized person for this purpose, or

*b)* captures a correspondence forwarded by means of electronic communication networks to another person is guilty of a misdemeanor punishable with custodial arrest, insofar as the act did not result in a more serious criminal offense.

(2) The penalty shall be imprisonment not exceeding one year if the criminal offense defined in Subsection (1) is committed in a professional or official capacity.

(3) The penalty shall be:

*a)* imprisonment not exceeding two years, if the criminal offense defined in Subsection (1) results in a substantial injury of interest;

*b)* imprisonment not exceeding three years for a felony if the criminal offense defined in Subsection (2) results in a substantial injury of interest.

## **Degrading Treatment of Vulnerable Persons**

### *Section 225*

(1) Any person who exhorts another person by exploiting his vulnerability to engage in conduct to humiliate himself is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

(2) The penalty shall be imprisonment not exceeding two years if the offender:

*a)* provides or promises some form of compensation for engaging in the conduct referred to in Subsection (1),

*b)* makes a recording of the person while engaging in the conduct referred to in Subsection (1), or makes such recordings available to the general public.

(3) The penalty for a felony shall be imprisonment not exceeding three years if the criminal offense is committed on a commercial scale.

## **Defamation**

### *Section 226*

(1) Any person who engages in the written or oral publication of anything that is injurious to the good name or reputation of another person, or uses an expression directly referring to such a fact, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding two years, if the defamation is committed:

*a)* with malice aforethought or with malicious motive;

*b)* libelously, before the public at large; or

*c)* causing a significant injury of interest.

## **Slander**

### *Section 227*

(1) Any person who, apart from what is contained in Section 226, makes a false publication orally or in any other way:

*a)* tending to harm a person's reputation in connection with his professional activity, public office or public activity; or

*b)* libelously, before the public at large;

shall be punishable for a misdemeanor by imprisonment not exceeding one year.

(2) Any person who engages in an act to defame someone by physical assault shall be punishable in accordance with Subsection (1).

## **Desecration**

### *Section 228*

Any person who violates the memory of deceased persons by the means defined in Section 226 or Section 227 is guilty of a misdemeanor punishable as defined therein.

## **Justification**

### *Section 229*

(1) Any person charged with the criminal offenses defined in Sections 226-228 shall not be prosecuted if there is conclusive evidence that the publication claimed as defamatory are proven to be accurate.

(2) Justification shall apply where the statement, publication or expression was communicated for reasons of public interest or by the lawful interest of any person.

## **Prohibition from Residing in a Particular Area**

### *Section 230*

Banishment may also be imposed against persons engaged in harassment.

## **Private Motion**

### *Section 231*

(1) The criminal offense defined in Section 218 may only be prosecuted upon private motion, except for the case if any crime that is punishable not on private motion is also committed in connection therewith. In the case referred to in Subsection (2) of Section 218, the private motion may be submitted by the person eligible for issuing the statement under the Health Care Act, or by the family member or heir of the deceased.

(2) The criminal offenses defined in Sections 221-228 may only be prosecuted upon private motion, except for the case if the criminal offense defined in Section 227 is committed against a law enforcement officer.

(3) In the case referred to in Section 228 the private motion may be submitted by the family member or heir of the deceased.

## **CHAPTER XXII**

### **OFFENCES AGAINST TRAFFIC REGULATIONS**

#### **Offenses Against Transport Security**

### *Section 232*

(1) Any person who endangers the life or physical integrity of another person or persons by damaging or destroying a traffic route or corridor, a vehicle, traffic control equipment or the appurtenances thereof, by creating an

obstacle, removing or changing a traffic sign, installing a misleading sign, by assaulting or threatening the driver of a moving vehicle or by acting in any other similar manner is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be:

*a)* imprisonment between one to five years if the criminal offense results in grievous bodily injury;

*b)* imprisonment between two to eight years if the criminal offense results in permanent physical disability or a serious health impairment, or a mass catastrophe;

*c)* imprisonment between five to ten years if the criminal offense results in death;

*d)* imprisonment between five to fifteen years if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

(3) Any person who engages in preparations for the criminal act referred to in Subsection (1) is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(4) Any person who commits the criminal offense defined in Subsection (1) by way of negligence is guilty of a misdemeanor punishable by imprisonment not exceeding one year, or by imprisonment not exceeding two years, three years, five years, or between one to five years or two to eight years in the cases defined in Subsection (2), in accordance with the distinction made there.

(5) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against any person who voluntarily eliminates the danger before any damage occurs in consequence.

## **Endangerment of Railway, Air or Water Transport Systems**

### *Section 233*

(1) Any person who endangers the life or physical integrity of another person or persons by violating the regulations governing railway, air or water transport is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be:

*a)* imprisonment between one to five years if the criminal offense results in grievous bodily injury;

*b)* imprisonment between two to eight years if the criminal offense results in permanent physical disability or a serious health impairment, or a mass catastrophe;

*c)* imprisonment between five to ten years if the criminal offense results in death;

*d)* imprisonment between five to fifteen years if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

(3) Any person who commits the criminal offense defined in Subsection (1) by way of negligence is guilty of a misdemeanor punishable by imprisonment not exceeding one year, or by imprisonment not exceeding two years, three years, or between one to five years or two to eight years in the cases defined in Subsection (2), in accordance with the distinction made there.

(4) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against any person who voluntarily eliminates the danger before any damage occurs in consequence.

## **Dangerous Driving**

#### *Section 234*

(1) Any person who causes direct endangerment to the life or physical integrity of another person or persons by the violation of traffic regulations on a public road or a publicly accessible private road is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be:

*a)* imprisonment between one to five years if the criminal offense results in grievous bodily injury;

*b)* imprisonment between two to eight years if the criminal offense results in permanent physical disability or a serious health impairment, or a mass catastrophe;

*c)* imprisonment between five to ten years if the criminal offense results in death;

*d)* imprisonment between five to fifteen years if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

### **Causing a Road Accident**

#### *Section 235*

(1) Any person who causes grievous bodily injury to another person or persons by violation of traffic regulations through negligence is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be:

*a)* imprisonment not exceeding three years if the crime results in permanent physical disability or a serious health impairment, or a mass catastrophe;

*b)* imprisonment between one to five years if the crime results in death;

*c)* imprisonment between two to eight years if the crime results in the death of two or more persons or in a fatal mass catastrophe.

### **Driving Under the Influence of Alcohol**

#### *Section 236*

(1) Any person who operates a railway or aircraft, a motorized vessel, or a motor vehicle on a public road or a publicly accessible private road under the influence of alcohol is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be:

*a)* imprisonment not exceeding three years for a felony if the criminal offense results in grievous bodily injury;

*b)* imprisonment between one to five years for a felony if the criminal offense results in permanent physical disability or serious health impairment, or a mass catastrophe;

*c)* imprisonment between two to eight years for a felony if the criminal offense results in death;

*d)* imprisonment between five to ten years for a felony if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

(3) Any person who induces the consequence described in Subsection (2) by operating a non-motorized vessel or a non-motorized vehicle on a public road or a publicly accessible private road under the influence of alcohol shall be punishable in accordance with the distinction set forth therein.

## **Driving Under the Influence of Drugs**

### *Section 237*

(1) Any person who operates a railway or aircraft, a motorized vessel, or a motor vehicle on a public road or a publicly accessible private road under the influence of any substance - other than alcohol from the consumption of alcoholic beverages - that has the capacity to impair one's ability to drive is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be:

*a)* imprisonment not exceeding three years for a felony if the criminal offense results in grievous bodily injury;

*b)* imprisonment between one to five years for a felony if the criminal offense results in permanent physical disability or serious health impairment, or a mass catastrophe;

*c)* imprisonment between two to eight years for a felony if the criminal offense results in death;

*d)* imprisonment between five to ten years for a felony if the criminal offense results in the death of two or more persons or in a fatal mass catastrophe.

(3) Any person who induces the consequence described in Subsection (2) by operating a non-motorized vessel or watercraft, or non-motorized vehicle under the influence of any substance - other than alcohol from the consumption of alcoholic beverages - that has the capacity to impair one's ability to operate such vehicle shall be punishable in accordance with the distinction set forth therein.

## **Unlawful Conveyance of Operating a Vehicle**

### *Section 238*

(1) Any person who conveys the operation of a railway or aircraft, a motorized vessel or watercraft, or a motor vehicle on a public road or a publicly accessible private road to a person who is under the influence of alcohol or narcotic drugs or whose ability to operate such vehicle is otherwise impaired is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be:

*a)* imprisonment not exceeding three years for a felony if the crime results in permanent physical disability or a serious health impairment, or a mass catastrophe;

*b)* imprisonment between one to five years for a felony if the crime results in death;

*c)* imprisonment between two to eight years for a felony if the crime results in the death of two or more persons or in a fatal mass catastrophe.

## **Hit and Run**

### *Section 239*

If the operator of a vehicle that is involved in a traffic accident fails to stop at the scene, or leaves the scene before ascertaining whether anybody got injured or is in need of assistance due to any imminent danger to his life or

physical integrity is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

## **Interpretative Provisions**

### *Section 240*

(1) The provisions relating to traffic offenses shall apply also if the violation of traffic regulations for operating a motor vehicle on public roads results in grievous bodily injury or death in a place other than a public road.

(2) For the purposes of Sections 233-235, the provisions pertaining to pedestrians and passengers are not considered to be traffic regulations.

(3) For the purposes of Section 236 and Section 238, being under the influence of alcohol means when the blood alcohol level exceeds 0.50 gram/liter permille, or 0.25 milligram/liter permille breath alcohol level from the consumption of alcoholic beverages.

## **CHAPTER XXIII**

### **CRIMINAL OFFENSES AGAINST THE ENVIRONMENT AND NATURE**

#### **Environmental Offenses**

##### *Section 241*

(1) Any person responsible for the pollution by any means of the earth, the air, the water, the biota (flora and fauna) and their constituents, resulting:

*a)* in their endangerment;

*b)* in damage to such an extent that its natural or previous state can be restored by way of intervention only;

*c)* in damage to such an extent that its natural or previous state cannot be restored at all;

is guilty of a felony punishable by imprisonment not exceeding three years in the case of Paragraph *a)*, by imprisonment between one to five years in the case of Paragraph *b)*, and by imprisonment between two to eight years in the case of Paragraph *c)*.

(2) Any person who damages the environment through negligence shall be punishable for misdemeanor by imprisonment not exceeding one year in the case of Paragraph *a)*, by imprisonment not exceeding two years in the case of Paragraph *b)*, and by imprisonment not exceeding three years in the case of Paragraph *c)*.

(3) In the cases provided for in Paragraph *a)* of Subsection (1) and in the first and second phases of Subsection (2) the perpetrator shall not be punishable, and in the case of Paragraph *b)* of Subsection (1) the penalty may be reduced without limitation if the perpetrator voluntarily terminates or cleans up the environmental damage before a ruling is delivered in the first instance.

(4) For the purposes of this Section 'pollution' shall mean the introduction of contaminants into the earth, the air, the water, the biota (flora and fauna) and their constituents exceeding the emission limits laid down by law or by decree of the competent authority.

#### **Damaging the Natural Environment**

##### *Section 242*



(1) Any person who unlawfully obtains, possesses, distributes, imports, exports, transports through the territory of Hungary, engages in the trafficking of or damages or destroys:

*a)* any species of a living organism under special protection;

*b)* any species of protected living organisms or species of flora and fauna which are deemed important for conservation objectives in the European Union, provided that the aggregate value of these species expressed in monetary terms reaches the threshold amount determined by specific other legislation for the species of a living organism under special protection;

*c)* any species listed in Annexes A and B to the European Council Regulation on the protection of species of wild fauna and flora by regulating trade therein;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the damage done to the natural environment results in the destruction of the species of living organisms:

*a)* to an extent where - in the case provided for in Paragraph *a)* or *b)* of Subsection (1) - the aggregate value of such destroyed species of living organisms expressed in monetary terms reaches the highest amount determined by specific other legislation for the species of a living organism under special protection, times two;

*b)* to an extent where it jeopardizes the survival of the living organisms in the case provided for in Paragraph *c)* of Subsection (1).

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding two years.

(4) For the purposes of this Section ‘species of living organisms’ shall mean:

*a)* species of a living organism in any form or stage of development;

*b)* hybrids of living organisms propagated artificially or otherwise;

*c)* derivatives of a living organism, including dead specimens and any parts and derivatives thereof or of the species of a living organism, and any goods or products made from any of the above, or containing any component that originates from any of the above.

#### *Section 243*

(1) Any person who unlawfully and significantly alters Natura 2000 areas, protected caves, protected sites and the population or natural habitat of protected living organisms is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the damage done to the natural environment results in the significant deterioration or destruction of Natura 2000 areas, protected caves, protected sites or the population or natural habitat of protected living organisms.

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding two years.

(4) In the application of this Section ‘Natura 2000 area’ shall have the meaning defined in the Act on Protection of the Natural Environment.

## **Cruelty to Animals**

#### *Section 244*

(1) Any person:

*a)* who is engaged in the unjustified abuse or unjustified mistreatment of vertebrate animals resulting in permanent damage to the animal's health or in the animal's destruction;

*b)* who abandons, dispossess or expels a domesticated vertebrate animal or a dangerous animal;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty for a felony shall be imprisonment not exceeding three years, if the criminal offense:

*a)* is carried out in a manner to cause undue suffering to the animal, or

*b)* results in permanent damage to several animals or in the destruction of more than one animal.

## **Poaching Game**

### *Section 245*

Any person who:

*a)* is engaged in activities for the killing or capturing of wild game on a hunting ground without hunting right, or as a hunter on the hunting ground of others without authorization,

*b)* kills or captures during the close season for game - provided for in specific other legislation covering all species of game - any wild game of that species,

*c)* is engaged in activities for the killing or capturing of wild game, or any vertebrate animal under special protection or any protected animal using unauthorized hunting equipment and methods provided for in specific other legislation, or on restricted hunting grounds,

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Poaching Fish**

### *Section 246*

Any person who:

*a)* is engaged in activities for catching fish without authorization, using fishing nets or other fishing equipment, excluding recreational fishing,

*b)* is engaged in activities for catching fish using unauthorized fishing equipment and/or methods provided for in specific other legislation, or in restricted fishing areas,

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Organization of Illegal Animal Fights**

### *Section 247*

(1) Any person involved in the organization of fights using vertebrate animals, or in making arrangements for betting or placing bets on such animal fight, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person involved in acquiring, keeping, breeding, training, domesticating or trafficking of vertebrate animals for the purpose of fights is guilty of misdemeanor punishable by imprisonment not exceeding two years.

## **Violation of Waste Management Regulations**

### *Section 248*

(1) Any person who:

*a)* engages in the disposal of waste at a site that has not been authorized by the competent authority for this purpose,

*b)* engages in waste management activities without authorization, or by exceeding the scope of the authorization, or engages in any other unlawful activity involving waste,

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal offense described in Subsection (1) is committed involving waste that is deemed hazardous under the Act on Waste.

(3) Any person who commits the criminal offense by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding one year in the case provided for in Subsection (1), or with imprisonment not exceeding two years in the case provided for in Subsection (2).

(4) In the application of this Section:

*a)* 'waste' shall mean any substance that is deemed waste under the Act on Waste, and that may be hazardous to human life, bodily integrity or health, or the earth, the air, the water, and their constituents, and the species of living organisms;

*b)* 'waste management activity' shall mean the collection, gathering, transportation of waste as defined in the Act on Waste, including if exported from or imported into the country, or transported through the country in transit, and the pre-processing, storage, recovery and disposal of waste.

## **Criminal Offenses with Ozone-Depleting Substances**

### *Section 249*

(1) Any person who manufactures or uses, imports into or exports from the territory of the country or places on the market any substance that depletes the ozone layer, or any product that contains such substances is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who commits any criminal offense with ozone-depleting substances by negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year.

## **Misappropriation of Radioactive Materials**

### *Section 250*

(1) Any person who, without notification or by exceeding the scope of the authorization:

*a)* produces, stores, disposes or transports hazardous radioactive substances,

*b)* acquires, possesses, manages, distributes, processes or otherwise uses hazardous radioactive substances, or transfers such to an unauthorized person, treats, imports or exports such materials or transports them in transit through the territory of the country,

is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who commits the criminal offense in criminal association with accomplices shall be punishable by imprisonment between two to eight years.

(3) Any person who engages in preparations for the misappropriation of radioactive materials is guilty of a felony punishable by imprisonment not exceeding three years.

(4) Any person who commits the criminal offense defined in Paragraph *a*) of Subsection (1) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding two years.

(5) For the purposes of this Section 'hazardous radioactive substance' shall mean any material from natural or artificial sources containing one or more radionuclides capable of emitting ionizing radiation, and that is deemed hazardous to human life and health, as well as to the animate and inanimate environment.

## **Illegal Operation of Nuclear Installations**

### *Section 251*

(1) Any person who - without the authorization, or by exceeding the scope of the authorization - operates a nuclear installation is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who commits the criminal offense defined in Subsection (1) in criminal association with accomplices shall be punishable by imprisonment between two to eight years.

(3) Any person who engages in preparations for the illegal operation of a nuclear installation is punishable by imprisonment not exceeding three years.

## **Crimes in Connection with Nuclear Energy**

### *Section 252*

(1) Any person who - in order to obtain authorization for the use of nuclear energy - misleads the body or person vested with decision-making powers is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who fails to perform his obligation of notification in connection with the use of nuclear energy shall be punishable by imprisonment not exceeding three years.

## **Prohibition from Residing in a Particular Area**

### *Section 253*

Banishment may also be imposed against the perpetrators of environmental offenses, damaging the natural environment, poaching game, poaching fish, violation of waste management regulations and organization of illegal animal fights.

## **CHAPTER XXIV**

### **OFFENSES AGAINST THE STATE**

#### **Attempt to Overturn Constitutional Order by Force**

##### *Section 254*

(1) Any person who engages in any act intending to overturn the constitutional order of Hungary by force or by means of violence, or threatening to do so, is guilty of a felony punishable by imprisonment between five to twenty years or with life imprisonment.

(2) Any person who engages in preparations for overturning the constitutional order by force or means of violence is punishable by imprisonment between one to five years.

(3) Any person who voluntarily withdraws from the criminal activity before it is committed, furthermore, the person who deliberately attempts to prevent the crime, shall not be prosecuted for attempt to overturn the constitutional order by force.

## **Conspiracy Against Constitutional Order**

### *Section 255*

(1) Any person who establishes or leads an organization aiming to overturn the constitutional order of Hungary by force or by threat of force is guilty of a felony punishable by imprisonment between five to ten years.

(2) Any person who participates in the organization referred to in Subsection (1) shall be punishable by imprisonment between two to eight years.

(3) Any person who voluntarily withdraws from the criminal activity before it is committed, furthermore, the person who deliberately attempts to prevent the conspiracy, shall not be prosecuted for conspiracy against constitutional order.

## **Riot**

### *Section 256*

(1) Any person who participates in a civil disturbance, the immediate aim of which is to prevent:

*a)* Parliament;

*b)* the President of the Republic;

*c)* the Kúria (*Curia*); or

*d)* the Government;

from exercising its authority delegated by the Fundamental Law by force or threat of force, or to compel them to do, or to refrain from doing, some act is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who organizes or leads a civil disturbance provided for in Subsection (1) shall be punishable by imprisonment between five to fifteen years.

(3) Any person who engages in preparations to a riot is punishable by imprisonment between one to five years.

(4) Any person who withdraws from the riot either voluntarily or by order of the authorities before any act of violence is committed shall not be prosecuted for rioting.

## **Destruction**

### *Section 257*

(1) Any person who destroys, renders unusable or damages public utility fixtures, production, traffic or telecommunication operations or their equipment, public buildings or structures, stocks of products or military supplies or other assets of similar importance due to their designated purpose, with the aim of disturbing the constitutional order of Hungary is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to twenty years or life imprisonment, if the act of destruction results in particularly great damage.

(3) Any person who engages in preparations for destruction is punishable by imprisonment not exceeding three years.

## **High Treason**

### *Section 258*

(1) Any Hungarian citizen who establishes or maintains contact with a foreign government or foreign organization in order to breach the sovereignty, territorial integrity or constitutional order of Hungary is guilty of a felony punishable by imprisonment between five to fifteen years.

(2) The penalty shall be imprisonment between ten to twenty years or life imprisonment if the act of high treason:

*a)* results in great damage;

*b)* is committed using one's state service status or official mandate;

*c)* in time of war; or

*d)* by inviting or using foreign armed forces.

(3) Any person who engages in preparations directed at high treason is punishable by imprisonment between one to five years, or by imprisonment between two to eight years in time of war.

## **Treachery**

### *Section 259*

Any Hungarian citizen who establishes or maintains contact with a foreign government or foreign organization abusing his state service status or official mandate, and endangers thereby the sovereignty, territorial integrity or constitutional order of Hungary is guilty of a felony punishable by imprisonment between two to eight years, or between five to fifteen years in time of war.

## **Aid and Comfort**

### *Section 260*

(1) Any person who in time of war seeks contact with the enemy to undermine the military might of Hungary, and who gives aid and comfort to the enemy causing injury to its own or allied armed forces is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who engages in preparations for giving aid and comfort to the enemy is punishable by imprisonment between two to eight years.

## **Espionage**

### *Section 261*

(1) Any person who engages in gathering intelligence for a foreign power or foreign organization against Hungary is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who commits the espionage defined in Subsection (1) by disclosing top secrets shall be punishable by imprisonment between five to fifteen years.

(3) Any person who engages in preparations for espionage activities is punishable by imprisonment between one to five years.

(4) Any person who - before having performed any further act of espionage - reports his engagement or undertaking to the authorities or to the competent State agency and fully discloses his foreign contact shall not be prosecuted for offering or undertaking to participate in intelligence gathering operations.

## **Espionage Against Allied Armed Forces**

### *Section 262*

Any person engaged in espionage against allied armed forces in Hungary or in the territory of another nation which is in alliance with Hungary by virtue of the international treaty for the obligation of mutual military assistance shall be punishable as described in Section 261.

