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TRANSLATION OF GERMAN PENAL CODE

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A-#: 78660016,
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Doc 2a & 2b, transl.

German Laws
Collection of Civil, Criminal and Procedural Law
Established by
Dr. Heinrich Schönfelder
84th Edition
Updated: 1st November 1994
(except Nos. 95, 96, 97, 98b, 99, 99a, 108, 109, 110, 113, 114, 115, 117, 119 and 123; cf.
Preface)
C.H. Beck'sche Verlagsbuchhandlung
Munich

Part 85: STGB (German Penal Code)

[p. 73]

§ 130 incitement of the masses

Who, in a way suitable to disturb public peace, attacks the human dignity of others by

- stirring up to hatred against parts of the population,
- calling for acts of violence or despotism against them or
- insults them, exposes them to contempt, or slander them,

will be punished with a prison term from three months to five years.

[p. 74]

§ 131 Presentation of violence; incitement to racial hatred

- (1) With a prison term of up to one year or a fine will be punished who
- 1.) disseminates,
 - 2) exhibits, advertises, performs publicly or otherwise makes publicly accessible,
 - 3) offers, leaves to, or makes otherwise accessible to a person younger than eighteen years, or
 - 4) produces, orders, delivers, holds in stock, offers, announces, advertises, imports or exports, in order to use them or parts gained thereof according to the letters 1 to 3 or to enable others to such end, writings (§ 11 para. 3) which incite to racial hatred or which describe gruesome or otherwise inhuman violence against human beings in a way which expresses a glorification or trivialization of such violence or which describes the gruesome and inhuman parts in the event in a way that this violates the human dignity.
- (2) In the same way will be punished who disseminates a presentation of the content as described in paragraph 1 by broadcasting.

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(3) Paragraphs 1 and 2 do not apply if the act serves as to report current or historical events.

(4) Paragraph 1 no. 3 must not be applied if the act is committed by a person having legal custody over that person.

[p. 100a & 100b]

§ 220a Genocide [unchanged]

(1) With a life-long prison term will be punished who, with the intention of partly or entirely destroying a national, racial, religious group or a group defined by its ethnic identity,

1. kills members of the group,
2. causes heavy mental or physical harm to members of the group, especially in the way as set out in § 226,
3. forces the group under living conditions which are suited to lead to its total or partial physical destruction,
4. enacts rules which are supposed to prevent births inside of this group,
5. violently transfers children of this group to another group.

(2) In less severe cases of paragraphs 1 no. 2 to 5, the punishment will not be under five years.

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Part 85: STGB (German Penal Code)

[p. 20]

§ 25 Perpetration of an offense [unchanged]

(1) Whosoever shall commit a crime, whether himself or through another person, shall be punished as perpetrator

(2) If a crime is committed jointly by several persons, each person shall be punished as perpetrator (accomplice).

[p. 27]

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§ 52 Coincidence of Crimes [unchanged]

(1) If a single unlawful act violates several laws or the same law several times, only one punishment shall be imposed.

(2) If several criminal laws have been violated, the punishment of that law shall be applied, which imposes the most severe punishment.

The punishment shall not be less severe than the punishment prescribed by other applicable laws.

(3) In addition to prison terms, the court can impose pecuniary fines separately under the conditions given in § 41.

(4) In case one of the applicable laws allows for monetary penalties, the court may impose it in addition to lifelong imprisonment or a limited prison term of two years or more.

Otherwise, secondary penalties and measures can or must be imposed (§ Section 11 Paragraph 1 Number 8) if one of the applicable laws demands or allows it.

[p. 46]

§ 74. Conditions for Confiscation [unchanged]

(1) If a crime has been committed premeditatedly, objects can be confiscated which were acquired through the crime or were used or intended to be used to prepare or commit the crime.

(2) Confiscation is permitted only if the following conditions exist:

1. At the time of the sentence, the objects belonged to the perpetrator or participant or if he was entitled to use them, or

2. the objects are a threat to the general public due to their nature or due to prevailing circumstances, or if there is a danger that they might be used to commit illegal acts.

(3) Under the provisions of Paragraph 2 No. 2, confiscation is allowable even if the perpetrator acted in an innocent manner.

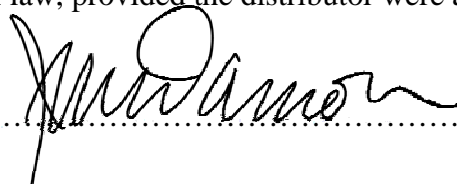
(4) If confiscation is prescribed or allowed by a special regulation other than paragraph 1, then paragraphs 2 and 3 shall apply.

[p. 47]

§ 74d Confiscation of Writings and Rendering Useless [unchanged]

(1) Contraband literature (§ 11 para. 3) whose content is such that intentional distribution would be a violation of criminal law, provided the distributor were aware of the nature of

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said content, shall be confiscated if at least one copy was distributed through an illegal act. or provided that such distribution was intended.

In addition, it is ordered that all devices used to produce such literature, or intended to produce such literature, such as plates, molds, printing sets, films or matrices, shall be rendered unusable.

(2) Confiscation shall be restricted to articles which are in the possession of persons involved in distribution or preparation for distribution, or articles which are publicly exhibited, or have not yet reached the address where distribution was intended.

(3) Paragraph 1 applies to literature having a content whose intentional distribution with knowledge of said content would be a crime only if additional circumstances would lead to a violation of law.

Confiscation and destruction will be ordered only insofar as:

1. Copies and objects described in paragraph 1 sentence 2 are in the possession of the

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perpetrator, the participant or a different person, on whose behalf the perpetrator or participant acted, or else are intended for distribution by these persons, and

2. The measures are required in order to prevent illegal distribution by these persons.

(4) If at least one copy has been made publicly available by exposing, advertising, performing or in any other way, this is considered equivalent to distribution according to paragraphs 1 to 3.

