



# CZECH REPUBLIC

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## CRIMINAL CODE with commentary

### PREFACE

The democratic social and economic reforms which were introduced in Czechoslovakia after the Velvet Revolution of November 1989 were subsequently reflected in Czechoslovak and, from 1993, Czech legislation.

The Czech Constitution provides that fundamental rights and freedoms are under the protection of the judicial authority. Ratified and promulgated international treaties on human rights and fundamental freedoms binding on the Czech Republic are directly binding and take precedence over its law.

Czechoslovak legislation, unless specifically repealed, continues to apply in the Czech Republic. This is also true of the Criminal Code ("trestní zákon" and the **Criminal Procedure Code** ("trestní řád"), both of which date back to 1961 and have several times been amended in recent years. The latter includes provisions on criminal proceedings, investigation of crimes, verdicts, on prison terms and of other verdicts, such as those relating to expulsion, prohibition of stay, pecuniary penalties, forfeitures of specific things and property, prohibition of certain activities. The Criminal Procedure Code is not included in this publication.

This book provides a full English translation of the Czech **Criminal Code**, which is divided as follows:

- Part One: Common Part
- Part Two: Special Part
- Part Three: Transitory and Concluding Provisions

The Criminal Code's purpose is to protect the interests of society, the constitutional system of the Czech Republic and the rights and legitimate interests of both individuals and legal entities (provision 1).

A crime is defined as an act which is dangerous to society and its attributes are laid down in the Code. Commission of a crime relates to intentional culpability, unless it is expressly stipulated that an act committed through negligence is also considered a crime. However, acts which represent only a negligible danger to society do not constitute crimes. Culpable conduct which is less dangerous to society is dealt with in the **Misdemeanours Act** ("zákon o pøestupcích") and other Acts.

Criminal liability for a **crime** can be borne only by a sane individual (offender) who is at least 15 years old (provisions 9, 11 and 12). Offenders between the ages of 15 and 18 are referred to as "juveniles" ("mladiství"), and this is regarded as an attenuating circumstance.



For further information please see the Country profiles on counter-terrorism capacity at [www.coe.int/gmt](http://www.coe.int/gmt).  
Pour plus de renseignements, veuillez consulter les Profils nationaux sur la capacité de lutte contre le terrorisme: [www.coe.int/gmt](http://www.coe.int/gmt).



Provision 17(1) stipulates that a crime is considered under Czech law if its is committed on the territory of the Czech Republic, although there are some exceptions (provisions 17 to 20a). Criminal liability for a crime is also considered under Czech law if this is agreed in an international promulgated treaty which is binding on the Czech Republic. Some aspects of legal co-operation with other countries in criminal cases are covered by multilateral agreements (conventions). Bilateral agreements regulate extradition and legal assistance on a bilateral basis. Such agreements have been concluded with: Afghanistan, Albania, Algeria, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cuba, Cyprus, Denmark, France, Greece, Hungary, India, Italy, Luxembourg, Moldova, Monaco, Mongolia, Netherlands, New Zealand, Poland, Portugal, Romania, Russia, Slovak Republic, Slovenia, Spain, Swaziland, Syria, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States, Vietnam and Yugoslavia.

A Czech citizen cannot be extradited to a foreign country for criminal prosecution and punishment (provision 21).

Provision 27 states the types of punishments which can be imposed under Czech law:

- a term of imprisonment
- community work
- loss of honorary titles and decorations
- loss of military rank
- prohibition of a certain activity
- a pecuniary penalty
- forfeiture of property
- forfeiture of a certain thing
- expulsion
- prohibition of stay/residence.

An offender may be sentenced to a suspended or unsuspended term of imprisonment. An exceptional punishment means a term of imprisonment of from 15 to 25 years or a life sentence. Capital punishment has been abolished.

Part Two, the Special Part, includes in provisions 91 to 295 provisions on individual crimes. This Part is subdivided into twelve chapters, headed:

- Crimes against the Republic
- Economic Crimes
- Crimes against Public Order
- Crimes Causing Common Danger
- Crimes Grossly Infringing Civic Coexistence
- Crimes against Life and Health
- Crimes against the Family and Young People
- Crimes against Freedom and Human Dignity
- Crimes against Property
- Crimes against Humanity
- Crimes against Conscription
- Military Crimes

Part Three contains transitory and concluding provisions (provisions 296 to 301).

The crime rate increased in the first half of the 1990s. Criminality is regarded as one of the main dangers faced by society. It is expected that subsequent legislation will enable the speeding up of court proceedings.

The English translation of the Criminal Code, which appears in this publication is not legally binding.

**Criminal Code  
"Trestní zákon"**

**No. 140/1961 Coll.,**

as amended by Acts No. 120/1962 Coll., No. 53/1963 Coll., No. 56/1965 Coll., No. 81/1966 Coll., No. 148/1969 Coll., No. 45/1973 Coll., No. 43/1980 Coll., No. 10/1989 Coll., No. 159/1989 Coll., No. 47/1990 Coll., No. 84/1990 Coll., No. 175/1990 Coll., No. 457/1990 Coll., No. 545/1990 Coll., No. 490/1991 Coll., No. 557/1991 Coll., No. 290/1993 Coll., No. 38/1994 Coll., No. 152/1995 Coll., No. 19/1997 Coll., No. 253/1997 Coll., **No. 92/1998 Coll., No. 112/1998 Coll., No. 148/1998 Coll., No. 167/1998 Coll., No. 96/1999 Coll.**

and findings of the Constitutional Court published in Collection of Law Issue No. 93/1992, and further under No. 91/1994 Coll. and No. 103/1997 Coll.

**PART ONE  
COMMON PROVISIONS**

**CHAPTER I  
THE PURPOSE OF THE CRIMINAL CODE**

**Provision 1**

The purpose of the Criminal Code is to protect the interests of society, the constitutional system of the Czech Republic and the rights and legitimate interests of both individuals and legal entities.