## **Failure to Report Offenses Against the State**

### *Section 263*

(1) Any person who has positive knowledge of preparations being made for overturning constitutional order by force, for conspiracy against constitutional order, riot, destruction, high treason, treachery, giving aid and comfort to the enemy, espionage or espionage against allied armed forces, or such a crime has been committed undetected, and fails to promptly report that to the authorities or to the competent State agency is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Family members of the persons who failed to report offenses against the State shall not be prosecuted.

## **Prohibition from Residing in a Particular Area**

### *Section 264*

In connection with the criminal offense defined in this Chapter banishment may also be imposed.

## **CHAPTER XXV**

### **CRIMINAL OFFENSES IN CONNECTION WITH CLASSIFIED INFORMATION AND AGAINST PUBLIC RECORDS AND REGISTERS RECOGNIZED AS NATIONAL ASSETS**

#### **Criminal Offenses with Classified Information**

### *Section 265*

(1) Any person who:

*a)* obtains or uses any classified information;

*b)* discloses any classified information to an unauthorized person, or withholds such information from a competent person;

is guilty of criminal offenses with classified information.

(2) The penalty shall be:

- a) custodial arrest for a misdemeanor where the information is classified as restricted data;
- b) imprisonment for a felony not exceeding one year where the information is classified as confidential;
- c) imprisonment not exceeding three years where the information is classified as secret;
- d) imprisonment between one to five years where the information is classified as top secret.

(3) Where criminal offenses with classified information are committed by a person authorized for using classified information under the strength of law and it involves information classified as restricted, confidential, secret or top secret, such person is punishable by imprisonment not exceeding one year or two years, or between one to five years or two to eight years in accordance with the distinction made in Subsection (2).

(4) Any person who engages in preparations for criminal offenses with classified information as under Paragraphs c)-d) of Subsection (2), shall be punishable for a misdemeanor by imprisonment not exceeding two years, or for a felony by imprisonment not exceeding three years in accordance with the distinction made therein.

(5) Where a person authorized for using classified information under the strength of law engages in preparations for criminal offenses with classified information as under Paragraphs c)-d) of Subsection (2), shall be punishable by imprisonment not exceeding three years or by imprisonment between one to five years in accordance with the distinction made therein.

(6) Any person authorized for using classified information under the strength of law, who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by custodial arrest, or by imprisonment not exceeding one year, two years or three years in accordance with the distinction made therein.

#### *Section 266*

(1) Protection under criminal liability shall also apply - for a period of thirty days from the time when classification is requested - to any data recommended for classification, where the classification procedure is pending at the time when the act was committed, and if the perpetrator is aware thereof.

(2) Cases of criminal offenses with classified information may be prosecuted exclusively only on the basis of a motion by the body or person vested under the Act on the Protection of Classified Information with authority for the classification of the information involved.

### **Criminal Offenses Against Public Records and Registers Recognized as National Assets**

#### *Section 267*

(1) Any person who is engaged in conduct aiming to block the data controller to gain access to public records and registers recognized as national assets is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

(2) The penalty shall be imprisonment between one to five years if the criminal offense causes a substantial injury of interest.

## **CHAPTER XXVI**

### **CRIMES AGAINST THE JUDICIAL SYSTEM**

#### **False Accusation**



*Section 268*

(1) Any person who:

- a) falsely accuses another person before an authority of the perpetration of a crime;
- b) conveys to the authority any forged evidence against another person relating to a crime;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if criminal proceedings are instituted on the basis of false allegations.

(3) The penalty shall be imprisonment between two to eight years if:

- a) the accused is sentenced on the basis of false allegations;
- b) false allegations are made relating to a crime which carries a maximum sentence of life imprisonment.

(4) The penalty shall be imprisonment between five to ten years if false allegations are made relating to a crime which carries a maximum sentence of life imprisonment and the accused is sentenced on the basis of such allegations.

(5) Any person who falsely accuses another person before an authority of the perpetration of a crime, for being unaware due to negligence that his representation is untrue or that the evidence is false, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

*Section 269*

Any person who:

- a) falsely accuses another person before an authority of the perpetration of a misdemeanor or an infraction punishable by an administrative penalty;
- b) falsely accuses another person of having committed a disciplinary infraction before an authority or a party exercising disciplinary authority;
- c) conveys any forged evidence against another person to an authority or a party exercising disciplinary authority relating to a misdemeanor or an infraction or disciplinary infraction punishable by an administrative penalty;

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

*Section 270*

(1) If proceedings have been instituted upon false accusation, criminal proceedings for malicious prosecution may be instituted until the conclusion of such principal action only on the basis of a motion by the authority of original process. Save for the case of such motion, the term of limitation for malicious prosecution begins on the day of conclusion of the principal action.

(2) The punishment of a person guilty of false accusation may be reduced without limitation or, in cases deserving special consideration, dismissed on the whole if he confesses the malicious nature of the accusation before the conclusion of the principal action to the acting authority.

## **Misleading of Authority**

*Section 271*

(1) Any person who makes any report to an authority, serving as basis for criminal proceedings, in the knowledge of such information being untrue - Section 268 notwithstanding -, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who makes any report to an authority, serving as basis for misdemeanor proceedings before the authorities or before other entities exercising disciplinary authority, or for disciplinary proceedings in the knowledge of such information being untrue - Section 269 notwithstanding -, is punishable by imprisonment not exceeding one year.

(3) Any person who makes any report to an authority, serving as basis for other official proceedings, in the knowledge of such information being untrue - Section 269 notwithstanding -, is punishable by custodial arrest.

## **Perjury**

### *Section 272*

(1) Any witness who gives false testimony before the authority concerning an essential circumstance of a case, or suppresses evidence is guilty of perjury.

(2) The provisions relating to perjury shall be applied to any person who:

*a)* gives false opinion as an expert or false information as a special adviser;

*b)* falsely translates as an interpreter or a translator;

*c)* presents a false document or manipulated physical evidence in criminal or civil proceedings, Paragraph *b)* of Subsection (1) of Section 268 notwithstanding.

(3) The defendant in criminal proceedings shall not be prosecuted on the basis of Paragraph *c)* of Subsection (2).

(4) Perjury committed in a criminal case shall be construed as a felony punishable by imprisonment between one to five years. If perjury concerns a crime that carries a maximum sentence of life imprisonment, the penalty shall be imprisonment between two to eight years.

(5) Perjury committed in a civil case shall be punishable by imprisonment not exceeding three years. If the civil case concerns a particularly considerable value or any other form of interest that is considered particularly substantial, the penalty shall be imprisonment between one to five years.

(6) Any person who commits perjury by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year.

### *Section 273*

Any person who commits perjury in a misdemeanor or other judicial proceedings, or in disciplinary proceedings is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

### *Section 274*

Criminal proceedings for perjury may be instituted in connection with a case for which the false testimony was presented solely upon the motion of the authority acting in the original process, before the principal action is concluded. Save for the case of such motion, the term of limitation for perjury commences on the day of conclusion of the principal action.

### *Section 275*

(1) Any person:

- a) whose testimony would incriminate himself or his family member in a criminal act;
  - b) who may decline to testify for any other reason, but was not advised accordingly before being questioned; or
  - c) who cannot be interrogated in accordance with the law;
- shall not be liable for prosecution for perjury.

(2) The penalty may be reduced without limitation or dismissed on the whole in cases deserving special consideration against a person who confesses to the acting authority before the conclusion of the principal action of having provided false evidence.

## **Subornation of Perjury**

### *Section 276*

(1) Any person who attempts to persuade another person to give false testimony is guilty of a felony punishable by imprisonment not exceeding three years if committed in a criminal case, or guilty of misdemeanor punishable by imprisonment not exceeding two years if committed in civil proceedings.

(2) Any person who commits the criminal offense referred to in Subsection (1) in a misdemeanor or other judicial proceedings, or in disciplinary proceedings before a person exercising disciplinary authority is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Unlawful Refusal to Give Evidence**

### *Section 277*

Any witness who in criminal proceedings unlawfully refuses to give evidence before the court upon being advised of the consequences is guilty of misdemeanor punishable by custodial arrest.

## **Coercion on the Part of the Authorities**

### *Section 278*

(1) Any person who attempts by force or threat of force to prevent another person in the free exercise of his lawful rights in proceedings before the authorities, or induces him to neglect his duties is guilty of duress in proceedings before the authorities.

(2) Any person who commits the criminal offense in a criminal case is guilty of a felony punishable by imprisonment between one to five years. If the criminal offense is committed in connection with a criminal case relating to a crime that carries a maximum sentence of life imprisonment, the penalty shall be imprisonment between two to eight years.

(3) Any person who commits the criminal offense in a civil case shall be punishable by imprisonment not exceeding three years. If the civil case concerns a particularly considerable value or any other form of interest that is considered particularly substantial, the penalty shall be imprisonment between one to five years.

(4) If the criminal offense is committed in a misdemeanor or other judicial proceedings, or in disciplinary proceedings before a person exercising disciplinary authority the penalty shall be imprisonment for a misdemeanor not exceeding one year.

## **Contempt**

### *Section 279*

(1) Any person who displays an apparently anti-social and violent conduct aiming to undermine, embarrass or obstruct the authority's discharge of its duties is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the crime referred to in Subsection (1) above frustrates the proceedings of the authority.

(3) The penalty shall be imprisonment between one to five years if the crime described in Subsection (1) above is committed in a gang, by displaying a deadly weapon or by carrying a deadly weapon.

## **Violation of Confidentiality Related to the Judiciary**

### *Section 280*

(1) Any person who reveals any information, data and facts he has obtained in the capacity of official witness without proper authorization is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Any person who reveals without proper authorization any information learned in a closed court session shall be punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

(3) Any person who reveals any fact or data disclosed in a judicial council meeting or contained in the records or protocols of a judicial council meeting shall be punishable in accordance with Subsection (1).

## **Suppressing Exculpatory Evidence**

### *Section 281*

(1) Any person who fails to disclose any facts that may bring about the dismissal of the criminal proceedings or the acquittal of a person prosecuted, to that person, to his counsel or the authorities, is guilty of a felony punishable by imprisonment between one to five years.

If suppressing exculpatory evidence concerns a crime that carries a maximum sentence of life imprisonment, the penalty shall be imprisonment between two to eight years.

(3) Any person who fails to disclose any facts that may bring about the dismissal of misdemeanor proceedings, or proceedings for infraction or disciplinary infraction punishable by an administrative penalty, to the person involved, to his counsel or the authorities, is guilty of a misdemeanor punishable by custodial arrest.

(4) A person shall not be prosecuted for suppressing exculpatory evidence:

*a)* if his coming forth with a fact would incriminate himself or his family member;

*aa)* in a criminal offense under criminal proceedings or in proceedings before the authorities,

*ab)* in a criminal offense or a misdemeanor in misdemeanor proceedings,

*ac)* in a criminal offense, misdemeanor, infraction punishable by an administrative penalty or disciplinary infraction in disciplinary proceedings;

*b)* who cannot be examined as a witness in accordance with the law.

## **Harboring a Criminal**

### *Section 282*

(1) Any person, who - without having agreed with the perpetrator of a crime before the crime is committed:

*a)* gives assistance to the perpetrator to escape from the authority;

*b)* attempts to obstruct the criminal proceedings; or

*c)* partakes in securing the profit resulting from the crime;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty for a felony shall be imprisonment not exceeding three years if harboring a criminal is committed for financial gain.

(3) The penalty shall be imprisonment between one to five years if the offense of harboring a criminal is committed:

*a)* in connection with a criminal offense covered by Chapter XIII, XIV or XXIV [other than failure to report offenses against the State [Subsection (1) of Section 263];

*b)* in connection with homicide [Subsections (1)-(3) and (5) of Section 160], kidnapping [Subsections (1)-(4) of Section 190], trafficking in human beings [Subsections (1)-(6) of Section 192], acts of terrorism [Subsections (1)-(2) of Section 314], terrorist financing [Subsections (1)-(2) of Section 318], unlawful seizure of a vehicle [Subsections (1)-(2) of Section 320];

*c)* in connection with a crime that carries a maximum sentence of life imprisonment, other than those provided for in Paragraphs *a)-b)*; or

*d)* by a public official or foreign public official acting in an official capacity, in breach of their official duties, or by a person entrusted with public functions, while acting in an official capacity.

(4) Except for Subsection (2) and Paragraph *b)* of Subsection (3), the person who provides the assistance referred to in Paragraph *a)* of Subsection (1) to his family member shall not be prosecuted.

## **Escape from Custody**

### *Section 283*

(1) Any person who escapes from the custody of the authority in the course of criminal proceedings or from imprisonment or custodial arrest is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who, in an attempt to evade criminal proceedings, breaches the rules of obligation to stay in a place and flees the designated area or district, or breaches the rules of house arrest and flees the designated residence and the adjoining enclosed area, is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(3) Any convicted perpetrator who is released from custody on the grounds of authorized interruption, leave, short leave or furlough, and fails to return in due time with the intention of escaping further imprisonment is punishable by imprisonment not exceeding one year.

(4) The penalty for escaping from custody may be reduced without limitation if the convicted perpetrator surrenders on his own accord before apprehended by the authorities.

## **Prison Riot**

### *Section 284*

(1) Any prisoner who conspires with his fellow prisoners in an open disobedience seriously endangering the rules of detention is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty for prison riot shall be imprisonment between two to eight years:

a) for the instigator, organizer or leader of the riot;

b) for any participant who applies violence against a person attempting to break off the riot.

(3) The penalty shall be imprisonment between five to fifteen years if the prison riot leads to particularly serious consequences.

(4) The penalty shall be imprisonment between five to twenty years or life imprisonment if the prison riot results in death.

(5) Any person who engages in preparations for a prison riot is punishable by imprisonment not exceeding three years.

(6) In the case of Subsection (1), the punishment of the person who gives up resistance voluntarily or upon the appeal of the authority may be reduced without limitation.

## **Legal Malpractice**

### *Section 285*

(1) Any attorney who - with the aim of causing any wrong to his client unlawfully - breaches his professional duty is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if legal malpractice is committed for financial gain.

(3) For the purposes of this Section, 'attorney' shall also include articulated clerks and any other persons entitled to provide legal counsel by profession.

## **Pettifoggery**

### *Section 286*

(1) Any person who unlawfully performs attorney, legal counsel or notary services on a commercial scale is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who commits pettifoggery by pretending to have proper authorization to engage in attorney, legal counsel or notary services is guilty of a felony punishable by imprisonment not exceeding three years.

## **Breach of Seal**

### *Section 287*

(1) Any person who:

a) removes or breaches a seal installed for confiscation, seizure or sequestration ordered in the course of an official proceeding;

b) opens the sealed-off premises serving for the custody of confiscated, seized or sequestered items;

c) provides access for unauthorized persons to data recorded by means of information systems and held in his safekeeping, or removes such from the proceedings or modifies such data;

d) provides access for unauthorized persons to data that has been rendered inaccessible in the course of criminal proceedings, or removes such from the proceedings or modifies such data;

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Any person who conceals a confiscated, seized or sequestered item from judicial enforcement is guilty of a felony punishable by imprisonment not exceeding three years.

(3) Any person who commits the criminal act defined in Subsection (2) shall not be prosecuted for breach of seal if he returns the item in question undamaged to the acting authority before the indictment is filed.

## **Obstruction of Judicial Enforcement**

### *Section 288*

(1) Any person who was fined for contempt in the course of judicial enforcement and continues the conduct for which the fine was imposed, or fails to comply with his obligation prescribed by law in connection with the enforcement proceedings, other than the obligation contained in the enforcement order, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The perpetrator shall not be prosecuted if he complies with his obligation in connection with the enforcement proceedings before the indictment is filed.

## **Obstruction of Justice in International Court**

### *Section 289*

The provisions of Sections 268-282 shall apply when the acts defined therein are committed in the course of or in connection with, proceedings of an international criminal court installed under international convention promulgated by an act, or under a statutory resolution adopted by the United Nations Security Council, or by the Court of Justice of the European Union.

## **CHAPTER XXVII**

### **CRIMES OF CORRUPTION**

#### **Active Corruption**

### *Section 290*

(1) Any person who gives or promises unlawful advantage to a person working for or on behalf of an economic operator, or to another person on account of such employee, to induce him to breach his duties is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal offense described in Subsection (1) is committed in connection with a person working for or on behalf of an economic operator who is authorized to act in its name and on its behalf independently.

(3) The penalty shall be:

*a)* imprisonment between one to five years in the case under Subsection (1);

*b)* imprisonment between two to eight years in the case under Subsection (2);

if the crime of corruption is committed in criminal association with accomplices or on a commercial scale.

(4) Any person who commits the act of corruption in connection with a person working for or on behalf of a foreign economic operator shall be punishable in accordance with Subsections (1)-(3).

(5) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsection (1) if he confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

## **Passive Corruption**

### *Section 291*

(1) Any person who requests or receives an unlawful advantage in connection with his activities performed for or on behalf of an economic operator, for himself or for a third party, or accepts a promise of such an advantage, or is in league with the person requesting or accepting the advantage for a third party on his behest, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) If the perpetrator:

*a)* breaches his official duty in exchange for unlawful advantage he is punishable by imprisonment between one to five years,

*b)* commits the criminal offense defined in Subsection (1) in criminal association with accomplices or on a commercial scale he is punishable by imprisonment between two to eight years.

(3) If the perpetrator is working for or on behalf of an economic operator who is authorized to act in its name and on its behalf independently, the penalty shall be imprisonment:

*a)* between one to five years in the case under Subsection (1);

*b)* between two to eight years in the case under Paragraph *a)* of Subsection (2);

*c)* between five to ten years in the case under Paragraph *b)* of Subsection (2).

(4) Any person working for or on behalf of a foreign economic operator shall be punishable in accordance with Subsections (1)-(3) for the commission of the criminal offense defined therein.

(5) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsection (1) if he confesses the act to the authorities first hand, surrenders the obtained unlawful financial advantage in any form to the authorities, and unveils the circumstances of the criminal act.

## **Interpretative Provisions**

### *Section 292*

For the purposes of Sections 290-291 'foreign economic operator' shall mean an organization vested with legal personality according to the laws of its home country, which is entitled to perform economic activities in its given organizational form.

## **Active Corruption of Public Officials**

### *Section 293*

(1) Any person who attempts to bribe a public official by giving or promising unlawful advantage to such person or to another person for influencing such official's actions in an official capacity is guilty of a felony punishable by imprisonment not exceeding three years.



(2) Any person committing bribery is punishable by imprisonment between one to five years if he gives or promises the advantage to a public official to induce him to breach his official duty, exceed his competence or otherwise abuse his position of authority.

(3) The penalties defined in Subsections (1)-(2) shall apply to any person who commits the criminal offense set out therein in connection with a foreign public official.

(4) The director of an economic operator, or any person working for or on behalf of the economic operator vested with authority to exercise control or supervision shall be punishable according to Subsection (1), if the person working for or on behalf of the economic operator commits the criminal offense defined in Subsections (1)-(3) for the benefit of the economic operator or on its behalf, and the criminal act could have been prevented had he properly fulfilled his control or supervisory obligations.

(5) The director of an economic operator, or any person working for or on behalf of the economic operator vested with authority to exercise control or supervision shall be punishable for misdemeanor by imprisonment not exceeding two years, if the criminal offense defined in Subsection (4) is committed by way of negligence.

(6) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsections (1) and (2) if he confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

## **Passive Corruption of Public Officials**

### *Section 294*

(1) Any public official who requests or receives an unlawful advantage in connection with his actions in an official capacity, for himself or for a third party, or accepts a promise of such an advantage, or is in league with the person requesting or accepting the advantage for a third party on his behest, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense is committed by a high-ranking public official.

(3) The penalty shall be imprisonment between two to eight years in the case provided for in Subsection (1) or imprisonment between five to ten years in the case provided for in Subsection (2) if:

*a)* for the advantage the public official:

*aa)* breaches his official duties,

*ab)* exceeds his competence, or

*ac)* otherwise abuses his position of authority; or

*b)* if the offense is committed in criminal association with accomplices or on a commercial scale.

(4) A foreign public official shall be punishable in accordance with Subsections (1)-(3) for the commission of the criminal offense defined therein.

(5) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsections (1) and (2) if he confesses the act to the authorities first hand, surrenders the obtained unlawful financial advantage in any form to the authorities, and unveils the circumstances of the criminal act.

## **Active Corruption in Court or Regulatory Proceedings**

### *Section 295*

(1) Any person who promises or gives unlawful advantage to another person for himself or for a third party for him to refrain from acting in accordance with his duty or in the exercise of his rights in court, arbitration or other judicial proceedings is guilty of felony punishable by imprisonment not exceeding three years.

(2) The provisions of Subsection (1) shall apply when the acts defined therein are committed in the course of or in connection with, proceedings of an international criminal court installed under international convention promulgated by an act, or under a statutory resolution adopted by the United Nations Security Council, or by the Court of Justice of the European Union.

(3) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsections (1)-(2) if he confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

## **Passive Corruption in Court or Regulatory Proceedings**

### *Section 296*

(1) Any person who requests or receives an unlawful advantage to refrain from acting in accordance with his duty or in the exercise of his rights in a court, arbitration or other judicial proceedings, for himself or for a third party, or accepts a promise of such an advantage, or is in league with the person requesting or accepting the advantage for a third party on his behest, is guilty of a felony punishable by imprisonment between one to five years.

(2) The provisions of Subsection (1) shall apply when the acts defined therein are committed in the course of or in connection with, proceedings of an international criminal court installed under international convention promulgated by an act, or under a statutory resolution adopted by the United Nations Security Council, or by the Court of Justice of the European Union.

(3) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against the perpetrator of a criminal offense defined in Subsections (1)-(2) if he confesses the act to the authorities first hand, surrenders the obtained unlawful financial advantage in any form to the authorities, and unveils the circumstances of the criminal act.

## **Misprision of Bribery**

### *Section 297*

(1) Any public official who has positive knowledge of an act of active or passive corruption yet undetected, and fails to promptly report that to the authorities is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Family members of the person who failed to report the act of active or passive corruption shall not be prosecuted.