(5) § Section 74b, paragraphs 2 and 3 apply accordingly.

[p. 75f.]

§130 incitement of the masses

(1) Who, in a way suitable to disturb public peace,

1. stirs up to hatred against parts of the population, or calls for acts of violence or despotism against them or

2. attacks the human dignity of others by insulting parts of the population, exposing them to contempt, or slandering them,

will be punished with a prison term from three months to five years.

(2) With a prison term of up to three years or with a fine will be punished who

1.a) disseminates,

b) exhibits, advertises, performs publicly or otherwise makes publicly accessible,

c) offers, leaves to, or makes otherwise accessible to a person younger than eighteen years, or



d) produces, orders, delivers, holds in stock, offers, announces, advertises, imports or exports, in order to use them or parts gained thereof according to the letters a to c or to enable others to such end,
writings (§ 11 para. 3) which incite to hatred against parts of the population or against national, racial, religious or groups defined by their ethnic identity, calls for acts of violence or despotism against them or attacks the human dignity of others by insulting parts of the population, exposing them to contempt, or slandering them,
2. In the same way will be punished who disseminates a presentation of the content as described in number 1 by broadcasting.

(3) With a prison term of up to five years or with a fine will be punished who publicly or during a gathering approves, denies or trivializes, in a way suitable to disturb public peace, an act of §220a para. 1 committed under the rule of National-Socialism.

(4) Paragraph 2 also applies to writings (§ 11 para. 3) with contents as mentioned in paragraph 3.

(5) In cases of Paragraph 2, even in connection with paragraph 4, and in the cases of paragraph 3 § 86 para. 3 applies accordingly.

[p. 76f.]

§ 131 Presentation of violence

(1) With a prison term of up to one year or a fine will be punished who
1.) disseminates,
2) exhibits, advertises, performs publicly or otherwise makes publicly accessible,
3) offers, leaves to, or makes otherwise accessible to a person younger than eighteen years, or
4) produces, orders, delivers, holds in stock, offers, announces, advertises, imports or exports, in order to use them or parts gained thereof according to the letters 1 to 3 or to enable others to such end,
writings (§ 11 para. 3) which describe gruesome or otherwise inhuman violence against human beings in a way which expresses a glorification or trivialization of such violence or which describes the gruesome and inhuman parts in the event in a way that this violates the human dignity.

(2) In the same way will be punished who disseminates a presentation of the content as described in paragraph 1 by broadcasting.

(3) Paragraphs 1 and 2 do not apply if the act serves as to report current or historical events.

(4) Paragraph 1 no. 3 must not be applied if the act is committed by a person having legal custody over that person.

[p. 96]

§ 185 Libel [unchanged]

Libel shall be punished with a prison term of up to one year or a fine, and if the libel is accompanied by assault, with a prison term of up to two years, or a fine.

[p. 96]

§ 189 Denigration of the memory of the death [unchanged]

Whoever denigrates the memory of a dead person shall be punished with a prison term of up to two years or a fine


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§194 Demand for Penalty

(1) Libel is prosecuted only if a complaint has been filed. A complaint is not necessary if the crime was committed by distribution, or making contraband literature available to the public (§ 11 para. 3), or in an assembly, or by a broadcast performance, or if the libeled person is a member of a group which was persecuted under the national socialist tyranny or any other tyranny, provided this group is part of the population, and provided the libel is connected with this persecution. However, the crime cannot be prosecuted if the injured party opposes prosecution. Such opposition cannot be revoked. In case of the decease of the injured person, the right to file a complaint passes to the relatives according to § 77 paragraph 2.

(2) If the memory of a deceased person has been denigrated, the relatives according to § Section 77, Paragraph 2 are entitled to file a complaint. A complaint is not necessary if the crime was committed by distribution, or making contraband literature available to the public (§ 11 para. 3), or in an assembly, or by a broadcast performance, or if the libeled person is a member of a group which was persecuted under the national socialist tyranny or any other tyranny, provided this group is part of the population, and provided the libel is connected with this persecution. However, the crime cannot be prosecuted if the injured party opposes prosecution. Such opposition cannot be revoked.

(3) Is the libel directed against a public servant, somebody especially obligated to public service or a soldier of the German Armed Forces during his service or in relation to it, the superior in service can file a complaint. Is the crime committed against an administrative body or any other body in charge of public administration, the libel can be prosecuted if the head of the body or the head of the supervising administrative body files a complaint. The same applies for holders of an office and administrative bodies of churches and other publicly recognized religious communities.



(4) Is the libel directed against a legislative body of the Federation, or of a federal land, or another political entity in the area of jurisdiction of this law, it can only be prosecuted if the affected entity agrees to it.

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A handwritten signature in black ink, appearing to read "J. M. Damon", written over a dotted line.

[p. 105]

§ 220a Genocide [unchanged]

(1) With a life-long prison term will be punished who, with the intention of partly or entirely destroying a national, racial, religious group or a group defined by its ethnic identity,

1. kills members of the group,
2. causes heavy mental or physical harm to members of the group, especially in the way as set out in § 226,
3. forces the group under living conditions which are suited to lead to its total or partial physical destruction,
4. enacts rules which are supposed to prevent births inside of this group,
5. violently transfers children of this group to another group.

(2) In less sever cases of paragraphs 1 no. 2 to 5, the punishment will not be under five years.

TRANSLATOR'S AFFIDAVIT:

I CERTIFY THAT I POSSESS EXPERT COMPREHENSION OF BOTH THE ENGLISH AND GERMAN LANGUAGES AND THAT THE ABOVE IS A TRUE AND ACCURATE TRANSLATION.



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