**Some relating provisions of other Acts:**

- *Constitution of the Czech Republic;*
- *Charter of Fundamental Rights and Freedoms;*
- *Constitutional Act on Dissolution of the Czech and Slovak Federal Republic;*

**Commentary on provision 1:**

*The purpose of the Criminal Code is to protect society from crime. The Criminal Code protects the fundamental values and relationships stipulated in other Acts (e. g. the Constitution and the Commercial Code). Its provisions are applied to those who commit criminal acts.*

**Provisions 2**

The means used to attain the purpose of the Criminal Code shall be the threat of punishment and imposition and enforcement of punishments and protective measures.

**Relating provisions of the Criminal Code:**

- *provisions 23 to 64, 71 to 73, 76;*

**Some relating provisions of other Acts:**

- *Act on Serving Terms of Imprisonment;*
- *Decree on Rules of Procedure for District and Regional Courts;*

**Commentary on provision 2:**

*Sanctions under the Czech Criminal Code are enforced by the state. They are imposed by (Czech) courts in the name of the Republic.*

*Sanctions fall into two main categories:*

- *punishments (in Czech "tresty"), and*
- *protective measures ("ochranná opatření").*

## CHAPTER II THE BASIS OF CRIMINAL LIABILITY

### Provision 3 Crimes

- (1) A "crime" (or "criminal act"; in Czech "trestný èin") shall be an act which is dangerous to society and the features of which are stipulated in this Code.
- (2) An act whose degree of danger to society is negligible shall not be considered a crime, even though it may otherwise have the features of a crime.
- (3) In order for an act to be considered a crime, its commission requires intentional culpability, unless this Code expressly provides that an act committed through negligence shall be considered a crime.
- (4) The degree of danger (menace) represented by an act to society shall be determined in particular by the significance of the protected interest affected by such act, the manner in which the act is committed and its consequences, the circumstances under which the act is committed, the person of the offender and the degree of his culpability and motives.

#### **Relating provisions of the Criminal Code:**

- provisions 4 to 6, 33, 34, 75, 294;

#### **Some other relating provisions:**

- Articles 39, 40 of the Charter of Fundamental Rights and Freedoms;

#### **Commentary on provision 3:**

*Under Czech law, antisocial conduct is classified, according to the degree of the danger it represents to society, as:*

- crimes, which are defined in the Criminal Code;
- misdemeanours ("pøestupky"), which the Misdemeanours Act (No. 200/1990 Coll., as subsequently amended) defines as culpable conduct which encroaches upon some interest of society or threatens some interest of society and is expressly designated as such in the Misdemeanours Act or in some other Act, unless it is an administrative offence punishable under other statutory provisions, or a crime;
- disciplinary misdemeanours by soldiers and policemen;
- torts under the civil law and breaches of working discipline under the Labour Code, and
- other undesirable conduct, which cannot be classified as illicit.

*The Features of a crime are:*

- its formal features (characteristics), as stipulated in the Criminal Code or in another Act, taking into account the facts pertaining to the act in question, such as its object, unlawfulness and the offender's age (which must be at least fifteen years) and sanity;
- the danger represented by the act to society, which must be more than negligible.

### Culpability Provision 4

- (1) A crime is committed intentionally if the offender:
  - (a) wished to encroach upon or endanger, in a manner stipulated in this Code, an interest protected by this Code, or
  - (b) was aware that he/she could cause by his/her act such encroachment or danger and, if he caused it, he agreed with its result.

**Relating provisions of the Criminal Code:**

- provisions 3(3), 6

**Commentary on provision 4:**

*Culpability is an obligatory feature of a crime under provision 3(3), which stipulates that an act is considered a crime if it involves intentional culpability, unless this Code expressly provides that an act committed through negligence is also considered a crime. Culpability is related to an interest protected by the Criminal Code (and other Acts), when such interest is encroached upon or endangered by an offender.*

**Provision 5**

A crime is committed through negligence if an offender:

- (a) knew that he could encroach upon or endanger an interest which is protected by this Code, in the manner stipulated in this Code, but without adequate grounds (reasons) he believed he would not cause such an encroachment or danger; or
- (b) did not know that his act (conduct) could cause such an encroachment or danger, even though, given the circumstances and his personal situation, he should and could have known it.

**Relating provisions of the Criminal Code:**

- provision 3(3), 6

**Commentary on provision 5:**

*When a crime is committed through negligence, its offender does not commit the crime intentionally. The Criminal Code distinguishes between whether an offender was aware or unaware of his negligence.*

**Provision 6**

An aggravating circumstance, or a circumstance which warrants the application of a higher punishment (sentence), shall be taken into consideration,

- (a) if a graver consequence is involved, including cases where the offender caused it through his negligence, except when this Code requires intentional culpability;
- (b) if another fact is involved, including such facts which the offender did not know, even though, given the circumstances and his personal situation, he should or could have known it, except when this Code requires the offender's knowledge of such fact.

**Relating provisions of the Criminal Code:**

- provisions 34, 88(1)

**Commentary on provision 6:**

*Aggravating circumstances are listed in provision 34, while circumstances which warrant application of a higher punishment are given in individual provisions of the Special Part.*

**Provision 7**  
**Preparation of a Crime**

- (1) Conduct which threatens society and which consists in the organising of an especially serious crime /provision 41(2)/, the acquisition or adaptation of means or tools for the purpose of committing a crime or associating, assembling, instigating or giving assistance for

such purpose, or other intentional creation of conditions for committing a crime shall be considered as preparation of a crime, even if such crime is not attempted or committed.

- (2) Preparation of a crime shall be punishable within the sentencing guidelines for the crime which was prepared, unless in its Special Part this Code provides otherwise.
- (3) Preparation of a crime shall not be punishable if the offender voluntarily:
  - (a) abandons any further conduct aimed at committing the crime and eliminates the threat represented by the preparation he has made to an interest protected by this Code; or
  - (b) reports the preparation of a criminal act at a time when the threat represented by its preparation to an interest protected by this Code could still be eliminated. The report must be made to the prosecutor or (an organ of) the police or, in the case of a soldier, to his commander or superior officer instead.
- (4) However, the provision of sub-section (3) shall not affect the criminal liability of the offender for any other completed criminal act which he had already committed by his conduct.