## **Indirect Corruption**

### *Section 298*

(1) Any person who gives or promises unlawful advantage:

*a)* to a person who claims to influence a public official, or

*b)* to a third person on account of a person who claims to influence a public official is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who commits the criminal offense defined in Subsection (1) in connection with a person who is working for or on behalf of an economic operator or an association is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) The provision of Subsection (1) shall apply when the criminal offense defined therein is committed in connection with a foreign public official.

## **Abuse of a Function**

### *Section 299*

(1) Any person who - purporting to influence a public official - requests or receives an unlawful advantage for himself or for a third party, or accepts a promise of such an advantage, or is in league with the person requesting or accepting the advantage for a third party on his behest, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the perpetrator:

*a)* purports to or pretends that he is bribing a public official;

*b)* pretends to be a public official; or

*c)* commits the criminal offense on a commercial scale.

(3) Any person who commits either of the criminal offenses defined in Subsections (1)-(2) shall be punishable as set forth therein.

### *Section 300*

(1) Any person who commits the criminal offense defined in Subsection (1) of Section 299 in connection with a person who is working for or on behalf of an economic operator is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the criminal offense described in Subsection (1) is committed in connection with a person working for or on behalf of an economic operator who is authorized to act in its name and on its behalf independently.

## **CHAPTER XXVIII**

### **MALFEASANCE IN OFFICE**

#### **Mistreatment in Official Proceedings**

##### *Section 301*

(1) Any public official who physically abuses another person during his official proceedings is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Subsection (1) is committed in a gang.

(3) Any person who engages in preparations for mistreatment in official proceedings is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(4) The penalty may be reduced without limitation if the perpetrator unveils the circumstances of the criminal offense defined in Subsection (1) to the authorities before the indictment is filed.

## **Mistreatment in the Proceedings of Persons Entrusted with Public Functions**

### *Section 302*

(1) Any person entrusted with public functions who physically abuses another person in the process of carrying out his public function is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Subsection (1) is committed in a gang.

(3) Any person who engages in preparations for mistreatment in the proceedings of persons entrusted with public functions is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(4) The penalty may be reduced without limitation if the perpetrator unveils the circumstances of the criminal offense defined in Subsection (2) to the authorities before the indictment is filed.

## **Third Degree**

### *Section 303*

(1) Any public official who attempts by force or threat of force, or by other similar means, to coerce another person into giving information or making a statement, or to withhold information, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Subsection (1) is committed in a gang.

(3) Any person who engages in preparations for the interrogation of a person for the coercion of information by force is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(4) The penalty may be reduced without limitation if the perpetrator unveils the circumstances of the criminal offense defined in Subsection (2) to the authorities before the indictment is filed.

## **Unlawful Detention**

### *Section 304*

(1) Any public official who unlawfully deprives another person of his personal freedom is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years, if the unlawful detention is committed:

*a)* with malice aforethought or with malicious motive;

*b)* by tormenting the aggrieved party;

*c)* having caused a particularly serious result.

## **Abuse of Authority**

### *Section 305*

Any public official who, with the aim of causing unlawful disadvantage or obtaining unlawful advantage:

- a) breaches his official duties;
- b) exceeds his official authority; or
- c) otherwise abuses his position of authority;

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Abuse of a Public Function**

### *Section 306*

Any person entrusted with a public function who, with the aim of causing unlawful disadvantage or obtaining unlawful advantage:

- a) breaches his duties stemming from the public function;
- b) exceeds his competence stemming from the public function; or
- c) otherwise abuses his position stemming from the public function;

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Covert Investigation and Covert Information Gathering Without Authorization**

### *Section 307*

(1) Any public official who covertly conducts an investigation or gathers information for which the authorization of a judge or the minister in charge of the judicial system is required:

- a) without authorization, or by exceeding the scope of the authorization;
- b) orders or authorizes such covert operations unlawfully;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any public official who supplies information that is false or untrue to person empowered to order or authorize an investigation or the gathering of information for which the authorization of a judge or the minister in charge of the judicial system is required, shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment between one to five years if the criminal offense defined in Subsections (1)-(2) causes a substantial injury of interest.

## **Unlawful Integrity Test**

### *Section 308*

(1) Any public official who:

a) conducts an integrity test without the prior approval of the public prosecutor, or by exceeding the scope of the approval;

b) approves an integrity test unlawfully;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any public official who supplies information that is false or untrue in the resolution ordering an integrity test, and the person empowered to do so approves the order for the integrity test relying on such information, shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment between one to five years if the criminal offense defined in Subsections (1)-(2) causes a substantial injury of interest.

## **Miscellaneous Provisions**

### *Section 309*

The provisions of this Chapter shall also apply to those members of the judicial and law enforcement authorities of a foreign State who operate in the territory of Hungary pursuant to statutory authorization.

## **CHAPTER XXIX**

### **OFFENSES AGAINST PUBLIC OFFICIALS**

#### **Assault on a Public Official**

### *Section 310*

(1) Any person who:

*a)* attempts to prevent a public official or a foreign public official in his lawful proceedings by force or by threat of force;

*b)* takes certain action to compel a public official or a foreign public official to do, or to refrain from doing, some act;

*c)* assaults a public official or a foreign public official during or because of his proceedings;

is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the assault against a public official is committed in a gang, by displaying a deadly weapon or by carrying a deadly weapon.

(3) The organizer or head of the gang referred to in Subsection (2) shall be punishable with imprisonment between five to ten years.

(4) Any person who participates in a gang arranged to commit assault against a public official is guilty of a misdemeanor punishable by imprisonment not exceeding two years, while the organizer and the head of the gang shall be punishable for a felony by imprisonment not exceeding three years.

(5) The person who assaults a public official or a foreign public official because of his proceedings shall be punished according to Subsections (1)-(4), even if the assaulted person is no longer a public official or foreign public official at the time the criminal act was committed.

(6) Any person who engages in preparations to commit assault against a public official is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(7) A person participating in the above-specified gang shall not be prosecuted under Subsection (4) if he leaves the gang voluntarily or by order of an authority.

## **Assault on a Person Entrusted with Public Functions**

### *Section 311*

Any person who commits the act defined in Section 310 against a person entrusted with public functions shall be punishable in accordance with the provisions of Section 310.

## **Assault on a Person Aiding a Public Official or a Person Entrusted with Public Functions**

### *Section 312*

Any person who commits the act defined in Section 310 against a person aiding or defending a public official, a foreign public official or a person entrusted with public functions shall be punishable in accordance with the provisions of Section 310.

## **Assault on a Person Under International Protection**

### *Section 313*

(1) Any person who:

- a) assaults,
- b) violates the personal freedom of,
- c) endangers,

a person under international protection while in the domestic territory is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person threatening to commit the crime specified in Subsection (1) is punishable by imprisonment not exceeding three years.

(3) Any person who engages in preparations to commit assault against a person under international protection is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(4) For the purposes of this Section, 'person under international protection' shall mean any foreign public official granted diplomatic immunity by virtue of a treaty or some other form of privilege under international law.

## **CHAPTER XXX**

### **OFFENSES AGAINST PUBLIC SECURITY**

#### **Acts of Terrorism**

### *Section 314*

(1) Any person who commits a violent crime against the persons referred to in Subsection (4) or commits a criminal offense that endangers the public or involves the use of arms in order to:

- a) coerce a government agency, another State or an international body into doing, not doing or countenancing something;

*b)* intimidate the general public;

*c)* conspire to change or disrupt the constitutional, economic or social order of another State, or to disrupt the operation of an international organization;

is guilty of a felony punishable by imprisonment between ten to twenty years or life imprisonment.

(2) Any person who seizes considerable assets or property for the purpose defined in Paragraph *a)* and makes demands to government agencies or international organizations in exchange for refraining from harming or injuring said assets and property or for returning them shall be punishable according to Subsection (1).

(3) The punishment of any person who:

*a)* abandons the commission of the terrorist act defined under Subsection (1) or (2) before any grave consequences have resulted therefrom; and

*b)* confesses his conduct to the authorities;

in such a manner as to cooperate with the authorities to prevent or mitigate the consequences of such criminal act, apprehend other coactors, and prevent other criminal acts may be reduced without limitation.

(4) For the purposes of this Section, violent crime against the person, or criminal offense that endangers the public or involves the use of arms shall include:

*a)* homicide [Subsections (1)-(2) of Section 160], battery [Subsections (2)-(6) and (8) of Section 164], professional misconduct with intent [Subsection (3) of Section 165];

*b)* kidnapping [Subsections (1)-(4) of Section 190], violation of personal freedom (Section 194);

*c)* offenses against transport security [Subsections (1)-(2) of Section 232], endangerment of railway, air or water transport systems [Subsections (1)-(2) of Section 233];

*d)* misappropriation of radioactive materials [Subsections (1)-(2) of Section 250];

*e)* assault on a public official [Subsections (1)-(5) of Section 310], assault on a person entrusted with public functions (Section 311), assault on a person aiding a public official or a person entrusted with public functions (Section 312), assault on a person under international protection [Subsection (1) of Section 313];

*f)* unlawful seizure of a vehicle [Subsections (1)-(2) of Section 320], public endangerment [Subsections (1)-(3) of Section 322], interference with works of public concern [Subsections (1)-(3) of Section 323], criminal offenses with explosives or blasting agents [Subsections (1)-(2) of Section 324], criminal offenses with firearms and ammunition [Subsections (1)-(3) of Section 325];

*g)* criminal offenses with weapons prohibited by international convention [Subsections (1)-(5) of Section 326], criminal offenses with military items and services [Subsections (1)-(3) of Section 329], criminal offenses with dual-use items [Subsections (1)-(2) of Section 330];

*h)* robbery [Subsections (1)-(4) of Section 365] and vandalism [Subsections (1)-(6) of Section 371];

*i)* breach of information system or data [Subsections (1)-(3) of Section 423].

### *Section 315*

(1) Any person who instigates, suggests, offers, joins or collaborates in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 or any person who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities is guilty of a felony punishable by imprisonment between two to eight years.



(2) Any person who is engaged in the conduct referred to in Subsection (1) or in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 in a terrorist group, is punishable by imprisonment between five to ten years.

(3) The perpetrator of a criminal act defined in Subsection (1) or (2) shall not be prosecuted if he confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

#### *Section 316*

Any person threatening to commit a terrorist act is guilty of a felony punishable by imprisonment between two to eight years.

### **Failure to Report a Terrorist Act**

#### *Section 317*

Any person who has positive knowledge concerning plans for a terrorist act and fails to promptly report that to the authorities is guilty of a felony punishable by imprisonment not exceeding three years.

### **Terrorist Financing**

#### *Section 318*

(1) Any person who provides or collects funds with the intention that they should be used in order to carry out an act of terrorism, or who provides material assistance to a person who is making preparations to commit a terrorist act or to a third party on his behest is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who commits the criminal offense referred to in Subsection (1) in order to carry out an act of terrorism in a terrorist group, or on behalf of any member of a terrorist group, or supports the activities of the terrorist group in any other form is punishable by imprisonment between five to ten years.

(3) For the purposes of this Section 'material assistance' shall mean the assets specified in Point 1 of Article 1 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, including legal documents and instruments in any form.

### **Interpretative Provision**

#### *Section 319*

For the purposes of Sections 315 and 318 'terrorist group' shall mean a group consisting of three or more persons operating in accord for an extended period of time whose aim is to commit acts of terrorism.

### **Unlawful Seizure of a Vehicle**

#### *Section 320*

(1) Any person who seizes control of an aircraft, any means of public transportation or any means of freight transport by force or threat of force, or by way of disabling another person by rendering him unconscious or incapable of self-defense is guilty of a felony punishable by imprisonment between five to ten years.

(2) The penalty shall be imprisonment between ten to twenty years or life imprisonment, if the criminal offense results in death.

(3) Any person who engages in preparations for the unlawful seizure of a vehicle is punishable by imprisonment between two to eight years.

(4) The punishment of a person who abandons commission of the criminal act before grave consequences have resulted therefrom may be reduced without limitation.

## **Participation in a Criminal Organization**

### *Section 321*

(1) Any person who instigates, suggests or offers, or joins or collaborates to engage in criminal activities in the framework of a criminal organization, or who provides the means intended to be used for such activities, or supports the activities of the criminal organization in any other manner is guilty of felony punishable by imprisonment between one to five years.

(2) Any person who confesses the criminal act to the authorities first hand and unveils the circumstances of commission shall not be prosecuted on the grounds of participation in a criminal organization.

## **Public Endangerment**

### *Section 322*

(1) Any person who causes collective danger by bringing about the destructive force of any substance or energy source, or obstructs the prevention of public danger or the ensuing efforts to clean up damages, is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to ten years if the criminal act is committed:

*a)* in a gang;

*b)* results in particularly considerable or greater damage; or

*c)* in criminal association with accomplices.

(3) The penalty shall be imprisonment between five to twenty years or life imprisonment if the criminal offense results in death.

(4) Any person who engages in preparations for public endangerment is punishable by imprisonment not exceeding three years.

(5) A person who causes public danger by way negligence is guilty of misdemeanor punishable by imprisonment not exceeding three years, or, if such offense causes particularly considerable or greater damage, between one to five years, or, if such offense results in death, between two to eight years.

(6) The punishment of any person who voluntarily eliminates the public danger before any damage have resulted therefrom may be reduced without limitation.

## **Interference with Works of Public Concern**

### *Section 323*

(1) Any person who interferes with the functioning of public works to a considerable extent is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the act of crime:

- a) is committed in a gang;
- b) is committed with accomplices; or
- c) results in particularly considerable damage.

(3) The penalty shall be imprisonment between five to ten years if the criminal act:

- a) is committed by displaying a deadly weapon;
- b) is committed by carrying a deadly weapon; or
- c) results in particularly considerable damage.

(4) Any person who engages in preparations for interference with the functioning of public works is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(5) Any person who commits the criminal offense by way of negligence shall be punishable for a misdemeanor offense by imprisonment not exceeding three years, or, if it causes particularly considerable or greater damage, by imprisonment between one to five years.

## **Criminal Offenses with Explosives or Blasting Agents**

### *Section 324*

(1) Any person who:

a) prepares, obtains, possesses or places on the market, or transfers to a person who is not entitled to possess explosives or blasting agents, or equipment for the use of such, without authorization,

b) imports or exports, or transports in transit through the territory of Hungary explosives or blasting agents, or equipment for the use of such, without authorization, or by exceeding the scope of the authorization,

is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to ten years if the criminal act is committed on a commercial scale or with accomplices.

(3) Any person who engages in preparations for criminal offenses with explosives or blasting agents is punishable by imprisonment not exceeding three years.

## **Criminal Offenses with Firearms and Ammunition**

### *Section 325*

(1) Any person who:

a) obtains or possesses a firearm without authorization;

b) makes or places on the market firearms without authorization;

c) imports or exports, or transports in transit through the territory of Hungary firearms without authorization, or by exceeding the scope of the authorization;

d) exceeds the scope of the authorization relating to the making, obtaining, possession of or trade in, firearms;

e) transfers his licensed firearm to a person who has no license;

is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who:

*a)* obtains or possesses ammunition for his sidearm, hunting gun or sporting gun in excess of limited quantities or for other firearms, without proper authorization;

*b)* makes or places on the market ammunition without authorization;

*c)* imports or exports, or transports in transit through the territory of Hungary ammunition without authorization, or by exceeding the scope of the authorization;

*d)* exceeds the scope of the authorization relating to the making, obtaining, possession of or trade in, ammunition;

*e)* transfers ammunition kept for his licensed sidearm, hunting gun or sporting gun in excess of limited quantities or for other firearms, to a person with no license;

shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment between five to ten years if the criminal act is committed on a commercial scale or with accomplices.

(4) Any person who - without notification - imports or exports, or transports in transit through the territory of Hungary his licensed sidearm, hunting gun or sporting gun, or the ammunition kept for such sidearm, hunting gun or sporting gun is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(5) Any person who engages in preparations for the criminal acts referred to in Subsections (1)-(3) is punishable by imprisonment not exceeding three years.

(6) In the application of this Section limited quantity shall mean not more than ten pieces of ammunition.

## CHAPTER XXXI

### CRIMINAL OFFENSES AGAINST ECONOMIC SANCTIONS IMPOSED UNDER INTERNATIONAL COMMITMENT FOR REASONS OF PUBLIC SECURITY

#### **Criminal Offenses with Weapons Prohibited by International Convention**

##### *Section 326*

(1) Any person who:

*a)* develops, manufactures;

*b)* obtains, uses or possesses, or decommissions without authorization;

*c)* transfers to a person without proper authorization, imports or exports, or transports in transit through the territory of Hungary;

weapons prohibited by international convention is guilty of a felony punishable by imprisonment between five to fifteen years.

(2) Any person who constructs or operates a facility for the production of weapons prohibited by international convention without authorization, or does so in derogation from the authorization, or converts an existing facility for the production of such weapons shall be punishable according to Subsection (1).

(3) Any person who:

*a)* provides technical assistance for the development, manufacture, assembly, quality control, operation, maintenance or repair of weapons prohibited by international convention;

*b)* misleads the body or person vested with authority for the authorization prescribed by law for the operation of a facility designed for the production of weapons prohibited by international convention;

shall be punishable by imprisonment between five to ten years.

(4) The penalty shall be imprisonment between five to fifteen years if the criminal offense defined in Subsection (3) is committed:

*a)* on a commercial scale;

*b)* in criminal association with accomplices; or

*c)* by a public official.

(5) The penalty shall be imprisonment between ten to twenty years or life imprisonment if:

*a)* the criminal offense defined in Subsection (1) is committed on a commercial scale; or

*b)* the criminal offenses defined in Subsections (1)-(2) are committed with accomplices or by an public official.

(6) Any person who engages in preparations for criminal offenses with weapons prohibited by international convention is punishable by imprisonment between one to five years.

(7) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding two years.

## **Violation of International Economic Restrictions**

### *Section 327*

(1) Any person who violates:

*a)* the obligation for freezing funds or economic resources; and/or

*b)* any economic, commercial or financial restriction;

imposed on the basis of an obligation to which Hungary is committed under international law, or ordered in regulations adopted under Article 75 and Article 215 of the Treaty on the Functioning of the European Union, or in regulations and decisions adopted by authorization of these regulations, or ordered in the Council decision adopted under Article 29 of the Treaty on the European Union, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the violation of international economic restriction is committed:

*a)* in connection with trade in goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;

*b)* by force; or

*c)* by a public official.

(3) The penalty shall be imprisonment between five to ten years if the violation of international economic restriction is committed:

a) in connection with trafficking in firearms, ammunition, explosives, blasting agents or equipment for the use thereof, or of any product designed for military use;

b) by displaying a deadly weapon; or

c) in criminal association with accomplices.

(4) Any person who engages in preparations for the violation of any international economic restriction is punishable by imprisonment not exceeding three years.

(5) For the purposes of this Section, unless otherwise prescribed by legislation promulgating an obligation or restriction under international law:

a) 'funds' shall mean the assets provided for in point l) of Article 1 of Council Regulation (EU) No. 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No. 961/2010 (for the purposes of this Subsection hereinafter referred to as "Regulation 267/2012/EU");

b) 'freezing of funds' shall have the meaning defined in point k) of Article 1 of Regulation 267/2012/EU;

c) 'economic resources' shall have the meaning defined in point h) of Article 1 of Regulation 267/2012/EU;

d) 'freezing of economic resources' shall have the meaning defined in point j) of Article 1 of Regulation 267/2012/EU;

e) 'goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment' shall mean the goods defined in Annex II to Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

## **Failure to Report Violation of International Economic Restrictions**

### *Section 328*

(1) Any person who has positive knowledge of preparations being made for the violation of any international economic restriction or that such a crime has been committed and is as yet undetected, and fails to promptly report that to the authorities, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Family members of any person who failed to report a violation of international economic restrictions shall not be prosecuted.

## **Criminal Offenses with Military Items and Services**

### *Section 329*

(1) Any person who:

a) engages in the manufacture and marketing of military items or in the supply of military services without authorization, or by exceeding the scope of the authorization;

b) uses military items in an unauthorized way;

c) manufactures, obtains, uses, possesses, transfers or places on the market prohibited military items, or imports or exports, or transports such items in transit through the territory of Hungary;

is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who:

*a)* provides technical assistance for the development, production, handling, operation, maintenance, repair, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, including the missiles capable of delivering such weapons;

*b)* provides technical assistance in connection with any military application other than what is contained in Paragraph *a)* with respect to a country that is subject to an arms embargo imposed by a resolution that is considered binding upon Hungary under international commitment;

shall be punishable according to Subsection (1).

(3) The penalty shall be imprisonment between five to ten years if the criminal act described in Subsection (1) is committed in criminal association with accomplices or on a commercial scale.

(4) Any person who engages in preparations for criminal offenses with military items and services is punishable by imprisonment between one to five years.

(5) For the purposes of this Section:

*a)* authorization shall also cover the International Import Certificate and equivalent documents;

*b)* military items shall also cover the goods defined in Annex III to Regulation (EC) No. 1236/2005;

*c)* 'prohibited military item' shall mean the goods defined in Annex II to Regulation (EC) No. 1236/2005.

## **Criminal Offenses with Dual-Use Items**

### *Section 330*

(1) Any person who:

*a)* places on the external market dual-use items or supplies military services without authorization, or by exceeding the scope of the authorization, including if transferred inside the customs territory of the European Union; or

*b)* uses dual-use items in an unauthorized way;

is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Subsection (1) involves:

*a)* the transfer of chemical weapons and chemical instruments of war covered by Annex 1 to the convention signed at Paris on 13 January 1993 on the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as promulgated by Act CIV of 1997, to the territory of Hungary, or to the customs territory of the European Union from Hungary; or

*b)* nuclear dual-use items.

(3) Any person who engages in preparations for any criminal offense with dual-use items is punishable by imprisonment not exceeding three years.

(4) For the purposes of this Section:

*a)* authorization shall also cover the International Import Certificate and equivalent documents;

*b)* 'dual-use items' shall mean the items defined in point 1 of Article 2 of Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;

c) 'customs territory of the European Union' shall mean the territory within the meaning of Article 3 of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code.

