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TRANSLATION OF Excerpts from
"Karlsruher Kommentar zur Strafprozeßordnung", 1993

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Karlsruhe Comments on the Penal Code of Procedures
and on the Court Constitutional Law
with Law of Implementation

Edited by
Prof. Dr. Gerd Pfeiffer
President of the Federal Supreme Court, ret.

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[stamp of submitting lawyer]

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{ 1932 }

[...]

§74a [Jurisdiction of the State Protection Chamber]

(1) At the district courts, in whose area a higher regional court is located, a penal chamber is responsible as prosecuting court for the area of jurisdiction of this higher regional court for criminal cases

1. of treason to peace in cases of §80a of the Penal Code,
2. of endangering the democratic state under the rule of law in cases of §§84 to 86, 87 to 90, 90a paragraph 3, and §90b of the Penal Code,
3. of endangering the defence of the country in cases of §§190d of the Penal Code,
4. of violating the prohibition of organization in cases of §129 of the Penal Code and of §20 of the Law of Associations; this does not apply if the same action is a violation of the Drug Trafficking Law,
5. of kidnapping (§234a of the Penal Code) and
6. political suspicion (§241a of the Penal Code).

(2) The jurisdiction of the district court is waived if the Federal Attorney General takes over the prosecution of the case prior to the beginning of the trial, due to the importance of the case, except where the jurisdiction of the district court is given due to transfer acc. to §142a paragraph 4 or due to referring acc. to §120 paragraph 2 clause 2.

(3) In cases where the penal chamber is responsible acc. to paragraph 1, it also makes decision acc. to §73, paragraph 1.

(4) In context of paragraphs 1 and 3, the area of jurisdiction of the district court covers the area of jurisdiction of the higher regional court.

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Rules for Penal Procedures
General Part
I. Section. Pretrial Procedures
1. General

[...]

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Appendix III
Regulations for the penal system
and for the fining system
[...]

[...]

Overview
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Introduction
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[...]

Special Part

1. Section: Penal Regulations of the Penal Code

1. State Protection and related cases.....no. 202-214

[...]

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205. Contacting the offices for the protection of the constitution and other secret services of the Federal Republic of Germany in state protection cases
I. In cases of state protection (§§74a, 120 Court Constitutional Law, article 7, 8 of the fourth Penal Law Amendment Act) it is regularly imperative to get in touch with the offices for the protection of the constitution and other secret services of the Federal Republic of Germany in context of their field of duty, in order to evaluate the information gathered there. Reference is made to the central department for collecting evidence at the federal offices for the protection of the constitution. In cases of special importance, it is advisable to contact these offices already prior to the first swift action.

[...]

IV. In state protection cases, the public prosecutor sends a copy of both the accusation and the verdict to the federal offices for the protection of the constitution (central department for collecting evidence) and to the appropriate local state offices for the protection of the constitution. This also applies to other decision of such cases whose content or the evidence mentioned in them are important for being analyzed.

[...]

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208. Cases regarding state endangering writings
I. If a writing (§11 paragraph 3 Penal Code) was used or intended to commit a crime according to §§80 to 101a, 129 to 131 Penal Code, §20 paragraph 1 no. 1 to 4 of the Law of Association, or according to §92 paragraph 1 no. 8 of the Law of Foreigners, then the Public Prosecutor informs the Federal Bureau of Investigation, 6200 Wiesbaden, immediately about the initialization of the prosecution by using the required forms. [...]
IV. Using the required forms, the Federal Bureau of Investigation has to be informed immediately about any decisions on petitions of seizure and confiscation, and about the

withdrawal of such petitions. In case of decisions ordering, reversing or rejecting a seizure or confiscation of non-periodical writings, an announcement of this decision in the Bundeskriminalblatt (Federal Criminal Paper) can be requested; the same applies to periodical writings appearing in the area of jurisdiction of the Penal Code.

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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.

J. M. Damon, MA, The University of Texas at Austin
?? March 2000