**Relating provisions of the Criminal Code:**

- provisions 31(2), 40(2) and (4), 89(1)

**Commentary on provision 7:**

*Criminal activity usually involves three stages:*

- preparation of a crime;
- an attempt to commit a crime;
- a completed crime.

*The preparatory stage involves intentional creation of the conditions for the committing of a particular crime.*

**Provision 8  
Attempt to Commit a Crime**

- (1) Conduct which is dangerous to society and directed towards the completion of a crime, and which has been undertaken by the offender with intent to commit such crime, shall be considered an attempt to commit the crime, if the crime was not completed.
- (2) Preparation of a crime shall be punishable within the sentencing guidelines for the crime at which it was aimed, unless in its Special Part this Code provides otherwise.
- (3) An attempt shall not be subject to punishment if the offender voluntarily:
  - (a) desists from further activity to complete the crime and eliminates the threat represented by his attempt to the interest protected by this Code;
  - (b) reports his attempt at a time when the threat represented by it to the interest protected by this Code could still be eliminated. Such a report (notification) must be made to a prosecutor or an organ of the police, in the case of a soldier, to his commander or superior officer instead.
- (4) However, the provisions of subsection (3) shall not affect the offender's criminal liability for any other completed crime, which he had already committed by his conduct.

**Relating provisions of the Criminal Code:**

- provision 31 (2)(c), 40(2) and (3), 89(1)

**Commentary on provision 8:**

*Under the Criminal Code, an attempt to commit a crime is constituted by:*

- *conduct which is dangerous to society and which directly aims at the completion of a crime;*
- *an intent to commit the crime;*
- *incompletion of the intended crime.*

*An attempt to commit a particular crime is subject to the sentencing guidelines stipulated for the crime. However, since the crime in question has not been completed, the punishment imposed is less than if the crime was completed.*

**Offender, Accomplice and Participant of a Crime  
Provision 9**

- (1) An offender is a person (an individual) who himself commits a crime.
- (2) If a crime is committed by the joint conduct of two or more persons, each of them shall be criminally liable as if he alone had committed the crime (accomplices).

**Relating provisions of the Criminal Code:**

- *provisions 11, 12, 31(2)(a);*

**Commentary on provision 9:**

*The term "offender" also applies to an individual who uses another person (e. g. a child or a person under duress) to commit a crime. Sub-provision (2) deals with the joint conduct of accomplices when each of the accomplices meets individually all the requisites of having committed a crime.*

**Provision 10**

- (1)A participant in a completed crime, or an attempt to commit a crime, is a person who intentionally;
  - (a)organises or directs the commission of a crime (the organiser);
  - (b)instigates another person to commit a crime (the instigator);
  - (c) grants another person assistance in committing a crime, particularly by providing the means for committing such crime, removing obstacles, giving advice, strengthening the person's intent, or promising assistance after the commission of a crime (an assistant);
- (2)The criminal liability and liability to punishment of a participant shall be governed by the provisions on the offender's criminal liability and liability to punishment, unless this Code provides otherwise.

**Relating provisions of the Criminal Code:**

- *provisions 3, 4, 8, 31 (2)(b)*

**Commentary on provision 10:**

*Provision 10 outlines "participation in a crime" in its narrower sense. It refers to organising a crime, instigating it and assisting in it. The term "participation in a crime" in its wider sense also involves the joint conduct of accomplices (provision 9).*

**Provision 11  
Age**

A person who has not attained fifteen years of age at the time a crime is committed shall not be criminally liable.

**Relating provisions of the Criminal Code:**

- provisions 86, 89 (18);

**Commentary on provision 11:**

*A person who is not yet 15 years old when committing an act which otherwise has the requisites of a crime is not criminally liable for his conduct. Provision 86 deals with reformatory education of children between the ages of 12 and 15, which can be ordered in civil-law proceedings. Persons between 15 and 18 years of age are referred to as "juveniles" (provision 74). Their criminal liability and prosecution is regulated in provisions 74 to 87 of the Criminal Code.*

### **Provision 12 Insanity**

A person who commits a crime but is unable, due to a mental disorder, to recognise the danger it represents to society or to control his conduct shall not be criminally liable for his act.

**Relating provisions of the Criminal Code:**

- provisions 72(1), 201a;

**Some other relating provisions:**

- provisions 172(1)(e), 173(1)(c), 226(d) of the Criminal Procedure Code;

**Commentary on provision 12:**

*Insanity denotes a degree of mental illness which negates the individual's legal responsibility or capacity. Problems arise in practice if it is necessary to determine the sanity or insanity of an offender who suffered from a mental illness in the past. A particular individual's lack of competence (legal capacity) under the civil-law provisions is not decisive in criminal proceedings where insanity is strictly determined according to the provisions of the criminal law.*

### **Provision 13 Necessary Defence**

An otherwise criminal act whereby a person averts a directly threatening (imminent) or persistent attack on an interest protected by this Code shall not be considered a crime. However, it shall not be regarded as a matter of necessary defence if the defence was obviously quite inappropriate to the manner of the attack in question.

**Relating provisions of the Criminal Code:**

- provisions 1, 14, 33(f);

**Some other relating provisions:**

- Articles 6(4), 23 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 13:**

*Necessary defence is recognised as an excuse for the use of force in resisting an attack, provided that the defence is appropriate.*

### **Provision 14 Extreme Necessity**

An otherwise criminal act, by which a person averts a danger directly threatening an interest protected under this Code, shall not be considered a crime. However, it shall not be regarded as a matter of extreme necessity if, in the given circumstances, the danger could have been averted otherwise, or if the resulting consequence is clearly as serious or even more serious than the one which had threatened.



**Relating provisions of the Criminal Code:**

- *provision 1, 13, 33(f);*

**Some other relating provisions:**

- *Article 6(4) of the Charter of Fundamental Rights and Freedoms;*

**Commentary on provision 14:**

*Extreme necessity requires a certain course of action in order to avert imminent danger to an interest protected by the law. An act of a person averting imminent danger (in a manner commensurate with its potential consequence) is not considered a crime (e. g. braking into a house which is on fire in order to save someone's life, or pulling down a neighbour's barn to prevent the spread of a fire).*

### **Provision 15 Justified Use of a Weapon**

A crime shall not be committed by a person who uses a weapon within the scope of the authorisation stipulated in statutory provisions.