## CHAPTER XXXII

### CRIMINAL OFFENSES AGAINST PUBLIC PEACE

#### **Incitement to War**

##### *Section 331*

Any person who before the public at large engages in incitement to war or otherwise displays war propaganda is guilty of a felony punishable by imprisonment between one to five years.

#### **Incitement Against a Community**

##### *Section 332*

Any person who before the public at large incites hatred against:

- a) the Hungarian nation;
- b) any national, ethnic, racial or religious group; or
- c) certain societal groups, in particular on the grounds of disability, gender identity or sexual orientation;

is guilty of a felony punishable by imprisonment not exceeding three years.

#### **Open Denial of Nazi Crimes and Communist Crimes**

##### *Section 333*

Any person who denies before the public large the crime of genocide and other crimes committed against humanity by nazi and communist regimes, or expresses any doubt or implies that it is insignificant, or attempts to justify them is guilty of felony punishable by imprisonment not exceeding three years.

#### **Blasphemy of National Symbol**

##### *Section 334*

Any person who - before the public at large - uses an expression to dishonor or degrade the national anthem, the flag or the coat of arms, or the Holy Crown of Hungary, or commits any other similarly slanderous act is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

#### **Use of Symbols of Totalitarianism**

##### *Section 335*

Any person who:

- a) distributes,



b) uses before the public at large, or

c) publicly exhibits,

the swastika, the insignia of the SS, the arrow cross, the sickle and hammer, the five-pointed red star or any symbol depicting the above so as to breach public peace - specifically in a way to offend the dignity of victims of totalitarian regimes and their right to sanctity - is guilty of a misdemeanor punishable by custodial arrest, insofar as the did not result in a more serious criminal offense.

## **Incitement Against a Decree of Authority**

### *Section 336*

Any person who before the public at large incites to common disobedience against any decree of an authority so as to disturb public peace is guilty of a felony punishable by imprisonment not exceeding three years.

## **Scaremongering**

### *Section 337*

Any conduct of uttering or publishing before the public at large a statement one knows to be false or with a reckless disregard for its truth or falsity at the scene of some emergency by which to violate public order or disturb the public peace at a place of public danger is guilty of a felony punishable by imprisonment not exceeding three years.

## **Threat of Public Endangerment**

### *Section 338*

(1) Any person who states or disseminates any untrue fact intended to disturb the public peace, or gives the impression that there is imminent danger for the occurrence of an event that is likely to bring harm to the general public is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the threat of public endangerment has resulted in a grave disturbance of public peace.

## **Public Nuisance**

### *Section 339*

(1) Any person who displays an apparently anti-social and violent conduct aiming to incite indignation or alarm in other people is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

(2) The penalty for a felony shall be imprisonment not exceeding three years if public nuisance is committed:

a) in a gang;

b) in a manner gravely disturbing public peace;

c) by displaying a deadly weapon;

d) by carrying a deadly weapon, or

b) in a public event.

## **Disorderly Conduct**

### *Section 340*

(1) Any conduct of violent or intimidating resistance against the actions of the keeper or security personnel to maintain order at a public event is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who in a sports event enters without authorization or breaches any restricted area where no visitors are allowed, or that is restricted for a specific group of visitors, or if throws any object into such an area and thereby jeopardizing the sport event or the physical integrity of others shall be punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

(3) The penalty for a felony shall be imprisonment not exceeding three years if disorderly conduct is committed:

*a)* in a gang;

*b)* by displaying a deadly weapon;

*c)* by carrying a deadly weapon; or

*h)* by a habitual recidivist.

(4) Within the meaning of habitual recidivism, the following shall be construed as crimes of similar nature:

*a)* battery [Subsections (3)-(6) and (8) of Section 164];

*b)* assault on a public official [Subsections (1)-(5) of Section 310], assault on a person entrusted with public functions (Section 311), assault on a person aiding a public official or a person entrusted with public functions (Section 312);

*c)* public nuisance (Section 339);

*d)* vandalism [Subsections (1)-(6) of Section 371].

## **Prohibition from Residing in a Particular Area**

### *Section 341*

Banishment may also be imposed against persons found guilty of public nuisance or disorderly conduct.

## **CHAPTER XXXIII**

### **CRIMINAL OFFENSES AGAINST PUBLIC CONFIDENCE**

#### **Forgery of Administrative Documents**

### *Section 342*

(1) Any person who:

*a)* prepares a forged administrative document or falsifies the contents of an administrative document;

*b)* uses a falsified or forged administrative document or an administrative document issued under the name of another person;

c) collaborates in the inclusion of false data, facts or declarations in an administrative document regarding the existence, changing or termination of a right or obligation;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who engages in preparations for the forging of administrative documents as defined in Paragraph a) or b) of Subsection (1) is guilty of misdemeanor punishable by imprisonment not exceeding one year.

(3) Any person who performs the forging of administrative documents under Paragraph c) of Subsection (1) by way of negligence shall be punishable for a misdemeanor by custodial arrest.

#### *Section 343*

(1) Any public official who, by abusing his official competence:

a) prepares a forged administrative document;

b) falsifies the contents of an administrative document; or

c) includes falsely any essential fact in an administrative document;

is guilty of a felony punishable by imprisonment between one to five years.

(2) The provisions of this Section shall also apply to those members of the judicial and law enforcement authorities of a foreign State who operate in the territory of Hungary pursuant to statutory authorization.

### **Forgery of Secure Identification Documents**

#### *Section 344*

Any person who:

a) makes a forged secure identification document for entry provided for in specific other legislation;

b) falsifies the contents of a secure identification document for entry;

c) uses a falsified or forged secure identification document or a secure identification document issued under the name of another person;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

### **Use of a Forged Private Document**

#### *Section 345*

Any person who uses a falsified or forged private document or a private document with untrue contents for providing evidence for the existence, the changing or termination of a right or obligation, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

### **Criminal Offenses with Authentic Instruments**

#### *Section 346*

(1) Any person who - as regards any authentic instrument which does not belong to him or which is not exclusively his own:

a) unlawfully acquires such authentic instrument from another person, without the consent of such person;

b) unlawfully destroys or damages such authentic instrument;

c) unlawfully commandeers or conceals such authentic instrument from its rightful holder;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who receives or transfers an authentic instrument for unlawful financial gain is punishable in accordance with Subsection (1), insofar as the act did not result in another criminal offense.

(3) Any person who perpetrates the act defined in Subsection (1) in respect of a private document in order to gain unlawful advantage or to cause unlawful disadvantage is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Criminal Offenses with Individual Identifiers**

### *Section 347*

(1) Any person who:

a) removes, or counterfeits an individual identification mark;

b) acquires or uses, or disposes over an article whose individual identification mark is counterfeit or forged, or whose individual identification mark has been removed;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal offense described in Subsection (1) is committed on a commercial scale or in criminal association with accomplices.

(3) For the purposes of this Section 'individual identification mark' shall mean a mark used by a manufacturer or by the authority for the identification of goods, or any component thereof, that may be held or used - pursuant to the law - in possession of a permit from the relevant authority.

## **Odometer Fraud**

### *Section 348*

Any person who, for unlawful financial gain, manipulates the odometer reading of a motor vehicle by compromising the reading mechanism of the device itself or the process of metering, or disengages the odometer in any way, is guilty of misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

## **Unlawful Acquisition of Arable Land**

### *Section 349*

(1) Any person who enters into an invalid contract:

a) for the acquisition of ownership of arable land;

b) for the acquisition of usufructuary rights or rights of use for arable land;

by way of circumventing the applicable statutory prohibition or restriction, is guilty of a felony punishable by imprisonment between one to five years.

(2) Any attorney, legal counsel or notary public who participates in the conclusion of a contract described in Subsection (1) shall be punishable in accordance with Subsection (1).

(3) The penalty may be reduced without limitation for the criminal offense referred to in Subsection (1) if the perpetrator confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

## CHAPTER XXXIV

### CRIMINAL OFFENSES RELATED ADMINISTRATIVE PROCEDURES

#### **Criminal Offences related to Elections, Referendum, Popular Initiative and European Citizens' Initiative**

##### *Section 350*

(1) Any person who, in the course of elections, referendum, popular initiative or European citizens' initiative held under the Act on Election Procedures:

*a)* obtains nomination by violating the rules of nomination, by force or threat of force, deception or by offering financial benefits;

*b)* obtains signatures for holding a referendum, popular initiative or European citizens' initiative by force or threat of force, deception or by offering financial benefits;

*c)* votes without entitlement;

*d)* signs without entitlement, indicates false data;

*e)* obstructs any voter from participating in the election, referendum, popular initiative or European citizens' initiative by force, threat of force or deception, or makes any attempt to influence such person by offering financial benefits;

*f)* infringes upon the confidentiality of the election or referendum;

*g)* falsifies the result of the elections, referendum, popular initiative or European citizens' initiative;

*h)* receives financial benefits in the nomination process for being nominated, or for his signature in support of a referendum, popular initiative or European citizens' initiative;

*i)* demands financial benefits for his vote, and receives financial benefits therefor;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who, in the process of registration of candidacy in elections of representatives of nationality self-governments makes a false statement in connection with his previous candidacy for nationality self-government shall be punishable in accordance with Subsection (1).

#### **Abuse of the Right of Association**

##### *Section 351*

(1) Any person who participates in the leadership of an association that has been disbanded by the court is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who participates in an association that has been disbanded by the court so as to disturb public peace is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) Any person who provides the means necessary for or facilitating the functioning of an association that has been disbanded by the court, or provides material assistance to such association is punishable by imprisonment not exceeding one year.

## **Unlawful Activities Concerning the Pursuit of Public Security**

### *Section 352*

Any person:

*a)* who is engaged in organizing activities for maintaining public policy, public security, without any statutory authorization, or

*b)* who is engaged in organizing activities purporting to maintain public policy, public security,

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Illegal Immigrant Smuggling**

### *Section 353*

(1) Any person who provides aid to another person for crossing state borders in violation of the relevant statutory provisions is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if illegal immigrant smuggling:

*a)* is carried out for financial gain or advantage; or

*b)* involves several persons for crossing state borders.

(3) The penalty shall be imprisonment between two to eight years if illegal immigrant smuggling is carried out:

*a)* by tormenting the smuggled person;

*b)* by displaying a deadly weapon;

*c)* by carrying a deadly weapon;

*d)* on a commercial scale; or

*e)* in criminal association with accomplices.

(4) Any person who engages in preparations for illegal immigrant smuggling is guilty of misdemeanor punishable by imprisonment not exceeding two years.

## **Facilitation of Unauthorized Residence**

### *Section 354*

(1) Any person who provides aid for financial gain to a foreign national to reside unlawfully in the territory of:

*a)* any Member State of the European Union;

*b)* any State that is a party to the Agreement on the European Economic Area; or

*c)* any other country whose citizens are enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area;

if such foreign national is not a citizen of any of these states, is guilty of misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

(2) Any person who provides aid for financial gain to a foreign national to reside unlawfully in the territory of Hungary shall be punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

## **Abuse of Family Ties**

### *Section 355*

Any person over the age of eighteen years who enters into a family relationship for financial gain for the sole purpose of obtaining a document verifying the right of residence, or consents to a statement of paternity of full effect is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.

## **Unlawful Employment of Third-Country Nationals**

### *Section 356*

(1) Any person who employs:

*a)* a third-country national on a regular basis or frequently without authorization to undertake gainful employment;  
or

*b)* a substantial number of third-country nationals at one and the same time without authorization to undertake gainful employment;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony:

*a)* if the offender employs a third-country national without authorization to undertake gainful employment under particularly exploitative working conditions;

*c)* if the third-country national employed without authorization to undertake gainful employment is the victim of trafficking in human beings.

(3) For the purposes of this Section:

*a)* 'particularly exploitative working conditions' shall mean particularly exploitative working conditions as defined by the Act on the Admission and Residence of Third-Country Nationals;

*b)* 'substantial number' shall mean at least five persons.

## **Vandalism of Historic Monuments or Protected Cultural Goods**

### *Section 357*

(1) Any person who vandalizes an historical monument or any object classified as protected cultural goods he owns, or an archeological site located on his property is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who:

*a)* destroys an historical monument or any object classified as protected cultural goods he owns;

*b)* causes irreparable damage to an historical monument he owns, as a result of which it loses its character as a historic monument; or

*c)* causes irreparable damage to any object classified as protected cultural goods or an archeological site he owns;

is punishable by imprisonment between one to five years.

## **Criminal Offenses with Protected Cultural Goods**

### *Section 358*

(1) Any person who:

*a)* alienates collector's items or any part of a protected collection without prior statutory consent;

*b)* fails to report changes in the ownership of protected cultural goods, collector's items or protected collections as prescribed in the relevant legislation;

*c)* exports protected cultural goods, collector's items or protected collections without authorization, or exceeds the limits of the export permit;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who, without an export permit, exports objects which are considered cultural goods and for which an export permit is required, or who exceeds the limits of an export permit shall be punishable in accordance with Subsection (1).

## **Violation of Legal Liabilities Relating to the Keeping of Dangerous Animals and Dangerous Dogs**

### *Section 359*

(1) Any person:

*a)* who is engaged in keeping, breeding, trading in or importing dangerous animals without permission;

*b)* who breaches the security requirements laid down in the relevant legislation relating to the keeping of dangerous animals;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person:

*a)* who is engaged

*aa)* in breeding, importing or exporting dangerous dogs to or from the territory of Hungary, or in keeping such for racing without permission,

*ab)* in trafficking in dangerous dogs unlawfully;

*b)* who

*ba)* violates the legal obligation relating to the spaying of dangerous dogs, or

*bb)* breaches the security requirements laid down in the relevant legislation relating to the keeping of dangerous dogs;

is punishable in accordance with Subsection (1).



(3) Any person who is keeping or training dangerous dogs for the purpose of security services, and uses dangerous dogs to perform security services is guilty of a felony punishable by imprisonment not exceeding three years.

(4) For the purposes of this Section 'dangerous dog' shall mean any dogs considered dangerous by decision of the competent authority on an ad hoc basis.

## **Unlawful Gambling Operations**

### *Section 360*

Any person who:

*a)* is engaged in organizing unlawful gambling activities on a regular basis; or

*b)* makes available premises for the purpose of unlawful gambling activities;

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Violation of Epidemic Control Regulations**

### *Section 361*

Any person who:

*a)* infringes the rules of quarantine, epidemiological supervision or control ordered for preventing the importation or dissemination of an infectious disease subject to quarantine obligation;

*b)* infringes the rules of quarantine, epidemiological supervision or control ordered at the time upon the outbreak of a disease;

*c)* breaches the measures adopted by the plant health authority or epidemiological measures introduced for the prevention of the spreading - within or across the border - of infectious animal diseases or pests which are harmful to vegetation, or for the eradication of such;

is punishable for misdemeanor by custodial arrest.

## **Violation of Legal Liabilities Relating to Genetically Modified Plant Varieties**

### *Section 362*

Any person who:

*a)* unlawfully imports, stores, transports or places on the market in the territory of Hungary the propagating materials of genetically modified plant varieties which have not been authorized in the European Union, or releases such into the environment;

*b)* unlawfully releases into the environment the propagating materials of genetically modified plant varieties which have not been authorized in the European Union for cultivation purposes;

*c)* violates the prohibitive measures imposed for the duration of the safeguard procedure in connection with the import, production, storage, transport, placing on the market or use of propagating materials of genetically modified plant varieties which has been authorized in the European Union for cultivation purposes;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Violation of Obligations Relating to Audits by the *Állami Számvevőszék (State Audit Office of Hungary)***

### *Section 363*

(1) Any person who fails to abide by the obligation of cooperation prescribed by the Act on the State Audit Office in the course of an audit by the *Állami Számvevőszék*, where such conduct constitutes an obstruction of the audit, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The head of an audited body shall be punishable in accordance with Subsection (1) in the event of his failure to send an action plan to the *Állami Számvevőszék* despite a written order.

(3) The penalty shall be imprisonment not exceeding three years for a felony if the conduct specified in Subsection (1) impedes the conclusion of the audit.

## **Prohibition from Residing in a Particular Area**

### *Section 364*

Banishment may also be imposed against persons found guilty of illegal immigrant smuggling or unlawful gambling operations.

## **CHAPTER XXXV**

### **VIOLENT CRIMES AGAINST PROPERTY**

#### **Robbery**

### *Section 365*

(1) Any person who takes away a thing to which he is not entitled from the person of another, against his will:

- a)* by force or threat against life or bodily integrity of such person; or
- b)* by disabling such person by rendering him unconscious or incapable of self-defense;

is guilty of a felony punishable by imprisonment between two to eight years.

(2) Where a thief caught in the act applies force or threat against life or bodily integrity in order to keep the thing, it shall be construed as robbery as well.

(3) The penalty shall be imprisonment between five to ten years if the robbery is committed:

- a)* by displaying a deadly weapon;
- b)* by carrying a deadly weapon;
- c)* in a gang;
- d)* in criminal association with accomplices;
- e)* in respect of a substantial value;
- f)* against a public official, a foreign public official or a person performing public duties, while acting in an official capacity, or when discharging public functions;

g) against a person whose ability to recognize or prevent the criminal act is diminished due to his old age or disability.

(4) The penalty shall be imprisonment between five to fifteen years if the robbery:

a) involves a particularly considerable or greater value;

b) involves a substantial value and it is committed in the manner defined in Paragraphs a)-d) of Subsection (3);

c) is committed against a public official, a foreign public official or a person performing public duties, while acting in an official capacity, or when discharging public functions, in the manner defined in Paragraphs a)-d) of Subsection (3).

(5) Any person who engages in preparations for robbery is guilty of misdemeanor punishable by imprisonment not exceeding two years.

## **Plundering**

### *Section 366*

(1) Any person who takes away a thing to which he is not entitled from the person of another, against his will:

a) by inebriating or drugging him for this purpose;

b) where this person has been intimidated by force or by direct threat against his life or bodily integrity inflicted in the course of the commission of another crime; or

c) where this person is incapable of self-defense, or whose ability to recognize or prevent the criminal act is diminished due to his old age or disability;

is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if plundering is committed:

a) in respect of a substantial value;

b) in a gang;

c) in criminal association with accomplices.

(3) The penalty shall be imprisonment between five to ten years if the plundering:

a) involves a particularly considerable or greater amount of money;

b) is committed in respect of a substantial value, in a gang or in criminal association with accomplices.

## **Extortion**

### *Section 367*

(1) Any person who by force or by threat of force compels another person - in the pursuit of unlawful financial gain - to do, not to do, or to endure something, thereby causing a financial loss, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if extortion is committed:

a) in criminal association with accomplices;

- b) by threat against life or bodily integrity or other similarly serious threat of force;
- c) by a public official, acting in such official capacity;
- d) by feigning official assignment or official action.

## **Private Justice**

### *Section 368*

(1) A person who, by force or by threat of force, with the purpose of enforcing his lawful or allegedly lawful pecuniary demand, compels another person to do, not to do, or to endure something, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between two to eight years if private justice is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) in a gang;
- d) against a person incapable of self-defense.

(3) Where the use of force or threat of force constitutes an authorized means of enforcement of a claim, it shall not be construed as private justice.

## **Interpretative Provisions**

### *Section 369*

In the application of this Chapter, violent crimes against property and offenses against property shall be construed as criminal activities similar in nature to habitual recidivism.

## **CHAPTER XXXVI**

### **OFFENSES AGAINST PROPERTY**

#### **Theft**

### *Section 370*

(1) 'Theft' shall mean when a person takes away a thing to which he is not entitled from somebody else in order to unlawfully appropriate it.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding two years if the theft:

- a) involves a minor value; or
- b) involves a petty offense value, and it is committed:
  - ba) in criminal association with accomplices,
  - bb) on a commercial scale,

*bc*) by using actual force against a thing, including if the installed means of theft protection are removed without causing any damage or without compromising such means of theft protection and rendering it dysfunctional,

*bd*) by pickpocketing,

*be*) by the simultaneous commandeering of one or more authentic instruments, private documents or cash-substitute payment instruments,

*bf*) upon entering a property, or the confines attached to such, by deception or without the knowledge and consent of the entitled party or user,

*bg*) by the use of a false or stolen key,

*bh*) to the detriment of a party who is sharing a home or similar premises with the perpetrator, or

*bi*) by way of illegally felling trees in a forest.

(3) The penalty for a felony shall be imprisonment not exceeding three years if:

*a*) the theft is committed in respect of a considerable value;

*b*) the theft involves a minor value and:

*ba*) it is committed by either of the means referred to in Subparagraphs *ba*)-*be*),

*bb*) it involves objects classified as protected cultural goods or archeological findings,

*bc*) it involves religious objects,

*bd*) it involves objects placed in memory of or with, the dead, in cemeteries and other burial sites,

*be*) it involves precious metal; or

*c*) it involves petty offense value or less, and it is committed at a place of emergency.

(4) The penalty shall be imprisonment between one to five years if:

*a*) the theft is committed in respect of a substantial value; or

*b*) the theft involves a considerable value and it is committed by either of the means referred to in Subparagraphs *ba*)-*be*) of Subsection (2) or at a place of emergency.

(5) The penalty shall be imprisonment between two to eight years if:

*a*) the theft is committed in respect of a particularly considerable value; or

*b*) the theft involves a substantial value and it is committed by either of the means referred to in Subparagraphs *ba*)-*be*) of Subsection (2) or at a place of emergency.

(6) The penalty shall be imprisonment between five to ten years if:

*a*) the theft is committed in respect of particularly substantial value; or

*b*) the theft involves a particularly considerable value and it is committed by either of the means referred to in Subparagraphs *ba*)-*be*) of Subsection (2) or at a place of emergency.

## **Vandalism**

### *Section 371*

(1) 'Vandalism' shall mean causing damage by injury to or destruction of, the property of others.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding one year if:

*a)* the act of vandalism results in minor damage; or

*b)* the act of vandalism results in damage under the petty offense limit and carried out:

*ba)* by means of placement of graffiti, or

*bb)* in criminal association with accomplices.

(3) The penalty for a felony shall be imprisonment not exceeding three years if:

*a)* the act of vandalism results in damage of considerable value;

*b)* the act of vandalism results in the destruction of:

*ba)* an object classified as protected cultural goods, an historical monument, archeological site or archeological findings,

*bb)* religious objects or consecrated buildings or objects used for religious rights,

*bc)* graves, burial sites or objects placed in memory of or with, the dead, in cemeteries and other burial sites.

(4) The penalty shall be imprisonment between one to five years if:

*a)* the act of vandalism results in damage of substantial value;

*b)* the act of vandalism results in the destruction of object, building or place referred to in Paragraphs *ba)*-*bc)* of Subsection (3);

*c)* the act of vandalism is committed using explosives or blasting agents.

(5) The penalty shall be imprisonment between two to eight years if the act of vandalism results in particularly considerable damage.

(6) The penalty shall be imprisonment between five to ten years if the act of vandalism results in particularly substantial damage.

(7) For the purposes of this Section 'graffiti' means surface coating containing images or lettering applied with spray paint, marker pens or any other manner on property, that is not required for the proper use of the property.

## **Embezzlement**

### *Section 372*

(1) 'Embezzlement' shall mean when a person unlawfully appropriates or disposes of as his own a thing with which he has been entrusted.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding one year if:

*a)* the embezzlement involves a minor value; or

*b)* the embezzlement involves a petty offense value, and it is committed:

*ba)* in criminal association with accomplices,

*bb)* at a place of emergency,

*bc*) on a commercial scale.

(3) The penalty for a felony shall be imprisonment not exceeding three years if:

*a*) the embezzlement is committed for a considerable value;

*b*) the embezzlement involves a minor value and it is committed by either of the means referred to in Subparagraphs *ba*)-*bc*) of Subsection (2); or

*c*) the embezzlement is committed in respect of objects classified as protected cultural goods or archeological findings.

(4) The penalty shall be imprisonment between one to five years if:

*a*) the embezzlement is committed for a substantial value;

*b*) the embezzlement involves a considerable value and it is committed by either of the means referred to in Subparagraphs *ba*)-*bc*) of Subsection (2); or

*c*) the embezzlement is committed against a person whose ability to defend himself is diminished due to his old age or disability.

(5) The penalty shall be imprisonment between two to eight years if:

*a*) the embezzlement is committed for a particularly considerable value; or

*b*) the embezzlement involves a substantial value and it is committed by either of the means referred to in Subparagraphs *ba*)-*bc*) of Subsection (2).

(6) The penalty shall be imprisonment between five to ten years if:

*a*) the embezzlement is committed in respect of particularly substantial value; or

*b*) the embezzlement involves a particularly considerable value and it is committed by either of the means referred to in Subparagraphs *ba*)-*bc*) of Subsection (2).

## **Fraud**

### *Section 373*

(1) 'Fraud' shall mean when a person uses deceit, deception, or trickery for unlawful financial gain, and thereby causes damage.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding one year if:

*a*) the fraud results in minor damage; or

*b*) the fraud results in damage under the petty offense limit and it is committed:

*ba*) in criminal association with accomplices,

*bb*) at a place of emergency,

*bc*) on a commercial scale,

*bd*) under the false pretenses of soliciting donations for charitable purposes.

(3) The penalty for a felony shall be imprisonment not exceeding three years if:

- a) the fraud results in damage of considerable value; or
  - b) the fraud involves a minor value and it is committed by either of the means referred to in Subparagraphs *ba)-bc)* of Subsection (2).
- (4) The penalty shall be imprisonment between one to five years if:
- a) the fraud results in damage of substantial value;
  - b) the fraud involves a considerable value and it is committed by either of the means referred to in Subparagraphs *ba)-bc)* of Subsection (2); or
  - c) the fraud is committed against a person whose ability to defend himself is diminished due to his old age or disability.
- (5) The penalty shall be imprisonment between two to eight years if:
- a) the fraud results in damage of particularly considerable value; or
  - b) the fraud involves a substantial value and it is committed by either of the means referred to in Subparagraphs *ba)-bc)* of Subsection (2).
- (6) The penalty shall be imprisonment between five to ten years if:
- a) the fraud results in damage of particularly substantial value; or
  - b) the fraud involves a particularly considerable value and it is committed by either of the means referred to in Subparagraphs *ba)-bc)* of Subsection (2).
- (7) For the purposes of this Section the unpaid consideration which is due for services supplied shall also be construed as damage.

## **Economic Fraud**

### *Section 374*

- (1) Economic fraud means when a person is involved in bogus economic activities for unlawful financial gain.
- (2) The penalty for a misdemeanor shall be imprisonment not exceeding two years if the economic fraud results in damage of minor value.
- (3) The penalty for a felony shall be imprisonment not exceeding three years if:
- a) the economic fraud results in considerable financial loss; or
  - b) the economic fraud involves a minor loss and it is committed:
    - ba)* in criminal association with accomplices,
    - bb)* on a commercial scale.
- (4) The penalty shall be imprisonment between one to five years if:
- a) the economic fraud results in substantial financial loss; or
  - b) the economic fraud involves a considerable financial loss and it is committed by either of the means referred to in Subparagraph *ba)* or *bb)* of Subsection (3).



(5) The penalty shall be imprisonment between two to eight years if:

*a)* the economic fraud results in particularly considerable financial loss; or

*b)* the economic fraud involves a substantial financial loss and it is committed by either of the means referred to in Subparagraph *ba)* or *bb)* of Subsection (3).

(6) The penalty shall be imprisonment between five to ten years if:

*a)* the economic fraud results in particularly substantial financial loss; or

*b)* the economic fraud results in particularly considerable financial loss and is committed in the manner defined in Subparagraph *ba)* or *bb)* of Subsection (3).

## **Information System Fraud**

### *Section 375*

(1) Any person who, for unlawful financial gain, introduces data into an information system, or alters or deletes data processed therein, or renders data inaccessible, or otherwise interferes with the functioning of the information system, and thereby causes damage, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if:

*a)* the information system fraud results in damage of substantial value; or

*b)* the information system fraud involves a considerable value and it is committed in criminal association with accomplices or on a commercial scale.

(3) The penalty shall be imprisonment between two to eight years if:

*a)* the information system fraud results in damage of particularly considerable value; or

*b)* the information system fraud involves a substantial value and it is committed in criminal association with accomplices or on a commercial scale.

(4) The penalty shall be imprisonment between five to ten years, if:

*a)* the information system fraud results in damage of particularly substantial value; or

*b)* the information system fraud involves a particularly considerable value and it is committed in criminal association with accomplices or on a commercial scale.

(5) Any person who causes damage by using a counterfeit or forged, or unlawfully obtained electronic payment instrument, or by accepting payment with such payment instrument shall be punishable in accordance with Subsections (1)-(4).

(6) In the application of Subsection (5) cash-substitute payment instruments issued in other States shall receive the same protection as cash-substitute payment instruments issued in Hungary.

## **Misappropriation of Funds**

### *Section 376*

(1) 'Misappropriation of funds' shall mean the act of a person in wrongfully taking or using another's assets that has been entrusted to him for a specific purpose.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding two years if:

*a)* the misappropriation results in minor financial loss; or

*b)* the misappropriation results in financial loss under the petty offense limit and it is committed by the guardian or executor in that capacity.

(3) The penalty for a felony shall be imprisonment not exceeding three years if:

*a)* the misappropriation results in considerable financial loss; or

*b)* the misappropriation results in minor financial loss and it is committed by the guardian or executor in that capacity.

(4) The penalty shall be imprisonment between one to five years if:

*a)* the misappropriation results in substantial financial loss; or

*b)* the misappropriation results in considerable financial loss and it is committed by the guardian or executor in that capacity.

(5) The penalty shall be imprisonment between two to eight years if:

*a)* the misappropriation results in particularly considerable financial loss; or

*b)* the misappropriation results in substantial financial loss and it is committed by the guardian or executor in that capacity.

(6) The penalty shall be imprisonment between five to ten years if:

*a)* the misappropriation results in particularly substantial financial loss;

*b)* the misappropriation results in particularly considerable financial loss and it is committed by the guardian or executor in that capacity.

## **Defalcation**

### *Section 377*

(1) 'Defalcation' shall mean the act of a person entrusted on the basis of law with funds for management or safeguarding, causing financial loss by negligence or breach of obligation; defalcation is a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years, if the act of defalcation results in particularly considerable or greater financial loss.

## **Unlawful Appropriation**

### *Section 378*

(1) Any person who:

*a)* appropriates an alien thing he has found, or fails to hand it over within eight days to the authorities or to the person who lost it, and/or

*b)* appropriates an alien thing he has received by mistake or accident, or fails to return it within eight days,

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding two years if the article misappropriated is an object classified as protected cultural goods or archeological finding.

## **Dealing in Stolen Goods**

### *Section 379*

(1) Any person who - for financial gain or advantage - obtains, conceals or collaborates in the selling of:

*a)* any non-Community goods obtained through budget fraud and withheld from customs inspection;

*b)* excise goods under tax evasion; or

*c)* any property that originates from theft, embezzlement, fraud, misappropriation of funds, robbery, plundering, extortion, unlawful appropriation, or from another receiver of stolen goods;

is guilty of dealing in stolen goods.

(2) The penalty for a misdemeanor shall be imprisonment not exceeding two years if dealing in stolen goods:

*a)* involves a minor value; or

*b)* is committed in respect of a petty offense value on a commercial scale.

(3) The penalty for a felony shall be imprisonment not exceeding three years, if dealing in stolen goods:

*a)* is committed in respect of a considerable value;

*b)* involves objects classified as protected cultural goods, historical monument, archeological site or archeological findings;

*c)* involves precious metal of minor value; or

*d)* involves a minor value and it is committed on a commercial scale.

(4) The penalty shall be imprisonment between one to five years if dealing in stolen goods is committed:

*a)* in respect of a substantial value; or

*b)* in respect of a considerable value on a commercial scale.

(5) The penalty shall be imprisonment between two to eight years if dealing in stolen goods is committed:

*a)* in respect of a particularly considerable value; or

*b)* in respect of substantial value on a commercial scale.

(6) The penalty shall be imprisonment between five to ten years if dealing in stolen goods is committed:

*a)* in respect of particularly substantial value; or

*b)* in respect of particularly considerable value on a commercial scale.

## **Larceny of Motor Vehicle**

### *Section 380*

(1) Any person who takes away from another person a motor vehicle to which he is not entitled with intent to use it without permission, or uses a vehicle thus taken away or entrusted to him without authorization, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal act is committed:

*a)* by force or threat against the life or bodily integrity;

*b)* in criminal association with accomplices.

(3) The penalty shall be imprisonment between two to eight years if the criminal act defined in Paragraph *a)* of Subsection (2) is committed by displaying a deadly weapon, by carrying a deadly weapon or in criminal association with accomplices.

## **Usury**

### *Section 381*

(1) Any person who, by taking advantage of the need of another person without means, contracts a deal that contains an unreasonably high consideration, hence imposing additional and considerable hardship upon the obligor of the agreement, or upon the obligor's family members living in the same household, or any other person supported by the obligor of the agreement under maintenance obligation, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the usury is committed in criminal association with accomplices or on a commercial scale.

(3) Banishment may also be imposed against persons found guilty of usury.

(4) The penalty may be reduced without limitation for any person who confesses the crime of usury to the authorities first hand and unveils the circumstances of commission.

## **Private Motion**

### *Section 382*

The perpetrator of theft, vandalism, embezzlement, fraud, information system fraud, misappropriation of funds, unlawful appropriation, dealing in stolen goods, and larceny of motor vehicle shall be prosecuted only upon a private motion, if the injured party is his family member. This provision shall not apply if the perpetrator is also the victim's guardian or executor.

## **Interpretative Provisions**

### *Section 383*

For the purposes of this Chapter:

*a)* the term 'thing' shall also refer to electricity and other forms of energy to be used in the economy, as well as to documents embodying any right which in themselves ensure disposal over the pecuniary value or right attested therein, or, in respect of dematerialized securities, to the beneficiary of the securities account;

*b)* religious objects shall also be construed as objects used for religious rights;

*c)* precious metal shall also cover alloys containing precious metal or any metal whose trade is subject to authorization;

d) within the meaning of habitual recidivism, the following shall be construed as crimes of similar nature:

da) violent crimes against property,

db) crimes against property,

dc) crimes against intellectual property rights.

## CHAPTER XXXVII

### CRIMES AGAINST INTELLECTUAL PROPERTY RIGHTS

#### **Plagiarism**

##### *Section 384*

(1) Any person who:

a) connotes as his own the intellectual works of another person and thereby causes financial loss to the right-holder of record;

b) by abusing his position, office or membership at an economic operator makes the use of the intellectual works of another person, or the enforcement of rights associated therewith, conditional upon being given a share from the fee received for, or from the profits or proceeds generated by such product, or to indicate him as an entitled party;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) In the application of this Section 'intellectual works' shall mean:

a) copyrighted literary, scientific and artistic works;

b) patentable inventions;

c) protected plant varieties;

d) protected utility models;

e) protected designs;

f) topographies of microelectronic semiconductors.

#### **Infringement of Copyright and Certain Rights Related to Copyright**

##### *Section 385*

(1) Any person who infringes the copyright or certain rights related to copyright of another person afforded under the Copyright Act, and thereby causing financial loss, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who fails to pay the blank media fee or reproduction fee that is due to the author or the holder of a right related to copyright afforded under the Copyright Act in respect of copying for private purposes shall be punishable in accordance with Subsection (1).

(3) The penalty for a felony shall be imprisonment not exceeding three years if the infringement of copyright or certain rights related to copyright results in considerable financial loss.

(4) If the infringement of copyright or certain rights related to copyright:

- a) results in substantial financial loss, the penalty shall be imprisonment between one to five years for a felony;
- b) results in particularly considerable financial loss, the penalty shall be imprisonment between two to eight years;
- c) results in particularly substantial financial loss, the penalty shall be imprisonment between five to ten years.

(5) Any person who infringes the copyright or certain rights related to copyright of another person or persons afforded under the Copyright Act by means of private copying or by way of making available on-demand services shall not be considered to constitute the criminal offense referred to in Subsection (1), provided the act does not serve the purpose of generating income in any way or form.

## **Compromising the Integrity of Technical Protection**

### *Section 386*

(1) Any person who is engaged in any conduct to circumvent the effective technical measures defined in the Copyright Act is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who, for the purpose of circumventing the effective technical measures defined in the Copyright Act:

a) manufactures or produces, supplies, provides access to or places on the market the means, products, computer program or equipment necessary therefor;

b) conveys economic, technical and/or organizational expertise required therefor or facilitating thereof;

shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment not exceeding three years for a felony if the act of circumventing technical protection is committed on a commercial scale.

(4) Any person who, for the purpose of circumventing the effective technical measures defined in the Copyright Act, manufactures or produces, supplies or provides access to or places on the market the means, products, computer program or equipment necessary therefor, shall not be prosecuted if he voluntarily confesses to the authorities his involvement first hand, and if he surrenders such manufactured and produced objects to the authorities, and if he provides information concerning any other individuals participating in such manufacture or production.

## **Falsifying Data Related to Copyright Management**

### *Section 387*

Any person who, for financial gain or advantage:

a) produces false data related to copyright management;

b) unlawfully removes or falsifies any data or information related to rights management, defined as such in the Copyright Act;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

## **Infringement of Industrial Property Rights**

### *Section 388*

(1) Any person who infringes the industrial property right of the rightful holder afforded by law, international agreement promulgated by an act of Parliament, or under European Union legislation:

a) by imitating or copying the subject matter of protection;

b) by the marketing of goods produced by imitating or copying the subject matter of protection, or by way of obtaining or keeping such goods for the purpose of distribution;

thereby causing financial loss, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment between one to five years for a felony if the infringement of industrial property rights is committed on a commercial scale.

(3) If the infringement of industrial property rights:

a) results in substantial financial loss, the penalty shall be imprisonment between one to five years;

b) results in particularly considerable financial loss, the penalty shall be imprisonment between two to eight years;

c) results in particularly substantial financial loss, the penalty shall be imprisonment between five to ten years.

(4) For the purposes of this Section:

a) industrial property rights shall cover:

aa) patents,

ab) plant variety rights,

ac) supplementary protection certificates,

ad) trademarks,

ae) geographical indications,

af) designs rights,

ag) utility models,

ah) topographies;

b) 'goods' shall mean any goods of a fungible nature that are capable of being delivered, including services.

## **Interpretative Provisions**

*Section 388/A.*

In the application of this Chapter offenses against property shall be construed as criminal activities similar in nature to habitual recidivism.

## **CHAPTER XXXVIII**

### **CRIMINAL OFFENSES RELATING TO COUNTERFEITING CURRENCIES AND PHILATELIC FORGERIES**

#### **Counterfeiting Currency**

*Section 389*

(1) Any person who:

a) imitates or counterfeits currency with the purpose of distribution;

b) obtains counterfeit or falsified currency with the purpose of distribution, exports or imports such currency or transports it in transit through the territory of Hungary;

c) distributes counterfeit or falsified currency;

is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between five to fifteen years if counterfeiting:

a) involves a particularly considerable or greater amount of money; or

b) is committed in criminal association with accomplices.

(3) Any person who engages in preparations for counterfeiting currency is punishable by imprisonment not exceeding three years.

(4) The penalty of any person who distributes counterfeit or falsified currency of minor value or less, obtained as genuine, may be reduced without limitation.

(5) For the purposes of this Section:

a) 'currency' shall mean banknotes and coins, the circulation of which is legally authorized, or that will be authorized in the future on the basis of law, European Union legislation, or official notice published by an institution vested with the privilege of monetary emission, as well as banknotes and coins withdrawn from circulation, where the issuing national bank is required, or agreed, to redeem such withdrawn currency and exchange it to legal tender pursuant to the relevant national legislation or European Union legislation;

b) printed securities issued as part of a series shall also be treated as banknotes, where the transfer of such securities is not restricted or precluded by law or by any endorsement made on the securities;

c) any alteration of currency that has been withdrawn from circulation to create an impression as if it was still in circulation shall be considered imitation of currency;

d) the application or removal of a sign serving as an indication that the currency is valid only in a specific country, furthermore, the diminution of the precious metal content of the currency, shall also be considered as counterfeiting.

(6) Foreign currencies and securities are granted protection identical with that of domestic ones.

## **Aiding in Counterfeiting Operations**

### *Section 390*

(1) Any person who produces, supplies, receives, obtains, keeps, exports or imports, or transports in transit through the territory of Hungary, or distributes any material, means, equipment, production plan, specifications or computer software intended to be used for counterfeiting currency is guilty of a misdemeanor punishable by imprisonment for up to two years.

(2) The penalty for a felony shall be imprisonment not exceeding three years if aiding in counterfeiting operations is committed in criminal association with accomplices or on a commercial scale.

## **Forgery of Stamps**

### *Section 391*

(1) Any person who - with the aim of distribution or utilization:



*a)* imitates or forges a stamp;

*b)* obtains counterfeit or forged stamps, exports or imports such stamps or transports them in transit through the territory of Hungary;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who distributes or uses counterfeit, forged or used stamps as genuine or unused shall be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment between one to five years if forgery of stamps:

*a)* involves a particularly considerable or greater value; or

*b)* is committed in criminal association with accomplices.

(4) The penalty shall be imprisonment for a misdemeanor not exceeding one year if the value involved in the forgery of stamps is minor or less.

(5) For the purposes of this Section:

*a)* 'stamp' shall mean:

*aa)* postage stamps, whether or not released for circulation, also if withdrawn,

*ab)* the postage-prepaid print and the frank of postage-franking machines, and other printed image, letterhead or mark relating to postage charges, and the international return receipt,

*ac)* fiscal stamps issued by the authorities for payment obligations, whether or not released for circulation, including if withdrawn, for the period of time within which the State is required to redeem or exchange such pursuant to the relevant legislation,

*ad)* official markers used for verifying the properties and components of metals,

*ae)* any official seal used for excise purposes, including those used to verify the quality, quantity and other key characteristics of products,

*af)* stamps and seals used by the metrological authority to verify the certification and testing of measuring equipment and the volume capacity of barrels;

*b)* putting into circulation shall also mean distribution for the collection of stamps;

*c)* counterfeiting shall also mean the unlawful alteration of a stamp serving the purposes of collection.

(6) Foreign stamps are granted protection identical with that of domestic ones.

## **Counterfeiting of Cash-Substitute Payment Instruments**

### *Section 392*

(1) Any person who, with the intent of use:

*a)* falsifies a cash-substitute payment instrument;

*b)* manufactures a counterfeit cash-substitute payment instrument; or

*c)* records data stored on electronic payment instruments or the related security features, using technical means;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Any person who engages in preparations for counterfeiting cash-substitute payment instruments is punishable by custodial arrest.

(3) Cash-substitute payment instruments and electronic payment instruments issued in other States shall receive the same protection as those issued in Hungary.

## **Cash-Substitute Payment Instrument Fraud**

### *Section 393*

(1) Any person who:

*a)* unlawfully obtains or commandeers one or more cash-substitute payment instruments which does not belong to him or which is not exclusively his own, or which he is not entitled to use or such entitlement is not exclusive, from another person, without the consent of such person;

*b)* supplies, obtains, exports or imports, or transports in transit through the territory of Hungary any counterfeit or falsified cash-substitute payment instrument or a cash-substitute payment instrument that has been commandeered or obtained in the manner specified in Paragraph *a)*, or data stored on electronic payment instruments or the related security features;

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty for a felony shall be imprisonment not exceeding three years if cash-substitute payment instrument fraud is committed in criminal association with accomplices or on a commercial scale.

(3) Cash-substitute payment instruments issued in other States shall receive the same protection as those issued in Hungary.