**Relating provisions of the Criminal Code:**

- *provisions 13, 14;*

**Some relating provisions of other Acts:**

- *Act on Certain Service Relationships of Soldiers;*
- *Military Police Act;*
- *Act on the Military Intelligence Service;*
- *Act on the Czech Republic's Police;*
- *Act on Municipal Police;*
- *Act on the Security Intelligence Service;*
- *Act on the Prison Service;*
- *Customs Code;*
- *Firearms Act;*
- *Decree No. 50/1996 Coll., implementing certain provisions of the Firearms Act;*

**Commentary on provision 15:**

*"A weapon" is defined in the appropriate statutory provisions, and in general it is an instrument of offensive or defensive combat. The term "weapon" as used in provision 15 is narrower than the definition given in provision 89(5) of the Criminal Code.*

## **CHAPTER III EFFECTIVENESS OF CRIMINAL LAWS**

### **Provision 16**

- (1) The liability to punishment for an act shall be considered according to the Act (law) in force at the time when the act was committed; it shall be considered under a subsequent Act (law) only if consideration under such law is more favourable to the offender.
- (2) Only such punishment can be imposed upon an offender as may be imposed under the Act in effect at the time when a verdict on the crime is reached.
- (3) Protective measures shall be decided under the Act (law) in effect at the time when the decision is taken.

**Relating provisions of the Criminal Code:**

- provisions 17 to 20a;

**Some other relating provisions:**

- Article 40(6) of the Charter of Fundamental Rights and Freedoms

**Commentary on provision 16:**

The effectiveness and applicability of the Criminal Code (and other Acts) are considered from various aspects, such as:

- time (in accordance with provision 16);
- territory (determining the applicability of Czech law to crimes committed on the territory of the Czech Republic);
- personal (some persons not being subject to the provisions of the Criminal Code);
- factual (appropriateness; e. g. provision 143 applies to Czech as well as foreign currency, payment cards, and securities, whereas provision 144 applies to Czech currency).

Provision 16(1) stipulates the principle that the liability to punishment for a crime is considered under the provisions which are in effect at the time when the crime was committed, unless the application of subsequently amended provisions is more favourable to an offender.

**Provision 17**

- (1) The liability to punishment for a crime committed on the territory of the Czech Republic shall always be considered under the law of the Czech Republic.
- (2) A crime shall be considered as having been committed on the territory of the Czech Republic:
  - (a) if an offender acted on its territory, even if the violation of, or threat to, an interest protected under this Code resulted, or was to result, completely or partly abroad, or
  - (b) if an offender violated or threatened on its territory an interest protected under this Code, or if the consequence of such a crime was to have occurred on its territory at least partly, even though the crime was committed abroad.
- (3) The liability to punishment for a crime committed outside the territory of the Czech Republic on board a ship (vessel) or an aircraft registered in the Czech Republic shall also be considered under the law of the Czech Republic. The place where the crime in question is committed shall be considered similarly as in a case falling under sub-provision (2) above.

**Relating provisions of the Criminal Code:**

- provisions 18 to 20;

**Some other relating provisions:**

- Article 1(2) of the Constitutional Act on Measures Relating to the Dissolution of the Czech and Slovak Federal Republic
- Act on Private International Law

**Commentary on provision 17:**

Czech criminal law applies only on the territory of the Czech Republic, but in some specific cases Czech law may also be applied to offenders committing crimes abroad. The citizenship of a person is not decisive if the person committed a crime on the Czech territory.

### Provision 18

The liability to punishment for an act committed abroad by a citizen of the Czech Republic or by a stateless person (a person having no citizenship) authorised to reside permanently in the Czech Republic shall also be considered under Czech law.

**Relating provisions of the Criminal Code:**

- provisions 17, 19, 20;

**Some relating provisions of other Acts:**

- Article 1(2) of the Constitutional Act on Measures Relating to the Dissolution of the Czech and Slovak Federal Republic;
- Act on Reporting and Registering the Stay of Citizens;
- Act on Foreigners' Stay and Residence on the Territory of the Czech Republic;
- Refugees Act;
- Convention and Protocol on Refugee Status

**Commentary on provision 18:**

*Under provision 18, the Czech criminal law also applies to the liability to punishment for a crime committed abroad by a Czech citizen or by a stateless person who has a permanent residence in the Czech Republic.*

### Provision 19

The Czech law shall apply when determining liability to punishment for subversion of the Republic (provision 92), terror (provisions 93 and 93a), diversionist activities (provisions 95 and 96), sabotage (provision 97), espionage (provision 105), the counterfeiting and altering of means of currency (provision 140), the placing of counterfeit and altered means of currency (money) into circulation (provision 141), manufacture and possession of counterfeiting tools (provision 142), assault on a state organ under provision 153 and assault on a public official under provision 155, genocide (provision 259), use of a forbidden weapon and unpermitted conduct of war (provision 262), cruelty in war (provision 263), persecution of citizens (provision 263a), plunder in an area of military operations (provision 264), abuse of internationally-recognised and state insignia (provision 265) and a crime against peace under provision 1 of the Peace Protection Act, No. 165/1950 Coll., even if such a crime was committed abroad by a foreign national (an alien) or a stateless person who does not reside (i. e. has no permanent permit to reside) on the territory of the Czech Republic.