## **Aiding in Counterfeiting Cash-Substitute Payment Instruments**

### *Section 394*

(1) Any person who produces, supplies, receives, obtains, keeps, exports or imports, or transports in transit through the country, or distributes any material, means, equipment or computer program intended to be used for counterfeiting cash-substitute payment instruments or for the recording of data stored on electronic payment instruments or the related security features, using technical means is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding two years if the criminal act described in Subsection (1) is committed in criminal association with accomplices or on a commercial scale.

## **CHAPTER XXXIX**

### **CRIMINAL OFFENSES AGAINST PUBLIC FINANCES**

#### **Fraud Relating to Social Security, Social and Other Welfare Benefits**

### *Section 395*

(1) Any person who induces a person to hold or continue to hold a false belief, or suppresses known facts for the purpose of obtaining or eliciting social security benefits, or pecuniary benefits or benefits by means other than money provided from any sub-system of the central budget to natural persons under the relevant legislation, and thereby causes damage, is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty may be reduced without limitation if the perpetrator provides compensation for the damage caused by fraud relating to social security, social and other welfare benefits before the indictment is filed.

## **Budget Fraud**

### *Section 396*

(1) Any person who:

*a)* induces a person to hold or continue to hold a false belief, or suppresses known facts in connection with any budget payment obligation or with any funds paid or payable from the budget, or makes a false statement to this extent;

*b)* unlawfully claims any advantage made available in connection with budget payment obligations; or

*c)* uses funds paid or payable from the budget for purposes other than those authorized;

and thereby causes financial loss to one or more budgets, is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony if:

*a)* the budget fraud results in considerable financial loss; or

*b)* the budget fraud defined in Subsection (1) is committed in criminal association with accomplices or on a commercial scale.

(3) The penalty shall be imprisonment between one to five years if:

*a)* the budget fraud results in substantial financial loss; or

*b)* the budget fraud results in considerable financial loss and is committed in criminal association with accomplices or on a commercial scale.

(4) The penalty shall be imprisonment between two to eight years if:

*a)* the budget fraud results in particularly considerable financial loss; or

*b)* the budget fraud results in substantial financial loss and is committed in criminal association with accomplices or on a commercial scale.

(5) The penalty shall be imprisonment between five to ten years if:

*a)* the budget fraud results in particularly substantial financial loss; or

*b)* the budget fraud results in particularly considerable financial loss and is committed in criminal association with accomplices or on a commercial scale.

(6) Any person who manufactures, obtains, stores, sells or trades any excise goods in the absence of the criteria specified in the Act on Excise Taxes and Special Regulations on the Marketing of Excise Goods or in other legislation enacted by authorization of this Act, or without an official permit, and thereby causes financial loss to the central budget, shall be punishable in accordance with Subsections (1)-(5).

(7) Any person who either does not comply or inadequately complies with the settlement, accounting or notification obligations relating to funds paid or payable from the budget, or makes a false statement to this extent, or uses a false, counterfeit or forged document or instrument, is guilty of a felony punishable by imprisonment not exceeding three years.

(8) The penalty may be reduced without limitation if the perpetrator provides compensation for the financial loss caused by the budget fraud referred to in Subsections (1)-(6) before the indictment is filed. This provision shall not apply if the criminal offense is committed in criminal association with accomplices or on a commercial scale.

(9) For the purposes of this Section:

*a)* 'budget' shall mean the sub-systems of the central budget - including the budgets of social security funds and extra-budgetary funds -, budgets and/or funds managed by or on behalf of international organizations and budgets and/or funds managed by or on behalf of the European Union. In respect of crimes committed in connection with funds paid or payable from a budget, 'budget' shall also mean - in addition to the above - budgets and/or funds managed by or on behalf of a foreign State;

*b)* 'financial loss' shall mean any loss of revenue stemming from non-compliance with any budget payment obligation, as well as the claiming of funds from a budget unlawfully or the use of funds paid or payable from a budget for purposes other than those authorized.

## **Omission of Oversight or Supervisory Responsibilities in Connection with Budget Fraud**

### *Section 397*

The director of an economic operator, or a member or employee with authority to exercise control or supervision, if the member or employee fails to discharge the obligation of exercising control or supervision, and thus makes it possible for the member or employee of the economic operator to commit the budget fraud within the framework of their respective functions, is guilty of a felony punishable by imprisonment not exceeding three years.

## **Conspiracy to Commit Excise Violation**

### *Section 398*

(1) Any person who:

*a)* manufactures, obtains, stores or sells any equipment, device, instrument and/or material designed to produce or manufacture excise goods as specified in the Act on Excise Taxes and Special Regulations on the Marketing of Excise Goods or in other legislation adopted by authorization of this Act, without authorization or by way of infringement;

*b)* manufactures, obtains or keeps any excise seal or tax seal for the marketing of excise goods without authorization or by way of infringement;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the criminal offense:

*a)* is committed on a commercial scale;

*b)* involves a substantial quantity of material and/or excise seal;

*c)* involves tax seals of substantial or greater value.

(3) In the application of Paragraph *b)* of Subsection (2):

*a)* the material involved shall be recognized as substantial if:

*aa)* the quantity of untaxed mineral oil products to be used as motor fuel or gas oil, or as a motor fuel or gas oil additive or thinner exceeds 20,000 liters,

- ab*) the quantity of untaxed liquefied petroleum gas exceeds 45,000 kilograms,
- ac*) the quantity of untaxed gaseous hydrocarbon exceeds 100,000 cubic meters,
- ad*) the quantity of untaxed mash exceeds 10,000 liters,
- ae*) the quantity of untaxed sugar or starch-containing fermented mash from products of agricultural origin exceeds 25,000 liters,
- af*) the quantity of untaxed smoking tobacco exceeds 450 kilograms;
- b*) the excise seal involved shall be recognized as substantial if exceeds 5000 pieces.

## CHAPTER XL

### MONEY LAUNDERING

#### **Money Laundering**

##### *Section 399*

(1) Any person who, in connection with an asset obtained from any punishable criminal offense committed by others:

*a*) converts or transfers the asset in question, or performs any financial transaction or receives any financial service in connection with the thing in order to:

*aa*) conceal or disguise the origin of the asset, or

*ab*) frustrate the criminal proceedings conducted against the perpetrator of a punishable criminal offense committed by others;

*b*) conceals or disguises the origin of the asset and any right attached to the asset or any changes in this right, or conceals or suppresses the place where the asset can be found;

is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty under Subsection (1) shall also be imposed upon any person who, in connection with an asset obtained from a punishable criminal offense committed by others:

*a*) obtains the asset for himself or for a third person;

*b*) safeguards, handles, uses or consumes the asset, or obtains other financial assets by way of or in exchange for the asset, or by using the consideration received for the asset;

if being aware of the true origin of the asset at the time of commission.

(3) The penalty under Subsection (1) shall also be imposed upon any person who, in order to conceal the true origin of an asset that was obtained from a punishable criminal offense committed by others:

*a*) uses the asset in his business activities;

*b*) performs any financial transaction or receives any financial service in connection with the asset.

(4) The penalty shall be imprisonment between two to eight years if the money laundering specified under Subsections (1)-(3):

*a*) is committed on a commercial scale;

*b)* involves a particularly considerable or greater amount of money;

*c)* is committed by an officer or employee of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company or independent insurance intermediary, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, an organization engaged in the operation of gambling activities or a regulated real estate investment company;

*d)* is committed by a public official;

*e)* is committed by an attorney-at-law.

(5) Any person who collaborates in the commission of money laundering as specified under Subsections (1)-(4) is guilty of misdemeanor punishable by imprisonment not exceeding two years.

#### *Section 400*

(1) Any person who, in connection with an asset obtained from a punishable criminal offense committed by others:

*a)* uses the asset in his business activities;

*b)* performs any financial transaction or receives any financial service in connection with the asset, and is negligently unaware of the true origin of the asset is guilty of misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment not exceeding three years if the criminal act described in Subsection (1):

*a)* involves a particularly considerable or greater value;

*b)* is committed by an officer or employee of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company or independent insurance intermediary, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, an organization engaged in the operation of gambling activities or a regulated real estate investment company; or

*c)* is committed by a public official.

(3) Any person who voluntarily reports to the authorities and unveils the circumstances of commission shall not be prosecuted for money laundering as specified under Subsections (1)-(2), provided that the act has not yet been revealed, or it has been revealed only partially.

## **Failure to Comply with the Reporting Obligation Related to Money Laundering**

#### *Section 401*

Any person who fails to comply with the reporting obligation prescribed by law in connection with the prevention and combating of money laundering and terrorist financing is guilty of misdemeanor punishable by imprisonment not exceeding two years.

## **Interpretative Provisions**

#### *Section 402*

(1) In the application of Sections 399-400, the term 'asset' shall also cover instruments embodying rights to some financial means and dematerialized securities, that allows access to the value stored in such instrument in itself to the bearer, or to the holder of the securities account in respect of dematerialized securities.

(2) In the application of Sections 399-400, financial activities and financial services shall mean financial services and activities auxiliary to financial services, investment services and activities auxiliary to investment services, commodity exchange services, investment fund management services, venture capital management services, exchange services, clearing and settlement services, central depository services, the activities of bodies acting as central counterparties, insurance services, reinsurance services, and the activities of independent insurance intermediaries, voluntary mutual insurance funds, private pension funds and institutions for occupational retirement provision.

## CHAPTER XLI

### ECONOMIC AND BUSINESS RELATED OFFENSES

#### **Breach of Accounting Regulations**

##### *Section 403*

(1) Any person who infringes the documentation system or violates the annual reporting, bookkeeping and auditing obligations prescribed in the Accounting Act or in the regulations adopted under its authorization, and thereby:

- a) causes an error that is construed as having a significant impact on true and fair view; or
- b) prevents the overview or inspection of his financial situation in the given financial year;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any private entrepreneur and any other operator not covered by the Accounting Act, who violates his record keeping and documentation obligation prescribed by law, and thereby prevents the overview or inspection of his financial situation shall be punishable in accordance with Subsection (1).

(3) In the case provided for in Subsection (1) the penalty shall be imprisonment between two to eight years if the criminal offense is committed within the scope of activities of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, a body acting as a central counterparty, insurance company, reinsurance company or independent insurance intermediary, voluntary mutual insurance fund, private pension fund, an institution for occupational retirement provision or by a regulated real estate investment company.

(4) For the purposes of this Section 'error construed as having a significant impact on true and fair view' shall mean if the total of all errors (whether negative or positive) for a given financial year and the impacts thereof - increasing or decreasing the profit or loss or the equity - exceeds twenty per cent of the net sales revenue shown in the financial report for the financial year when the error was made, as well as twenty per cent of the balance sheet total. If the total of all errors (whether negative or positive) for a given financial year and the impacts thereof - increasing or decreasing the profit or loss or the equity - exceeds five hundred million forints shall be treated as an error construed as having a significant impact on true and fair view in all cases.

#### **Fraudulent Bankruptcy**

##### *Section 404*

(1) Any person who, in connection with the imminent insolvency of an economic operator covered by the Act on Bankruptcy Proceedings and Liquidation Proceedings, actually or fictitiously, diminishes the economic operator's assets:

a) by concealing, disguising, damaging, deteriorating or destroying, or by making unusable such assets or any part thereof;

b) by concluding a fictitious transaction, or recognizing a doubtful claim; or

c) by other means, in contradiction to the requirements of prudent management;

and thereby prevents the satisfaction of his creditor or creditors in part or in whole is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who, in connection with an economic operator covered by the Act on Bankruptcy Proceedings and Liquidation Proceedings:

a) engages in either of the conducts referred to in Subsection (1) to artificially induce the economic operator's insolvency, or to cause the perception of insolvency; or

b) in the case of the economic operator's insolvency, engages in either of the conducts referred to in Subsection (1);

with intent to prevent the satisfaction of his creditor or creditors in part or in whole is punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment between two to eight years if:

a) fraudulent bankruptcy is committed in respect of an economic operator of preferential status for strategic considerations; or

b) the diminution of assets, actually or fictitiously, is particularly substantial.

(4) Any person who, following the order of liquidation, provides preferential treatment to any creditor in violation of the sequence of satisfaction specified in the Act on Bankruptcy Proceedings and Liquidation Proceedings is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(5) The criminal offenses provided for in Subsections (1)-(3) are punishable if:

a) bankruptcy proceedings have been opened;

b) liquidation proceedings, involuntary de-registration or compulsory winding-up proceedings have been ordered;  
or

c) liquidation proceedings had not been opened by derogation from the relevant statutory provisions.

(6) Fraudulent bankruptcy shall be considered a criminal act if committed by a person who has powers to control the assets, or any part thereof, of the debtor economic operator, or has the opportunity to do so, and also if the contract for any transaction with the assets is considered invalid.

## **Misprision in Liquidation Proceedings**

### *Section 404/A*

Any liquidator who has positive knowledge of any breach of accounting regulations (Section 403) or fraudulent bankruptcy (Section 404) committed in the course of liquidation proceedings, and fails to report it at the earliest opportunity to the authorities is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Concealment of Assets for Avoiding a Liability**

### *Section 405*



(1) Any person who conceals his assets serving as cover for a debt existing under a contract made in writing, and thereby prevents settlement of the debt in full or in part is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Any person who engages in the conduct defined in Subsection (1) in connection with assets serving as cover for debts arising from business operations is guilty of a felony punishable by imprisonment not exceeding three years.

(3) The penalty shall be imprisonment between one to five years if the criminal offense described in Subsection (2) is committed in respect of a particularly considerable or greater value.

(4) The perpetrator shall not be punishable for concealment of assets if the debt is settled before the indictment is filed.

## **Unauthorized Foreign Trade Activities**

### *Section 406*

Any person who is engaged in export/import activities without authorization for the exportation or importation of goods is guilty of a felony punishable by imprisonment not exceeding three years.

## **Impairment of Own Capital**

### *Section 407*

Any executive officer or member of a limited company, private limited-liability company, cooperative, European company or European cooperative society who appropriates the company's own funds in part or in whole is guilty of a felony punishable by imprisonment not exceeding three years.

## **Unauthorized Financial Activities**

### *Section 408*

Any person who performs:

*a)* financial services or engages in activities auxiliary to financial services;

*b)* investment services or engages in activities auxiliary to investment services, commodity exchange services, investment fund management services, venture capital management services, exchange services, clearing and settlement services, central depository services or the activities of a central counterparty;

*c)* insurance activities, reinsurance activities or the activities of independent insurance intermediaries;

*d)* activities of voluntary mutual insurance funds, private pension funds or institutions for occupational retirement provision;

without the authorization prescribed by the relevant legislation is guilty of a felony punishable by imprisonment not exceeding three years.

## **Failure to Comply with the Obligation to Supply Economic Data**

### *Section 409*

(1) Any executive employee of an economic operator who partakes in the act of:

a) disguising the economic operator so that it cannot be located at its registered office, permanent establishment or branch;

b) registration of a person in the public records as the authorized representative of the economic operator, whose home address or customary residence is unknown, or treated as unknown; or

c) registration of a person or economic operator in the public records as the owner of the economic operator, whose home address or customary residence is unknown, or treated as unknown, or that cannot be found at its registered office, permanent establishment or branch, or who is not the beneficial owner;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who fails to disclose data, rights or facts related to economic activities to be registered in public records, or fails to report the changes in such data, rights or facts, if the obligation of reporting is prescribed by law, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) For the purposes of this Section, beneficial owner shall mean a person or organization who controls - directly or indirectly - at least ten per cent of the voting rights or the capital of the economic operator, or has a dominant influence by definition of the Civil Code.

## **Insider Dealing**

### *Section 410*

Any person who:

a) uses insider information to conclude a transaction involving financial instruments;

b) entrusts another person to conclude a transaction on the basis of insider information in his possession for the financial instruments to which the information pertains; or

c) discloses insider information to any unauthorized person for financial gain or advantage;

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Capital Investment Fraud**

### *Section 411*

Any person who induces other persons to make a new capital investment or to increase an existing one, or to sell or reduce a capital investment:

a) by disclosing or broadcasting false information concerning the financial position of an economic operator or the executive employee of such economic operator in connection with his office, or concerning financial instruments in relation to the economic operator, or by concealing information; or

b) by concluding any fictitious transaction relating to financial instruments;

is guilty of a felony punishable by imprisonment not exceeding three years.

## **Organization of Pyramid Schemes**

### *Section 412*

Any person who arranges a scheme based on the collection and distribution of the money of others in a predetermined form and way, which also contains an element of risk, in which the participants joining in a chain-like

manner pay cash to, or perform another service for, the participants preceding them in the chain, directly or through the organizer, is guilty of a felony punishable by imprisonment not exceeding three years.

## **Breach of Trade Secrecy**

### *Section 413*

(1) Any person who has been committed to confidentiality with respect to bank, securities, fund, insurance or occupational retirement secrets, and who makes available any bank, securities, fund, insurance or occupational retirement secret to an unauthorized person for financial gain or advantage, causing financial loss to others is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) Breach of trade secrecy shall not apply to any person:

*a)* who conveys information in discharge of the statutory obligation prescribed in connection with information of public interest or public information; or

*b)* who conveys information subject to the statutory reporting obligation prescribed by law in connection with the prevention and combating of money laundering and terrorist financing, insider dealing, market manipulation and the fight against terrorism, or who initiates such action, even if the report he filed in good faith has proved to be unfounded.

## **Interpretative Provisions**

### *Section 414*

(1) For the purposes of Sections 410 and 411 'financial instrument' shall, inter alia, mean:

*a)* financial instruments, other exchange-traded instruments and any other instrument admitted to trading on a regulated market of any Member State of the European Union or for which a request for admission to trading on such a market has been made;

*b)* financial instruments which are not traded on a regulated market, however, its value depends on the value or price of any of the financial instruments referred to in Paragraph *a)*;

*c)* securities offered to the public, in so far as the obligation of the disclosure of information, both regular and extraordinary, terminates.

(2) For the purposes of Sections 409 and 411 'executive employee' shall mean:

*a)* any executive officer and member of the supervisory board of an economic operator;

*b)* the person appointed to lead the Hungarian branch of a foreign-registered company, or the Hungarian branch of a European Economic Interest Grouping that is established in another country;

*c)* any person so designated in the company's articles of association, charter document or memorandum of association.

## **CHAPTER XLII**

### **CRIME AGAINST CONSUMER RIGHTS AND ANY VIOLATION OF COMPETITION LAWS**

#### **Marketing of Substandard Products**

#### *Section 415*

(1) Any person who places on the market substandard products as if they were good quality is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal act is committed:

*a)* in respect of a substantial quantity or value of substandard products;

*b)* in criminal association with accomplices; or

*c)* on a commercial scale.

(3) Any person who engages in preparations for the placing on the market of substandard products is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(4) Any person who commits the above-specified criminal offense by way negligence is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(5) The person who committed the criminal offense defined in Subsection (4) shall not be prosecuted if he makes every effort, upon gaining knowledge of the substandard quality of the product, to regain possession of the substandard products in question.

(6) For the purposes of this Section the quality of a product shall be construed as substandard if it is not in conformity with the safety and quality requirements specified by the relevant legislation or by any directly applicable legislation of the European Union, or in the absence of such requirements, if the product cannot be used for its designated purpose, or its use has been diminished considerably.

### **Fraudulent Attestation of Conformity**

#### *Section 416*

(1) Any person who certifies false data in the certificate of conformity or conformity declaration, or conformity marking where this is required in connection with any obligation of conformity assessment under the relevant legislation or any directly applicable legislation of the European Union, and where it involves products of substantial quantity or value, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal act is committed:

*a)* in criminal association with accomplices; or

*b)* on a commercial scale.

(3) Any person who commits the above-specified criminal offense by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year.

### **Misleading Consumers**

#### *Section 417*

(1) Any person who conveys misleading information in a product presentation on the availability of special discounts or price reductions, or on a chance of winning is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) Any person who before the public at large states false facts, or true facts in a deceptive way, or provides deceptive information on any essential feature of the product for the purpose of promotion, or if it involves goods of substantial quantity or value, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(3) The penalty shall be imprisonment not exceeding three years for a felony if the act defined in Subsection (2) is committed in connection with certain features or properties of the goods relating to its impact on health or on the environmental, or whether it is considered hazardous, dangerous or risky.

(4) For the purposes of this Section:

a) essential feature of the goods covers,

aa) the components and specifications of the goods, and their suitability for a given function,

ab) the place of origin,

ac) the way they are controlled or tested and the results;

b) 'product presentation' shall mean retail sales activities carried out under travel arrangement or an event organized for this purpose.

## **Breach of Business Secrecy**

### *Section 418*

Any person who illegally acquires, uses, or discloses a business secret for financial gain or advantage, or makes it available to others or publishes such information, causing pecuniary injury to others is guilty of a felony punishable by imprisonment not exceeding three years.

## **Imitation of Competitors**

### *Section 419*

(1) Any person who produces a product with distinctive appearance, packaging, labeling or name, from which a competitor or his product having distinctive features can be recognized, and who does so without the consent of such competitor, or who acquires such product for the purpose of placing it on the market, is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in another criminal offense.

(2) The penalty for a felony shall be imprisonment not exceeding three years if the criminal offense is committed in respect of imitated goods of substantial quantity or value.

## **Agreement in Restraint of Competition in Public Procurement and Concession Procedures**

### *Section 420*

(1) Any person who enters into an agreement aiming to manipulate the outcome of an open or restricted procedure held in connection with a public procurement procedure or an activity that is subject to a concession contract by fixing the prices, charges or any other term of the contract, or for the division of the market, or takes part in any other concerted practices resulting in the restraint of trade is guilty of felony punishable by imprisonment between one to five years.

(2) Any person who partakes in the decision-making process of an association of companies, a public body, a grouping or similar organization, and adopting any decision that has the capacity for restraining competition aiming to manipulate the outcome of an open or restricted public procurement procedure or an activity that is subject to a concession contract shall also be punishable in accordance with Subsection (1).

(3) The penalty shall be imprisonment for a misdemeanor not exceeding two years if the value of the public contract involved in the act specified in Subsection (1) or (2) is below substantial value.

(4) The perpetrator of a criminal act defined in Subsections (1)-(3) shall not be prosecuted if he confesses the act to the criminal investigation authorities before they become aware thereof and unveils the circumstances of the criminal act.

(5) The perpetrator of a criminal act defined in Subsections (1)-(3) shall not be prosecuted if at the time of commission the perpetrator serves as an executive officer, member, supervisory board member, employee, or the agent of these, of a company that has submitted - before the competition authority opened an investigation of the case - a request for exemption from the financial penalty to be imposed under the restrictive market practices act with respect to the act in question, and unveils the circumstances of the criminal act.

(6) The penalty may be reduced without limitation - or dismissed in cases deserving special consideration - against any person who serves as an executive officer, member, supervisory board member, employee, or the agent of these, of a company that has submitted - before the competition authority opened an investigation of the case - a request for exemption from or a reduction of the financial penalty to be imposed under the restrictive market practices act with respect to the act in question, and unveils the circumstances of the criminal act.

## **Interpretative Provisions**

### *Section 421*

For the purposes of this Chapter:

*a)* ‘product’ shall mean any goods of a fungible nature that are capable of being delivered, including natural resources that can be utilized as capital goods;

*b)* ‘goods’ shall mean any product, immovable property or service, including rights.

## **CHAPTER XLIII**

### **ILLICIT ACCESS TO DATA AND CRIMES AGAINST INFORMATION SYSTEMS**

#### **Illicit Access to Data**

##### *Section 422*

(1) Any person who, for the purpose of unlawfully gaining access to personal data, private secrets, trade secrets or business secrets:

*a)* covertly searches the home or other property, or the confines attached to such, of another person;

*b)* monitors or records the events taking place in the home or other property, or the confines attached to such, of another person, by technical means;

*c)* opens or obtains the sealed consignment containing communication which belongs to another, and records such by technical means;

*d)* captures correspondence forwarded by means of electronic communication networks - including information systems - to another person and records the contents of such by technical means;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who is engaged in gathering information with intent to determine the identity of any person who covertly cooperates with the covert investigation or law enforcement authorities, or with the secret service shall also be punishable in accordance with Subsection (1).

(3) Any person who discloses or uses any personal data, private secret, trade secret or business secret obtained by way of the means described in Subsections (1)-(2) shall be punishable in accordance with Subsection (1).

(4) The penalty shall be imprisonment between one to five years if illicit access to data under Subsections (1)-(3) is committed:

- a)* by the unlawful impersonation of an authority;
- b)* on a commercial scale;
- c)* in criminal association with accomplices; or
- d)* causing a significant injury of interests.

## **Breach of Information System or Data**

### *Section 423*

(1) Any person who:

*a)* gains unauthorized entry to an information system by compromising or defrauding the integrity of the technical means designed to protect the information system, or overrides or infringes his user privileges;

*b)* disrupts the use of the information system unlawfully or by way of breaching his user privileges; or

*c)* alters or deletes, or renders inaccessible without permission, or by way of breaching his user privileges, data in the information system;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) The penalty shall be imprisonment between one to five years for a felony if the acts defined in Paragraphs *b)*-*c)* of Subsection (1) involve a substantial number of information systems.

(3) The penalty shall be imprisonment between two to eight years if the criminal offense is committed against works of public concern.

(4) In the application of this Section 'data' shall mean facts, information or datum stored, controlled, processed and transmitted in information systems in all forms which allows them to be processed in information systems, including those programs designed to execute certain functions by the information systems.

## **Compromising or Defrauding the Integrity of the Computer Protection System or Device**

### *Section 424*

(1) Any person who, for the commission of the criminal offense defined in Section 375 or 423:

*a)* creates, transfers, supplies, obtains or places on the market passwords or computer programs required therefor or facilitating thereof; or

*b)* offers his economic, technical and/or organizational expertise to another person for the creation of passwords or computer programs required therefor or facilitating thereof;

is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(2) In the case of Paragraph *a)* of Subsection (1), any person who confesses to the authorities his involvement in the creation of any password or computer program required for the commission of the criminal offense, or facilitating thereof, before the authorities learned of such activities through their own efforts, and if the person

surrenders such produced things to the authorities and assists in the efforts to identify the other persons involved, shall not be prosecuted.

(3) For the purposes of this Section ‘password’ shall mean any identifier comprised of a string of alphanumeric characters, codes, biometric data or the combination thereof, designed to gain entry into an information system or any segment thereof.

## CHAPTER XLIV

### OFFENSES AGAINST MILITARY OBLIGATIONS

#### **Breach of Conscription**

##### *Section 425*

(1) Where a person who is subject to compulsory military service fails to report for service when drafted is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who commits the above-specified offense by way of negligence is guilty of a misdemeanor punishable by imprisonment not exceeding three years.

#### **Evasion of Military Service**

##### *Section 426*

Any person who is subject to military service obligation, and who, with the aim of evading military service:

a) fails to report for duty or service; or

b) mutilates his body, inflicts damage to his health or exhibits any misleading demeanor;

is guilty of a felony punishable by imprisonment between five to ten years.

#### **Refusal of Military Service**

##### *Section 427*

Any person who is subject to military service obligation, and who refuses military service is guilty of a felony punishable by imprisonment between five to fifteen years.

#### **Obstructing the Performance of Military Service**

##### *Section 428*

(1) Any person engaged in a conduct aiming to prevent a person subject to military service obligation from performing his obligation to report for military duty is guilty of a felony and shall be punishable in accordance with Section 425.

(2) Any person engages in a conduct aiming to assist a person subject to military service obligation to evade military service in the manner defined in Section 426 shall be punishable as provided therein.

#### **Breach of Obligation of Civil Protection**



*Section 429*

(1) Any person who fails to perform his civil protection service obligation is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal offense results in a serious danger.

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding two years.

## **Breach of Military Work Obligation**

*Section 430*

Any person subject to military work obligation, who seriously breaches this obligation by being absent or in any other manner, is guilty of a felony punishable by imprisonment not exceeding three years.

## **Infringement of Service Obligation**

*Section 431*

Any person who seriously infringes or evades his military defense obligation consisting in providing economic or material service is guilty of a felony punishable by imprisonment between one to five years.

## **Unlimited Reduction of Penalty**

*Section 432*

The penalty may be reduced without limitation if the perpetrator of the criminal offense defined in this Chapter voluntarily meets his omitted obligation.

## **Interpretative Provisions**

*Section 433*

(1) This Chapter shall apply when conscription is reintroduced in a state of preventive defense and in a state of national crisis.

(2) The breach of obligation of civil protection and infringement of service obligation may be committed, in addition to what is contained in Subsection (1), in a state of emergency or a state of danger, and in a state of danger, respectively.

(3) The offense of breach of military work obligation may be committed in a state of national crisis only.

## **CHAPTER XLV**

### **MILITARY OFFENSES**

#### **Desertion**

*Section 434*

(1) Any person who - with the aim of permanently removing himself from military service - leaves his place of service without permission, or remains absent therefrom, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if desertion is committed:

*a)* by displaying a deadly weapon;

*b)* in a gang;

*c)* in the course of carrying out a major duty or by taking advantage of that duty;

*d)* by the use of force against a person; or

*e)* abroad.

(3) Any person who deserts abroad in the manner defined in Paragraphs *a)-c)* of Subsection (2), or commits desertion in time of war or in a state of preventive defense shall be punishable by imprisonment between five to fifteen years.

(4) Any person who engages in preparations for desertion as defined in Subsection (2) is guilty of a misdemeanor punishable by imprisonment not exceeding one year, or of a felony punishable by imprisonment between one to five years in the case provided for in Subsection (3).

(5) The penalty for desertion may be reduced without limitation if the convicted perpetrator surrenders on his own accord and reports to the authorities within thirty days. The day when the desertion was committed shall not be included in the time limit.

## **Absence Without Official Leave**

### *Section 435*

(1) Any person who leaves his post without permission, or remains absent therefrom, and his absence exceeds two days is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) If the duration of absence without leave exceeds nine days the penalty shall be imprisonment for a felony not exceeding three years.

(3) If absence without official leave is committed in time of war, in a state of preventive defense, or when stationed in a foreign theater of operations and engaged in humanitarian activities or peacekeeping mission, the penalty shall be:

*a)* imprisonment for a felony between one to five years in the case under Subsection (1);

*b)* imprisonment between two to eight years in the case provided for in Subsection (2).

## **Evasion of Service**

### *Section 436*

(1) Any person who - with the aim of removing himself from military service permanently - mutilates his body, inflicts damage to his health or exhibits any misleading demeanor is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who commits the criminal offense defined in Subsection (1) for temporarily removing himself from military service is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(3) If the duration of temporary departure exceeds six days, the penalty shall be imprisonment not exceeding two years.

(4) If the criminal offense is committed in time of war or in a state of preventive defense, the penalty shall be:

*a)* imprisonment between five to fifteen years in the case provided for in Subsection (1);

*b)* imprisonment for a felony between one to five years in the case provided for in Subsection (2);

*c)* imprisonment between two to eight years in the case provided for in Subsection (3).

## **Refusal of Service**

### *Section 437*

(1) Any person who expressly refused to perform military service is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between five to fifteen years if refusal of service is committed in time of war or in a state of preventive defense.

## **Breach of Discipline in the Line of Duty**

### *Section 438*

(1) Any person who - in violation of the provisions of service regulations prescribed for the given duty - falls asleep, or consumes alcoholic beverages while on duty, or narcotic drugs or any substance that has a narcotic effect but is not classified as a narcotic drug, leaves his post or otherwise seriously violates service regulations while on guard duty, patrol, or other duty of alert is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) If the criminal offense carries the potential to cause considerable injury for the service, the penalty shall be imprisonment for a felony:

*a)* not exceeding three years in the case of Subsection (1);

*b)* between one to five years in time of war or in a state of preventive defense.

(3) The penalty for a felony shall be imprisonment between five to fifteen years if the criminal offense is committed in a combat situation, or when stationed in a foreign theater of operations and engaged in humanitarian activities or peacekeeping mission, and it results in particularly considerable injury.

(4) Any person who commits the criminal offense by way of negligence shall be punishable in the case of Subsection (2) for a misdemeanor by custodial arrest in accordance with the distinction made there, or by imprisonment not exceeding three years in the case of Subsection (3).

## **Evasion from Service Duty**

### *Section 439*

(1) Any person who removes himself from an important service duty by deception or absence, or makes himself incapable of the performance thereof, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) If the criminal offense defined in Subsection (1) carries the potential to cause considerable injury for the service, or if committed while stationed in a foreign theater of operations and engaged in humanitarian activities or peacekeeping mission, the penalty shall be imprisonment not exceeding three years for a felony.

(3) If the criminal offense defined in Subsection (2) is committed in time of war or in a state of preventive defense, the penalty shall be imprisonment between one to five years.

## **Violation of the Obligation of Reporting**

### *Section 440*

(1) Any person who fails to make a report in an important service matter in due time, or makes an untrue report is guilty of a misdemeanor punishable by imprisonment not exceeding one year if the criminal offense carries the potential to cause considerable injury for the service.

(2) The penalty shall be imprisonment between one to five years for a felony if the act defined in Subsection (1) is committed in time of war, in a state of preventive defense, or while stationed in a foreign theater of operations and engaged in humanitarian activities or peacekeeping mission.

## **Abuse of Authority**

### *Section 441*

(1) Any person who - in order to cause unlawful disadvantage or to obtain unlawful advantage - abuses his service authority or position is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offense.

(2) The penalty for a felony shall be imprisonment between one to five years if the criminal offense results in substantial injury.

## **Mutiny**

### *Section 442*

(1) Any person who partakes in an open insubordination acting with others directed against authority and discipline, thus causing considerable disturbance in the performance of service duties is guilty of a felony punishable by imprisonment between two to eight years.

(2) The penalty for mutiny shall be imprisonment between two to eight years:

*a)* for the instigator, organizer or leader of the mutiny;

*b)* for any participant who uses force against a superior officer or a person attempting to break off the mutiny.

(3) The penalty shall be imprisonment between five to fifteen years if the mutiny causes a particularly serious result.

(4) The penalty shall be imprisonment between five to twenty years or life imprisonment if the mutiny results in death.

(5) The penalty shall be:

*a)* imprisonment between two to eight years in the case defined in Subsection (1);

*b)* imprisonment between five to fifteen years in the case defined in Subsection (2);

if mutiny is committed in time of war or in a state of preventive defense.

(6) The penalty shall be imprisonment between five to fifteen years if mutiny defined under Subsections (1)-(2) is committed in a combat situation.

(7) Any person who engages in preparations for mutiny is guilty of a felony punishable by imprisonment not exceeding three years, or between one to five years if committed in time of war, in a combat situation or in a state of preventive defense.

(8) In the case provided for in Subsection (1), the punishment of the person who breaks off the mutiny before the occurrence of grave consequences, or upon having been ordered thereto, may be reduced without limitation.

## **Failure to Prevent Mutiny**

### *Section 443*

(1) Any person who fails to prevent, to the best of his abilities, a mutiny or its preparation which he has positive knowledge of, or fails to report it at the earliest opportunity is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(4) The penalty shall be imprisonment between one to five years for a felony, if the criminal offense defined in Subsection (1) is committed in time of war, in a combat situation or in a state of preventive defense.

## **Disobedience**

### *Section 444*

(1) Any person who disobeys an order is guilty of a misdemeanor punishable by custodial arrest.

(2) If disobedience is committed in a gang, the penalty shall be imprisonment not exceeding two years.

(3) The penalty for a felony shall be imprisonment not exceeding three years if disobedience:

*a)* is done in the presence of other subordinates or publicly, either with the express refusal to abide by the order or in any other insolent manner;

*b)* results in imminent danger of considerable injury for service or discipline.

(4) The penalty shall be imprisonment between one to five years if the criminal offense defined in Subsection (3) is committed in time of war or in a state of preventive defense.

(5) The person who fails to perform a combat order in time of war, or a shooting order while stationed in a foreign theater of operations and engaged in humanitarian activities or peacekeeping mission shall be punishable by imprisonment between five to fifteen years.

## **Assault on a Superior Officer or Representative of Public Authority**

### *Section 445*

(1) Any person who applies violence against:

*a)* a superior officer,

*b)* a person in a position senior to his, a guard or other law enforcement officer,

during or because of the latter's performance of service, uses threat of force or displays active resistance, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if:

- a) the criminal offense is committed by displaying a deadly weapon, by carrying a deadly weapon or in a gang;
- b) the criminal offense also constitutes disobedience;
- c) the criminal offense involves grievous bodily injury or the danger of considerable harm to service or discipline.

(3) The penalty shall be imprisonment between two to eight years if the criminal offense results in permanent disability, serious health impairment or danger to life.

(4) The penalty shall be imprisonment between five to fifteen years if the criminal offense causes the death of the injured party.

(5) The penalty shall be imprisonment between ten to twenty years or life imprisonment, if:

- a) the criminal offense also involves murder; or
- b) the criminal offense is committed in a combat situation.

(6) The penalty shall be imprisonment:

- a) between one to five years in the case defined under Subsection (1);
- b) between two to eight years in the case defined under Subsection (2);
- c) between five to fifteen years in the case defined under Subsection (3);

if the criminal offense is committed in time of war or in a state of preventive defense.

## **Assault on a Person Acting in Defense of or Assigned to Protect a Superior Officer or Representative of Public Authority**

### *Section 446*

Any person who commits the act defined in Section 445 against a person acting in defense of or assigned to protect a superior officer or representative of public authority shall be punishable in accordance with the provisions of Section 445.

## **Insult of Authority**

### *Section 447*

(1) Any person who affronts the authority:

- a) of a superior officer,
- b) of a person in a position senior to his, a guard or other representative of public authority in the line of duty,

in front of others or in a conspicuously gross manner is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the criminal offense is committed in front of a group of soldiers or before the public at large.

## **Incitement**

*Section 448*

(1) Any person who incites discontent among soldiers towards a superior officer, a command or with respect to the order of service or discipline is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the act of incitement results in substantial injury to service or discipline.

## **Insult of Subordinate**

*Section 449*

(1) Any person who insults his subordinate in his human dignity in front of others or in a manifestly gross manner is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) The penalty shall be imprisonment not exceeding three years for a felony if the criminal offense:

*a)* is committed with malice aforethought;

*b)* causes serious bodily or mental injury;

*c)* is committed in front of a group of soldiers;

*d)* is committed to the injury of several subordinates.

(3) The penalty shall be imprisonment between one to five years if the criminal offense results in grievous bodily injury or considerable disadvantage to the service.

## **Abuse of Power by a Superior Officer**

*Section 450*

Any person who, by abusing his power as a superior officer:

*a)* imposes a disciplinary punishment on his subordinate;

*b)* restricts him in the exercise of his right to complaint;

*c)* curtails his remuneration, or imposes other financial burdens;

*d)* uses him for a private purpose;

*e)* affords a more favorable or disadvantageous treatment in comparison with the others;

is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

## **Neglect of Superior's Responsibility**

*Section 451*

(1) Any person who is superior in rank and who breaches his duty by failing to take action as it may be required for the material provision of his subordinate or for protecting him from some imminent danger or for rescuing him is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

(2) If the criminal offense results in considerable injury for the service or to discipline, the penalty shall be imprisonment for a felony:

- a) between one to five years in the case under Subsection (1);
- b) between two to eight years in time of war or in a state of preventive defense.

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year, or up to three years, in accordance with the distinction made therein.

## **Superior's Failure to Take Action**

### *Section 452*

(1) Any person who is superior in rank and who breaches his duty by failing to take the necessary action:

- a) to prevent his subordinate from breaching his duty or committing a criminal offense, or for calling him to account;
- b) for controlling any disturbance against the order of service, discipline or public safety,

is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as it does not result in a crime against humanity or a war crime.

(2) If the criminal offense involves considerable injury for the service, discipline or public safety, the penalty shall be imprisonment for a felony:

- a) between one to five years in the case under Subsection (1);
- b) between two to eight years in time of war or in a state of preventive defense.

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year, or up to three years, in accordance with the distinction made therein.

## **Lack of Supervision**

### *Section 453*

(1) Any person who is superior in rank and who breaches his duty by failing to supervise the performance of service of his subordinates, and this involves a considerable injury in terms of service or discipline, is guilty of a misdemeanor punishable by imprisonment not exceeding one year.

(2) If the criminal offense involves particularly considerable injury in terms of service or discipline, the penalty for a felony shall be imprisonment:

- a) between one to five years in the case under Subsection (1);
- b) between two to eight years in time of war or in a state of preventive defense.

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for a misdemeanor by imprisonment not exceeding one year, or up to three years, in accordance with the distinction made therein.

## **Compromising Combat Readiness**



#### *Section 454*

(1) Any person who directly endangers the combat readiness of a military unit by breaching his service duty:

*a)* by failing to provide for the required armaments, military equipment or other war material, or the protection of their stocks;

*b)* by destroying, rendering unusable or otherwise removing from their designated purpose key armaments, military equipment, or other important war material;

is guilty of a felony punishable by imprisonment not exceeding three years, or between two to eight years in time of war.

(2) If the criminal offense involves particularly considerable injury for the service, the penalty shall be imprisonment between one to five years, or between five to fifteen years in time of war or in a state of preventive defense.

(3) Any person who commits the criminal offense by way of negligence shall be punishable for misdemeanor in the case of Subsection (1) by imprisonment not exceeding one year or up to three years in accordance with the distinction made therein; or in the case of Subsection (2) by imprisonment not exceeding two years, or between one to five years, in accordance with the distinction made therein.

### **Commander's Breach of Duty**

#### *Section 455*

Any commander who breaches his duty in a combat situation and:

*a)* surrenders the soldiers in his command to the enemy or allows them to be captured;

*b)* destroys without a compelling necessity an important battle position, equipment, combat supplies or any other war material entrusted to him, or yields it to the enemy in a usable condition;

*c)* fails to display the resistance against the enemy of which he is capable;

is guilty of a felony punishable by imprisonment between five to fifteen years.

### **Evasion of Combat Obligation**

#### *Section 456*

Any person who evades his combat obligation:

*a)* by leaving his post without permission, hiding or fleeing;

*b)* by intentionally causing inability to fight, or by deceptive conduct;

*c)* by discarding his fighting equipment, by destroying it or failing to use it;

*d)* by voluntarily surrendering himself to the enemy; or

*e)* by other serious infringement of his service obligations;

is guilty of a felony punishable by imprisonment between five to fifteen years.

### **Demoralization**

*Section 457*

(1) Any person who in time of war or in a state of preventive defense incites discontent among the soldiers, or who prompts defeatism, is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty shall be imprisonment between five to fifteen years if the criminal offense:

*a)* causes discontent or other breach of duty among the soldiers in a combat situation; or

*b)* involves other important injury for the service.

## **Interpretative Provisions**

*Section 458*

For the purposes of this Chapter:

*a)* 'military service' shall mean the service performed by the persons described in Subsection (1) of Section 127;

*b)* 'combat situation' shall mean engagement in combat operations.