**Relating provisions of the Criminal Code:**

- provision 17, 18, 20;

**Some relating provisions of other Acts:**

- Article 1(2) of the Constitutional Act on Measures Relating to the Dissolution of the Czech and Slovak Federal Republic;
- Act on Reporting and Registering the Stay of Citizens;
- Act on Foreigners' Stay and Residence on the Territory of the Czech Republic;
- Refugees Act;
- Convention and Protocol on Refugee Status

**Commentary on provision 19:**

*Provision 19 expresses the principle of protection as it applies to crimes against the Czech Republic and its organs. The provision further expresses the principle of universality, which means that certain crimes committed abroad by a foreign citizen or a stateless person (who does not permanently reside in the Czech Republic) can be prosecuted under Czech law (in accordance with international agreements).*

### Provision 20

- (1) The Czech law shall be applied to determine the liability to punishment for an act committed abroad by a foreigner (i. e. a citizen of another state) or a stateless person who is not authorised to reside permanently on the territory of the Czech Republic:
  - (a) if the act is also punishable under the law in force on the territory where it was committed, and
  - (b) if the offender is apprehended on the territory of the Czech Republic and was not extradicted for criminal prosecution to a foreign state.
- (2) However, such offender shall not be sentenced to a more severe punishment than that stipulated under the law of the state on whose territory the crime was committed.

**Relating provisions of the Criminal Code:**

- *provisions 17 to 19;*

**Some relating provisions of other Acts:**

- *Article 1(2) of the Constitutional Act on Measures Relating to the Dissolution of the Czech and Slovak Federal Republic;*
- *Act on Reporting and Registering the Stay of Citizens;*
- *Act on Foreigners' Stay and Residence on the Territory of the Czech Republic;*
- *Refugees Act;*
- *Convention and Protocol on Refugee Status*

**Commentary on provision 20:**

*Provision 20 expresses the principle of universality (in a subsidiary manner) as it relates to the scope of applicability of the Czech criminal law. Extradiction of an individual accused or convicted of a crime is largely regulated by bilateral agreements. There are a number of such agreements binding on the Czech Republic (e. g. with the UK, USA, France, Austria, Belgium, Denmark, Netherlands, Slovakia and Russia). In addition there are also international conventions on extradition and the Czech Republic is a signatory to some of them, like the European Convention on Extradiction.*

### Provision 20a

- (1) The liability to punishment for an act shall also be considered under Czech law in cases stipulated in a promulgated international convention (agreement, treaty) which is binding on the Czech Republic.
- (2) The provisions of sections 17 to 20 shall not apply if it is not admitted under a promulgated international agreement binding on the Czech Republic.

**Relating provisions of the Criminal Code:**

- *provisions 17 to 20;*

**Some other relating provisions:**

- *Article 1(2) of the Constitutional Act on Measures Relating to the Dissolution of the Czech and Slovak Federal Republic*

**Commentary on provision 20a:**

*Sub-provision (1) extends Czech jurisdiction beyond the scope stipulated in provisions 17 to 20 if this is agreed in international conventions to which the Czech Republic is a signatory and which have been duly promulgated (came into legal force). On the other hand, sub-provision (2) narrows*

*the application of provisions 17 to 20 as a result of some promulgated international agreements which are binding on the Czech Republic.*

### **Provision 21**

- (1) A citizen of the Czech Republic may not be extradited to a foreign state either for criminal prosecution or for enforcement of a punishment (sentence).
- (2) A verdict (sentence) of a foreign criminal court may not be enforced on the territory of the Czech Republic or have other effects there, unless it is stipulated otherwise in this Code or in a promulgated agreement (convention) which is binding on the Czech Republic.

#### **Some relating provisions of other Acts:**

- *Criminal (Records) Register Act;*
- *provisions 379(1), 384a to 384e of the Criminal Procedure Code*

#### **Commentary on provision 21:**

*Sub-provision (1) lays down the general principle that the Czech Republic does not extradite its own citizens to other states (countries). On the other hand, the Czech Republic must punish a guilty citizen itself under the principle of "dedere aut punire" ("to extract or punish"). Provision (2) stipulates that foreign verdicts in criminal matters cannot be enforced in the Czech Republic, but this provision does not apply if enforcement of a foreign verdict in the Czech Republic is admitted under an international convention or agreement binding on the Czech Republic.*

### **Provision 22**

- (1) If an offender has been kept in custody or sentenced by an organ of a foreign country for a particular act (crime), the period which he spends in custody or in prison (or any other penalty which he fulfils) shall be set off against the punishment (sentence) imposed on him by a court of the Czech Republic for the same act (crime), provided that such set-off is possible given the type of punishment (sentence) imposed. A similar procedure shall be applied by a court if it imposes upon an offender an aggregate sentence or a subsequent total sentence (provision 35).
- (2) If the period of custody or fulfilment of a sentence abroad (sub-provision (1)) cannot be set off in the Czech Republic, largely because the offender (convicted person), fully or partly, served or performed abroad a type of punishment which is not recognised by this Code, the (Czech) court shall take this fact into consideration when imposing a sentence on the offender (in relation to both its type and extent).

#### **Some other relating provisions:**

- *provisions 159(3), 172(2)(b) of Criminal Procedure Code*

#### **Commentary on provision 22:**

*The provisions of provision 22 take into account the time spent in custody or prison, or fulfilment of another kind of punishment (e. g. a pecuniary fine), by a person who commits a particular crime, for which the offender is subsequently sentenced in the Czech Republic.*

## CHAPTER IV PUNISHMENTS

### Division 1 Joint Provisions on Punishments

#### Provision 23 The Purpose of a Punishment

- (1) The purpose of a punishment (sentence) is to protect society from criminal offenders, to prevent a convicted person from engaging in further criminal activity and to teach him to lead an orderly life, and thereby also to have an educational influence on other members of society.
- (2) The serving or other fulfilment of a sentence (punishment) may not be humiliating to human dignity.

***Relating provisions of the Criminal Code:***

- *provisions 2, 31, 40, 76;*

***Commentary on provision 23:***

*Czech criminal law, like the criminal laws of certain other countries, is based on the idea of punishment as a deterrent to the commission of other crimes.*

#### Waiver of Punishment Provision 24

- (1) The court may waive punishment of an offender who commits a crime which represents a lesser danger to society, who shows regret for committing it and who makes an effective attempt to reform himself:
  - (a) if, taking into account the nature of the committed act (offence) and the offender's previous life, there are grounds to believe that consideration of the case by the court will be sufficient to reform the offender, or
  - (b) if the court accepts a guarantee of the offender's reform and believes that, because of the educational influence of the person offering such guarantee, the nature of the act committed and the offender's personality, the imposition of a punishment appears to be unnecessary.
- (2) If the court waives punishment, the offender shall be regarded as not having been sentenced (convicted).