## **CLOSING PROVISIONS**

### **Definitions**

*Section 459*

(1) For the purposes of this Act:

1. 'criminal organization' shall mean when a group of three or more persons collaborate in the long term to deliberately engage in an organized fashion in criminal acts, which are punishable with five years of imprisonment or more;

2. 'criminal association' shall mean when two or more persons are engaged in criminal activities in an organized fashion, or they conspire to do so and attempt to commit a criminal act at least once, without, however, creating a criminal organization;

3. a crime is deemed to have been committed in a gang if it contains at least three persons participating;

4. 'violent conduct' shall mean any act of aggression and undue influence exerted on a person by the application of physical force, also if it does not result in bodily injury;

5. 'assault by displaying a deadly weapon' shall mean when the perpetrator carries:

*a)* a firearm,

*b)* explosives,

*c)* blasting agents,

*d)* an equipment or device specially designed to initiate explosions,

while engaged in a criminal act, or displays a replica or imitation of the weapons referred to in Paragraphs *a)-d)* in a threatening manner;

6. 'carrying a deadly weapon' shall mean when the perpetrator carries a deadly weapon while engaged in a criminal act aiming to suppress or subdue any resistance;

7. 'threat' shall mean - save as otherwise provided - a declaration of intention to cause considerable harm so as to make the person who is the target of the threat fearful by such a declaration;

8. 'economic operator' shall mean, apart from the economic operators provided for in the Civil Code, any organization which, according to the Civil Code, are subject to the provisions on economic operators concerning the civil relations of such organizations in connection with their economic activities;

9. the term 'authority' shall inter alia cover courts and public prosecutors;

10. 'war' shall mean:

a) the armed conflicts defined under the common provisions of Articles 2 and 3 of the Geneva Conventions on the Protection of Victims of War of 12 August 1949 and in Article 1(4) of Additional Protocol I to these conventions,

b) the armed conflicts defined under Article 1 of Additional Protocol II to the conventions mentioned in Paragraph a),

c) a state of national crisis,

d) a state of emergency,

e) in the case of military offenses, deployment and use of the Hungarian Armed Forces abroad;

11. public officials are:

a) the President of the Republic,

b) Members of Parliament and Members of the European Parliament elected in Hungary,

c) constitutional court judges,

d) the Prime Minister, other ministers, state secretaries, state secretaries for public administration and deputy state secretaries, government commissioners,

e) judges, public prosecutors and arbitrators,

f) the commissioner of fundamental rights and his deputy,

g) notaries public and assistant notaries public,

h) independent court bailiffs, independent bailiff substitutes, and assistant bailiffs authorized to serve process,

i) members or councils of representatives of municipal governments and representatives of nationality self-governments,

j) commanding officers of the Hungarian Armed Forces, and commanders of water craft or aircraft, if vested with authority to enforce the regulations pertaining to investigating authorities,

k) members of the staff of the Alkotmánybíróság (*Constitutional Court*), the Köztársasági Elnök Hivatala (*Office of the President of the Republic*), the Országgyűlés Hivatala (*Office of Parliament*), the Alapvető Jogok Biztosának Hivatala (*Office of the Commissioner of Fundamental Rights*), Magyar Nemzeti Bank (*National Bank of Hungary*), the Állami Számvevőszék (*State Audit Office*), the courts, prosecutors offices, ministries, autonomous government bodies, central offices, autonomous regulatory agencies, law enforcement agencies, the Katonai Nemzetbiztonsági Szolgálat (*Military Intelligence Service*), the Országgyűlési Őrség (*Parliament Guard*), Budapest and county government agencies, and persons exercising executive powers or serving at county institutions operation centers or public bodies, whose activity forms part of the proper functioning of the agency in question,

l) members of the election committee;

12. 'person entrusted with public functions' shall mean:

- a) soldiers of the Hungarian Armed Forces performing service duties,
- b) persons enlisted in a civil defense organization and performing civil defense services,
- c) civil guards in their capacity when carrying out the functions delegated under the Act on Crime Watch Organizations and the Activities of Civil Guards,
- d) the pastor of a registered church, and members of organizations whose main objective is to serve a religious mission, who perform religious acts or ceremonies by profession,
- e) defense attorneys or legal counsels, and experts acting in a court or other official proceedings, and process servers not treated as public officials,
- f) healthcare employees and other persons engaged in some form of employment relationship with a healthcare service provider in the cases provided for in the Healthcare Act,
- g) members of the public ambulance service and other organizations authorized to conduct rescue operations, in connection with rescue and patient transport operations,
- h) members of municipal, voluntary and private fire brigades and fire companies, when engaged in fire fighting or rescue operations,
- i) teachers within the meaning of the Act on the National Public Education System, and assistants participating in development and education activities, and lecturers, instructors and scientific researchers of institutions of higher education provided for in the Act on the National Higher Education System,
- j) any person holding an office under the Act on Child Protection and Custody Administration and under the Act on Social Services Administration and Social Welfare Benefits to the extent when such person is acting in an official capacity,
- k) forestry personnel and members of authorized forestry management staff to the extent covering their functions delegated under the Act on Forests and on the Protection and Management of Forests,
- l) professional hunters to the extent covering their functions delegated under the Act on Game Protection, Game Management and Hunting,
- m) fishing supervisors to the extent covering their functions delegated under the Act on Fishing and Angling,
- n) control personnel of public transport economic operators, to the extent covering their functions in such activities,
- o) customer service personnel of universal postal service providers, to the extent covering their functions in such activities;

13. 'foreign public official' shall mean:

- a) a person serving in the legislature, judicial, administrative or law enforcement body of a foreign State,
- b) a person serving in an international organization created under international treaty ratified by an act of Parliament, whose activities form part of the organization's activities,
- c) a person elected to serve in the general assembly or body of an international organization created under international treaty ratified by an act of Parliament, including members of the European Parliament elected abroad,
- d) a member of an international court that is vested with jurisdiction over the territory or over the citizens of Hungary, and any person serving in such international court, whose activities form part of the court's activities;

14. 'family member' shall mean:

*a)* next of kin and his spouse or domestic partner,

*b)* adoptive and foster parents (including resident stepparents), adopted and foster children (including resident stepchildren),

*c)* siblings, spouses or registered partners of siblings,

*d)* spouses and domestic partners,

*e)* next of kin and siblings of spouses and domestic partners;

15. 'information system' shall mean equipment intended for the automatic processing, handling, storage and transmission of data or a collection of such devices that are interfaced;

16. 'damage' shall mean - unless otherwise provided for in this Act - the loss of value of one's property resulting from the criminal offense;

17. 'loss' shall mean - unless otherwise provided for in this Act - damage to one's property, including lost income;

18. 'narcotic drug' shall mean:

*a)* the substances defined in Lists I and II of the Annex to the Single Convention on Narcotic Drugs, 1961, signed at New York on 30 March 1961, promulgated by Law-Decree No. 4 of 1965, as amended and supplemented by the Protocol Amending the Single Convention on Narcotic Drugs, 1961, signed at Geneva on 25 March 1972, promulgated by Law-Decree No. 17 of 1988,

*b)* dangerous psychotropic substances defined in Lists I and II of the Annex to the treaty on psychotropic substances signed in Vienna on 21 February 1971 and promulgated by Law-Decree No. 25 of 1979, and

*c)* psychotropic substances provided for in the Schedule to the Act on Medicinal Products for Human Use;

19. 'cash-substitute payment instrument' shall mean non-cash means of payment provided for in the act on credit institutions, as well as treasury cards, traveler's checks, credit tokens and bills of exchange made out in accordance with the Personal Income Tax Act, provided they contain protective fixtures, such as coding or signature, against duplication, fraudulent making or forgery, and against unauthorized use;

20. 'electronic payment instrument' shall mean, in addition to the non-cash means of payment provided for in the act on credit institutions, treasury cards and electronic credit tokens made out in accordance with the Personal Income Tax Act, provided that they are used through the information system;

21. 'works of public concern' shall mean:

*a)* public utilities,

*b)* public transportation operations,

*c)* electronic communication networks,

*d)* logistics, financial and IT hubs and operations necessary for the performance of the tasks of universal postal service providers carried out in the public interest,

*e)* plants producing war materials, military items, energy or basic materials destined for industrial use;

12. 'public at large' shall mean, among others, when a crime is committed through publication in the press or other media services, by way of reproduction or by means of publication on an electronic communications network;

23. 'weapons prohibited by international convention' shall mean:

*a)* asphyxiating, poisonous and other gases and bacteriological methods of warfare as set forth in the protocol signed at Geneva on 17 June 1925 on the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, as promulgated by Law-Decree 20 of 1955;

*b)* the bacteriological (biological) and toxin weapons specified in Article 1 of The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction adopted by the General Assembly of the United Nations Organization during its twenty-sixth session on 10 December 1971, as promulgated by Law-Decree 11 of 1975;

*c)* the following weapons listed in the protocols to the convention signed at Geneva on 15 October 1980 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects, as promulgated by Law-Decree 2 of 1984:

*ca)* weapons causing injury by fragments which cannot be detected by X-ray, as specified in Protocol I,

*cb)* mines, remotely-delivered mines, anti-personnel mines, booby-traps and other devices specified in Points 1-5 of Article 2 of the Amended Protocol II, as promulgated by Act CXXXIII of 1997,

*cc)* incendiary weapons specified in Point 1 of Article 1 of Protocol III,

*cd)* blinding laser weapons specified in Article 1 of Protocol IV;

*d)* chemical weapons and chemical instruments of war specified in Points 1 and 7 of Article 2 of the convention signed at Paris on 13 January 1993 on the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as promulgated by Act CIV of 1997;

*e)* anti-personnel mines specified in Point 1 of Article 2 of the convention signed at Oslo on 18 September 1997 on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, as promulgated by Act X of 1998;

*f)* the cluster munitions referred to in Point 2 of Article 2 and the explosive bomblet referred to in Point 13 of Article 2 of the Convention on Cluster Munitions promulgated by Act XI of 2012;

24. 'public event' shall mean an event as defined in the Act on the Right of Assembly as well as events that are open to the general public without discrimination;

25. 'prostitution' shall mean where money or any other form of remuneration is given as payment in exchange for sexual activities;

26. 'violent crime against the person' shall mean:

*a)* genocide [Subsection (1) of Section 142], crimes against humanity [Subsection (1) of Section 143], apartheid [Subsections (1)-(3) of Section 144],

*b)* assault against a war emissary (Section 148), assault on protected persons [Subsections (1)-(2) and (4) of Section 149], other war crimes (Section 158),

*c)* homicide [Subsections (1)-(3) and (5) of Section 160], voluntary manslaughter (Section 161), battery [Subsections (3)-(6) and (8) of Section 164],

*d)* kidnapping [Subsections (1)-(4) of Section 190], trafficking in human beings [Subsections (1)-(6) of Section 192], forced labor (Section 193), illegal restraint (Section 194), duress (Section 195),

*e)* sexual exploitation (Section 196), sexual violence [Subsections (1)-(4) of Section 197],

*f)* violation of the freedom of conscience and religion (Section 215), violence against a member of the community [Subsections (2)-(3) of Section 216], violation of the freedom of association and assembly, and participation in electoral rallies (Section 217),

*g)* attempt to overturn constitutional order by force [Subsection (1) of Section 254], riot [Subsections (1)-(2) of Section 256],

*h)* mistreatment in official proceedings [Subsections (1)-(2) of Section 301], mistreatment in the proceedings of persons entrusted with public functions [Subsections (1)-(2) of Section 302], third degree [Subsections (1)-(2) of Section 303], unlawful detention (Section 304),

*i)* assault on a representative of public authority [Subsections (1)-(3) and (5) of Section 310], assault on a person entrusted with public functions (Section 311), assault on a person aiding a public official or a person entrusted with public functions (Section 312), assault on a person under international protection [Subsection (1) of Section 313],

*j)* acts of terrorism [Subsections (1)-(2) of Section 314], unlawful seizure of a vehicle [Subsections (1)-(2) of Section 320],

*k)* robbery [Subsections (1)-(4) of Section 365], extortion (Section 367), private justice [Subsections (1)-(2) of Section 368],

*l)* aggravated cases of mutiny [Subsections (2)-(6) of Section 442] and assault on a superior officer or representative of public authority [Section 445];

27. 'sexual act' shall mean sexual intercourse and any gravely indecent and obscene act primarily for sexual purposes, intended to stimulate or satisfy sexual desire;

28. a crime is deemed to be committed on a commercial scale if the perpetrator is engaged in criminal activities of the same or similar character to generate profits on a regular basis;

29. 'person incapable of self-defense' shall mean, among others, any person in a position or condition whereby he is temporarily or permanently rendered unable to put forth any resistance;

30. protected cultural goods shall also include designated protected cultural goods;

31. 'recidivist' shall mean the perpetrator of a crime of intent, if such person was previously sentenced to an executable term of imprisonment for a crime committed intentionally, and three years have not yet passed since the last day of serving the term of imprisonment or the day when it ceases to be enforceable until the commission of another criminal act;

*a)* 'habitual recidivist' shall mean any recidivist who commits on both occasions the same crime or a crime similar in nature;

*b)* 'repeat offender' shall mean a person who has been sentenced to an executable term of imprisonment as a recidivist prior to the commission of a crime of intent, and three years have not yet passed since the last day of serving the term of imprisonment or the day when it ceases to be enforceable until the commission of another criminal act punishable by imprisonment;

*c)* 'repeat offender with a history of violence' shall mean a repeat offender convicted for violent crime against the person on all three occasions previously.

(2) Any reference made in this Act to domestic partners shall also mean registered partners.

(3) Any reference made in this Act to allied armed forces, humanitarian activities in a foreign theater of operations, peacekeeping operations or humanitarian operations shall be construed according to the definitions set out in the Act on the Hungarian Armed Forces.

(4) Any reference made in this Act to information classified as top secret, secret, confidential, or restricted shall be construed as classified information of domestic or foreign origin as provided for in the Act on the Protection of Classified Information.

(5) For the purposes of this Act:

a) 'third-country national' means the persons defined as such by the Act on the Admission and Residence of Third-Country Nationals;

b) 'authorization to undertake gainful employment' means an authority to reside defined by the Act on the Admission and Residence of Third-Country Nationals which constitutes an entitlement for the third-country nationals to undertake gainful employment.

(6) For the purposes of this Act the amount of value, damage or loss shall be construed:

a) minor between fifty thousand plus one and five hundred thousand forints;

b) considerable between five hundred thousand plus one and five million forints;

c) substantial between five million plus one and fifty million forints;

d) particularly considerable between fifty million plus one and five hundred million forints;

e) particularly substantial over five hundred million forints.

#### *Section 460*

(1) In the application of Chapter XIV 'protected person' shall mean any person who is not directly involved in hostilities, in particular:

a) any member of the armed forces who laid down his weapon and surrendered to remove himself from hostilities;

b) who is clearly out of action due to sickness, injury, being captured or for any other reason, or who clearly removed himself from hostilities;

c) the staff of a humanitarian organization, relief or peacekeeping organization operating within the framework of the United Nations and in accordance with its Charter, if they are entitled to protection granted under international law in the event of armed conflict to protected persons and establishments;

d) any civilian person insofar he is not directly involved in hostilities.

(2) In the application of Chapter XXVI:

a) a disciplinary case shall cover any proceedings where disciplinary infraction is defined by law, as well as the detailed regulations for the proceedings and the disciplinary measures to be imposed;

b) civil cases shall also include cases brought before an arbitration tribunal.

#### *Section 461*

(1) For the purposes of Sections 176-180 'small quantity of narcotic drugs' shall mean:

a) where the pure active substance content given in a base form is less than:

aa) 0.001 gram in the case of LSD,

ab) 0.1 gram in the case of psilocybine,

ac) 0.2 gram in the case of psilocyne,

ad) 0.5 gram in the case of amphetamine, metamfetamine and MDPV,

ae) 0.8 gram in the case of dihydrocodeine,

af) 0.6 gram in the case of heroin,



*ag)* 0.9 gram in the case of morphine,

*ah)* 1 gram in the case of ketamine, codeine, MDA, MDMA, N-ethyl-MDA (MDE), MBDB, 1-PEA, N-methyl-1-PEA, mCPP, methadone, 4-fluoramphetamine and pethidine,

*ai)* 1.5 gram in the case of mephedrone, methylon and 4-MEC,

*aj)* 2 grams in the case of cocaine,

*ak)* 3 grams in the case of BZP;

*b)* in the case of GHB where the pure active substance content given in an acid form is less than 7.5 grams;

*c)* in the case of tetrahydrocannabinol (THC) where the THC content (total THC) in pure and acid form is less than 6 grams combined.

(2) For the purposes of Sections 176-180 'small quantity of narcotic drugs' shall mean when the amount of plants in the case of cannabis is not more than five.

(3) For the purposes of Sections 176-180 the quantity of narcotic drugs provided for in Subsections (1)-(2) shall be considered:

*a)* substantial, if it exceeds the upper limit of the small quantity given for a specific narcotic drug times twenty;

*b)* particularly substantial, if it exceeds the upper limit of the small quantity given for a specific narcotic drug times two hundred.

(4) For the purposes of Sections 176-180 the quantity of narcotic drugs not provided for in Subsections (1)-(2) shall be considered:

*a)* small, if the pure active substance content is not more than seven times the average effective dose of an unaccustomed user;

*b)* substantial, if the pure active substance content exceeds the average effective dose of an unaccustomed user times one hundred and forty;

*c)* particularly substantial, if the pure active substance content exceeds the average effective dose of an unaccustomed user times one thousand four hundred.

## Value limits for criminal offenses and their misdemeanor form

### *Section 462*

(1) The following shall not be treated as criminal offenses:

*a)* where defalcation results in a financial loss of one hundred thousand forints or less;

*b)* where fraud relating to social security, social and other welfare benefits results in damage below fifty thousand forints.

(2) The following shall be construed as misdemeanors rather than criminal offenses:

*a)* where the damage caused by vandalism and fraud is below fifty thousand forints;

*b)* where the value involved in theft, embezzlement, unlawful appropriation and dealing in stolen goods is below fifty thousand forints;

*c)* where the financial loss resulting from misappropriation of funds is below fifty thousand forints;

*d)* where the infringement of copyright and certain rights related to copyright:

*da)* involves a value of one hundred thousand forints or less in respect of blank media fees or reproduction fees,

*db)* results in a financial loss of one hundred thousand forints or less;

*e)* where the infringement of industrial property rights results in a financial loss of one hundred thousand forints or less;

*f)* where the marketing of substandard products and imitation of competitors involves a value of one hundred thousand forints or less.

(3) Where the financial loss caused by budget fraud is one hundred thousand forints or less, it shall be treated as a violation of customs regulations instead of a criminal offense.

## Entry into force

### *Section 463*

This Act shall enter into force on 1 July 2013.

## Repeals

### *Section 464*

## Compliance with the Acquis

### *Section 465*

(1) Of the provisions of this Act:

*a)* Subsection (2) of Section 26 serves the purpose of compliance with:

*aa)* Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, together with Chapter XIX;

*ab)* Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, together with Section 192;

*b)* Sections 176-177 serve the purpose of compliance with Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking;

*c)* Sections 209 and 356 serve the purpose of compliance with Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals;

*d)* Sections 241-243 and 249 serve the purpose of compliance with Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law;

*e)* Sections 290-291 serve the purpose of compliance with Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector;

f) Section 375 and Chapter XLIII serves the purpose of compliance with Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems;

g) Section 389 serves the purpose of compliance with Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro;

h) Sections 392-394 serve the purpose of compliance with Articles 2, 4 and 6 of Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment;

i) Sections 399-400 serve the purpose of compliance with Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

(2) Of the provisions of this Act:

a) Sections 182-183 contain provisions for the implementation of:

aa) Regulation (EC) No. 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors, and

ab) Council Regulation (EC) No. 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors;

b) Section 327 contain provisions for the implementation of:

1. Article 5 of Council Regulation (EEC) No. 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions, the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions;

2. Article 5 of Council Regulation (EC) No. 3275/93 of 29 November 1993 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution 883 (1993) and related resolutions;

3. Article 5 of Council Regulation (EC) No. 1264/94 of 30 May 1994 prohibiting the satisfying of claims by the Haitian authorities with regard to contracts and transactions the performance of which was affected by the measures imposed by or pursuant to United Nations Security Council resolutions 917 (1994), 841 (1993), 873 (1993) and 875 (1993);

4. Article 5 of Council Regulation (EC) No. 1733/94 of 11 July 1994 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution No. 757 (1992) and related resolutions;

5. Article 8 of Council Regulation (EC) No. 2488/2000 of 10 November 2000 maintaining a freeze of funds in relation to Mr Milosevic and those persons associated with him and repealing Regulations (EC) Nos. 1294/1999 and 607/2000 and Article 2 of Regulation (EC) No. 926/98;

6. Article 9 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism;

7. Article 10 of Council Regulation (EC) No. 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No. 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan;

8. Article 15 of Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No. 2465/96;

9. Article 6 of Council Regulation (EC) No. 1727/2003 of 29 September 2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo;

10. Article 11 of Council Regulation (EC) No. 234/2004 of 10 February 2004 concerning certain restrictive measures in respect of Liberia and repealing Regulation (EC) No. 1030/2003;

11. Article 12 of Council Regulation (EC) No. 314/2004 of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe;

12. Article 13 of Council Regulation (EC) No. 798/2004 of 26 April 2004 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No. 1081/2000;

13. Article 12 of Council Regulation (EC) No. 872/2004 of 29 April 2004 concerning further restrictive measures in relation to Liberia;

14. Article 11 of Council Regulation (EC) No. 1763/2004 of 11 October 2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY);

15. Article 8 of Council Regulation (EC) No. 174/2005 of 31 January 2005 imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire;

16. Article 12 of Council Regulation (EC) No. 560/2005 of 12 April 2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire;

17. Article 17 of Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, as regards the goods specified in Annex II thereof;

18. Article 10 of Council Regulation (EC) No. 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo;

19. Article 10 of Council Regulation (EC) No. 1184/2005 of 18 July 2005 imposing certain specific restrictive measures directed against certain persons impeding the peace process and breaking international law in the conflict in the Darfur region in Sudan;

20. Article 9 of Council Regulation (EC) No. 305/2006 of 21 February 2006 imposing specific restrictive measures against certain persons suspected of involvement in the assassination of former Lebanese Prime Minister Rafiq Hariri;

21. Article 9 of Council Regulation (EC) No. 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus;

22. Article 13 of Council Regulation (EC) No. 817/2006 of 29 May 2006 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No. 798/2004;

23. Article 14 of Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea;

24. Article 15 of Council Regulation (EU) No. 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia;

25. Article 14 of Council Regulation (EU) No. 667/2010 of 26 July 2010 concerning certain restrictive measures in respect of Eritrea;

26. Article 47 of Council Regulation (EU) No. 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No. 961/2010;

27. Article 13 of Council Regulation (EU) No. 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia;

28. Article 17 of Council Regulation (EU) No. 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya;

29. Article 13 of Council Regulation (EU) No. 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt;

30. Article 15 of Council Regulation (EU) No. 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria;

*c)* Sections 329-330 contain provisions for the implementation of:

*ca)* Article 17 of Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, as regards the goods specified in Annex III thereof;

*cb)* Article 24 of Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.