***Relating provisions of the Criminal Code:***

- *provisions 3(4), 25, 26, 58, 77;*

***Some other relating provisions:***

- *provisions 3 to 6, 359 of the Criminal Procedure Code*

***Commentary on provision 24:***

*The waiving of punishment is, in fact, a special example of the use of the threat to impose a punishment. The court issues a verdict on finding the offender guilty, but it does not impose any punishment on him.*

### Provision 25

The court may also waive punishment of an offender if he committed a crime in a state of diminished sanity, and the court is of the opinion that the protective therapy (provision 72) which it concurrently orders will ensure the offender's rehabilitation and the protection of society more effectively than punishment. However, this provision shall not be applied if the offender has induced himself into the state of diminished sanity, even through negligence, by taking an addictive substance.

**Relating provisions of the Criminal Code:**

- provisions 4, 5, 12, 23, 24, 26, 32, 72, 89(10)

**Commentary on provision 25:**

*Provision 25 enables the court:*

- *to waive punishment of an offender who committed a crime in a state of diminished sanity (not caused by the taking of an addictive substance), and*
- *to order concurrently that the offender undergo protective therapy.*

### Provision 26

#### Conditional Waiver of Punishment Connected with Supervision

- (1) Under the conditions stipulated in provision 24(1), the court may conditionally waive an offender's punishment, if it considers it necessary to follow the offender's behaviour (conduct) for a fixed period.
- (2) In the case of conditional waiver of a punishment (sentence), the court shall fix a probationary period of up to one year and concurrently order supervision of the offender (probation).
- (3) The court may impose on an offender, whose punishment (sentencing) is conditionally waived, appropriate restrictions and appropriate duties aimed at introducing order into his life; as a rule the court may impose a duty on the offender to compensate, according to his situation, the damage which he caused by his crime.
- (4) The court may impose appropriate restrictions or duties on an offender under sub-provision (3), in particular ordering him:
  - (a) to take part in a suitable retraining course;
  - (b) to take part in an appropriate programme of social training and re-education;
  - (c) to undergo treatment to rid himself of his dependence on addictive substances, which is not regarded as protective therapy (treatment) under this Code;
  - (d) to take part in suitable programmes organised by psychological consultants;
  - (e) to desist from visiting unsuitable milieus and from contacts with particular persons (individuals);
  - (f) to desist from gambling, including coin-operated gambling machines, and betting.
- (5) If an offender whose punishment has been conditionally waived leads an orderly life during the probationary period and complies with the imposed conditions, the court shall proclaim that he has met the conditions; otherwise, the court shall decide to impose on him the punishment, even during the probationary period.
- (6) Unless the court makes a decision under sub-provision (5) within one year of the end of the probationary period, without blame on the part of the offender whose punishment has been conditionally waived, it shall be deemed that he has met the conditions and regarded as not having been sentenced.

- (7) If an offender whose punishment was conditionally waived is pronounced as having passed the test of time (proved himself), or if he is regarded as having passed the test of time, he shall be regarded as not having been sentenced.

**Relating provisions of the Criminal Code:**

- provisions 24(1), 25, 58, 59, 60a, 60b, 61 et seq, 77

**Some relating provisions of other Acts:**

- Higher Judicial Officers Act;
- provisions 307, 308 of the Criminal Procedure Code;

**Commentary on provision 26:**

*The provisions on conditional waiving of punishment and supervision of the offender (probation) were introduced by Act No. 253/1997 Coll., which came into force as of 1 January 1998.*

**Types of Punishments  
Provision 27**

A court may impose the following punishments (sentences) for committed crimes:

- (a) imprisonment (prison sentence);
- (b) community work (publicly beneficial work);
- (c) loss of honorary titles and decorations;
- (d) loss of military rank;
- (e) prohibition of certain activity;
- (f) forfeiture of property;
- (g) a pecuniary penalty;
- (h) forfeiture of a certain thing;
- (ch) expulsion;
- (i) prohibition of stay/residence.

**Relating provisions of the Criminal Code:**

- provisions 2, 16, 23, 31, 78;

**Some relating provisions of other Acts:**

- Constitution of the Czech Republic;
- Charter of Fundamental Rights and Freedoms;
- Act on Serving Terms of Imprisonment;
- provisions 320 to 350f of the Criminal Procedure Code;

**Commentary on provision 27:**

*Provision 27 stipulates all the types of punishments included in the Czech Criminal Code. Provisions on individual crimes specify which types of punishments can be imposed. In the case of a term of imprisonment, the sentence can be suspended, or it can be a suspended sentence with supervision (probation) or an unsuspended term of imprisonment. A term of imprisonment of exceptional (or exemplary) length can also be imposed. Capital punishment has been abolished.*

**Provision 28**

- (1) If the Special Part of this Code provides for two or more punishments for a certain crime, each such punishment may be imposed separately, although two or more of them may be imposed in parallel ("concurrently"). In addition to the punishments which this Code stipulates in its Special Part for a particular crime, other punishments as listed in provision 27 may be imposed. Expulsion and prohibition of stay (residence) may be imposed separately, even if the Special Part of this Code does not stipulate such punishment.



- (2) However, a court may not impose a pecuniary penalty concurrently with forfeiture of property.

**Relating provisions of the Criminal Code:**

- provisions 27, 45(2), 51 to 54, 57, 57a, 78

**Commentary on provision 28:**

*The provisions of section 28 are to be applied in conjunction with other provisions of the Criminal Code's Common Part /provisions 23, 31 et seq, 39 to 59, provisions 60a and 60b) and its Special Part /sanctions for individual types of crimes).*

**Provision 29**  
**Extraordinary Punishment (Sentence)**

- (1) An extraordinary punishment (sentence) means imprisonment for a term of between fifteen and twenty-five years or life imprisonment. An extraordinary sentence may be imposed only for a crime for which such punishment is permitted in the Special Part of this Code. If a court imposes such punishment, it may concurrently decide that the time which the offender serves in a prison where he is subject to heightened security shall not be counted for the purposes of conditional release.
- (2) A sentence of between fifteen and twenty-five years may be imposed by the court only if the degree of danger represented by the offender's crime to society is very high and the possibility of reforming the offender is regarded as remote.
- (3) A life sentence may be imposed on an offender who has committed murder (provision 219/2/) or who, when he committed high treason (provision 91), terror (provision 93 or 93a/3/), common danger (provision 179/3/) or genocide (provision 259), also wilfully caused another person's death, and:
  - (a) the degree of danger represented by such crime to society is extremely high because of the particularly contemptible manner in which the crime was committed, or a particularly contemptible motive on the part of the offender, or a particularly serious result of the crime which it will be difficult to correct;
  - (b) the imposition of such punishment (sentence) is required for the effective protection of society; and
  - (c) there is no hope that the offender can be reformed by a prison sentence of between fifteen and twenty-five years.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 4, 23, 31, 33, 34, 39 to 44, 62, 79(2) and (3), 91, 93, 93a, 179, 219, 259.

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Act on Serving Terms of Imprisonment;
- Decree on Rules for Serving Terms of Imprisonment;

**Commentary on provision 29:**

*The Czech Criminal Code recognises two types of exceptional sentence:*

- a prison term of between 15 and 25 years;
- a life sentence.

*The exceptional character of this sentence is its length. Normally the maximum sentence is 15 years (see provision 39/1).*

**Provision 30  
Repealed**

**Division 2  
General Principles of Sentencing Guidelines**

**Provision 31**

- (1) When determining the type of punishment and its extent, the court shall take into consideration the degree of danger, which the criminal act represents to society (provision 3/4/), the possibility of reforming the offender and his personal situation. If the court accepts a guarantee of the offender's reform, it shall also into consideration the educational influence of the person offering such guarantee, and shall impose a sentence taking this into account.
- (2) When determining the type (kind) of sentence (punishment) and its extent, the court shall also take into consideration:
  - (a) in the case of accomplices, the degree to which the activity of each accomplice contributed to the commission of the crime;
  - (b) in the case of an organiser, instigator or assistant (helper), the significance and nature of their participation in the commission of the crime;
  - (c) in the case of preparation of a specific crime or an attempted crime, how close the offender's activity came to completing the crime, as well as the circumstances and grounds on which the crime was not completed.
- (3) A circumstance, which constitutes a statutory feature of a crime may not be taken into consideration as an attenuating or aggravating circumstance, or as a circumstance which leads to the imposition of a higher (more severe) sentence.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 7, 8, 9(2), 10, 23, 27, 33, 34, 40 to 44, 76, 88(1)

**Some other relating provisions:**

- Charter of Fundamental Rights and Freedoms

**Commentary on provision 31:**

*Provision 31 provides fundamental guidelines to be followed when deciding on the types of punishments (sentences) and their extent.*

**Provision 32**

- (1) If offender commits a crime in a state of diminished sanity which he did not induce himself, even through his own negligence, by the influence of addictive substances, the court shall take this circumstance into consideration when determining the type (kind) of sentence and its extent.
- (2) If the court believes that, taking into account the offender's state of health, the purpose of the sentence can be attained by the imposition of a shortened term of imprisonment in addition protective therapy (the provision 72), it shall reduce the term of imprisonment to below the minimum level, not subject to the restriction stipulated provision in 40(3), and at the same time order protective therapy.

**Relating provisions of the Criminal Code:**

- provisions 4, 5, 12, 23, 25, 40, 72 89(10)

**Commentary on provision 32:**

*Diminished sanity decreases the degree of the offender's culpability, but it usually increases the degree of danger, which the offender poses to society.*

**Provision 33**

When deciding on the extent of a sentence, the court shall consider as an attenuating circumstance in particular the fact that the offender:

- (a) committed the crime in a state of severe agitation (excitement);
- (b) committed the crime at an age close to that of a juvenile;
- (c) committed the crime while dependent or subordinate;
- (d) committed the crime under threat or duress;
- (e) committed the crime under the influence of a difficult personal or family situation not caused by himself;
- (f) committed the crime while averting an attack or another danger without the conditions of necessary defence or extreme necessity being fully met;
- (g) had led an orderly life prior to committing the crime;
- (h) endeavoured to remove the harmful consequences of his crime, or voluntarily provided compensation for damage he had caused;
- (ch) sincerely regretted his crime;
- (i) himself reported his crime to the authorities;
- (j) assisted the appropriate organs in clearing up criminal acts, which he had committed;
- (k) assisted in the clearing up of criminal acts committed as part of a criminal conspiracy.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 4 to 6, 31, 34, 40

**Commentary on provision 33:**

*Provision 33 defines attenuating circumstances. Aggravating circumstances are stipulated in provision 34.*

**Provision 34**

When imposing a sentence, the court shall consider as an aggravating circumstance in particular the fact that the offender:

- (a) committed the crime for a particularly contemptible motive;
- (b) committed the crime in a brutal manner, insidiously, with special cunning or in a similar manner;
- (c) committed the crime by exploiting another person's helplessness, dependence or subordination;
- (d) committed the crime during a natural disaster, or during another event seriously threatening human lives, public order or property;
- (e) violated a special duty by his crime;
- (f) caused major damage by his crime;
- (g) committed the crime as its organiser, a member of an organised group or a member of a conspiracy;
- (h) enticed another person, especially a juvenile, to commit the crime;
- (ch) was engaged in criminal activity, or continued to engage in such activity, for a prolonged period;
- (i) committed two or more crimes; or
- (j) had already been sentenced for a crime; the court is authorised not to consider such fact as an aggravating circumstance according to the nature of the previous offence, particularly in respect of the significance of a protected interest affected by such act, the manner of

committing such act and its consequences, the circumstances under which it was committed, the offender's personality, the extent of his culpability, his motives and the period which has passed since his last sentence; the court shall consider whether it concerns an offender who has committed the crime of unauthorised (unlicensed) production and possession of addictive and psychotropic substances or poisons (provision 187a(1)) and whether such offender has committed the said crime because he is addicted to the use of addictive and psychotropic substances or poisons.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 4 to 6, 21(2), 31, 33

**Some other relating provisions:**

- *Criminal (Records) Register Act*

**Commentary on provision 34:**

*The facts outlined in provision 34 can only be considered as aggravating circumstances if they are directly attributable to the conduct of the offender in question.*

**Sentencing for Multiple Crimes  
Provision 35**

- (1) If the court sentences an offender for two or more crimes, it shall impose an aggregate sentence (in Czech "úhrný trest") upon him, according to the statutory provision relating to whichever of the crimes is subject to the strictest punishment; in addition to the punishment admissible under such statutory provision, the court may, within the scope of the aggregate sentence, also impose another type of punishment if this is warranted by one of the crimes for which the offender is being sentenced. If the minimum limits of the prison terms differ, the highest of them shall form the minimum limit of the aggregate sentence in question. If this Code stipulates only prison terms for such other crimes, none of the types of punishments stated in provision 27 may be imposed as part of the aggregate sentence.
- (2) The court shall impose a subsequent total sentence ("souhrnný trest"), according to the principles stipulated in sub-provision (1), when it passes a verdict relating to a crime committed by the offender before the court of first instance announced a verdict relating to another crime committed by the offender. When imposing such subsequent total sentence, the court shall cancel the verdict under which an earlier sentence was imposed on the same offender, as well as all other decisions connected thereto if, with regard to the modification caused by cancellation of the earlier verdict, they are no longer relevant. The subsequent total sentence may not be lower than the sentence imposed under the previous verdict. Within the scope of the subsequent total sentence, the court shall impose punishment in the form of loss of honorary titles and decorations or military rank, or forfeiture of property or a thing, if the previous verdict included any of these punishments.
- (3) The provision on subsequent total sentence shall not be applied if the previous conviction is such that the offender is regarded as not having been sentenced.

**Relating provisions of the Criminal Code:**

- provisions 3(1), 22(1), 27, 28, 31, 34(i), 36, 37, 69, 70, 80

**Commentary on provision 35:**

*Provision 35 is applicable if an offender has committed at least two crimes. Under sub-provision (1), an aggregate sentence is imposed as part of the same proceedings, whereas under sub-provision (2), a subsequent total sentence is imposed as part of the later proceedings.*

### **Provision 36**

If the court sentences an offender for a crime which he committed prior to the previously imposed punishment being fully enforced (served), and if the court imposes the same kind of punishment on him, this sentence, together with the as yet unenforced (non-served) part of the previously-imposed sentence, cannot exceed the maximum limit determined by this Code for such kind of sentence. If an exceptional sentence imposing a prison term of between fifteen and twenty-five years is involved, the maximum extent shall be a term of twenty-five years.

**Relating provisions of the Criminal Code:**

- provisions 27, 29, 34(j), 35, 37, 38, 42, 44, 78, 79

**Commentary on provision 36:**

*The procedure under provision 36 is applied if an offender who has already been sentenced once commits another crime prior to having served the previous sentence, and the court imposes another sentence on him of the same kind. There is some kind of discretion made by court.*

### **Provision 37**

The court shall waive imposition of a subsequent total sentence under provision 35(2), or imposition of a sentence under provision 36, if it is of the opinion that the previously imposed sentence is sufficient.

**Relating provisions of the Criminal Code:**

- provisions 23 to 26, 31, 35(2), 36, 77, 80

**Commentary on provision 37:**

*Provision 37 is covering two special cases of withheld sentences.*

### **Provision 38**

#### **Setting off a Custody Period against a Term of Imprisonment**

- (1) If an offender is held in custody during criminal proceedings and is sentenced in such proceedings to a certain term of imprisonment, the time which he spent in custody shall be set off against the term of imprisonment (i. e. his term of imprisonment shall be reduced by the time for which the offender was held in custody) or, where appropriate, against an aggregate or subsequent total sentence, if such set-off is possible.
- (2) If a sentence (punishment) was imposed on an offender by a court or other organ (authority), and such offender was sentenced anew in the same case, the already-served part of the earlier sentence (or paid penalty) shall be recognised in relation to the serving of the newly-imposed sentence (fulfilling a newly-imposed punishment), provided that this is feasible taking into account the type of such new sentence (punishment). The court shall proceed similarly if it imposes an aggregate sentence or a subsequently total sentence on the offender.
- (3) When the period of custody or imprisonment, or fulfilment of another punishment (sub-provision /1/ and /2/) cannot be included in the serving (fulfilling) of the new sentence, the court shall take this into consideration when determining the type of sentence and its extent.

**Relating provisions of the Criminal Code:**

- provisions 27, 28, 31, 35

**Some other relating provisions:**

- provisions 67 et seq, 334, of the Criminal Procedure Code

**Commentary on provision 38:**

*A period spent in custody and/or a part of a prison term already served by an offender who is newly-sentenced in the same case is recognised as part of the serving of the subsequently-imposed term of imprisonment.*

**Division 3  
Individual Punishments**

**Imprisonment  
Provision 39**

- (1) The maximum term of imprisonment shall be fifteen years.
- (2) In the case of a crime for which the maximum term of imprisonment does not exceed one year, an offender may be sentenced to unsuspended imprisonment only if, taking into account the person of such offender, imposition of another punishment would clearly not lead to attainment of the purpose of this offender's punishment.
- (3) Terms of imprisonment shall be served in prisons in accordance with another Act.

**Relating provisions of the Criminal Code:**

- provisions 23, 27, 29, 31, 39a, 39b, 40 to 44, 58 to 60b, 61(1) and (2), 62 to 70, 81;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- provisions 320 to 335 of the Criminal Procedure Code;
- Act on Serving Terms of Imprisonment;
- Act on the Prison Service;
- Decree on Rules for Serving Terms of Imprisonment;

**Commentary on provision 39:**

*The Criminal Code does not provide a uniform minimum term of imprisonment, but the minimum term is stipulated in sentencing guidelines for some particular crimes. The maximum term of imprisonment is fifteen years, unless an exceptional punishment under provision 29 (and the thereto-relating provisions) is ordered. In the case of an exceptional punishment, a term of imprisonment of from 15 to 25 years is imposed, or a life sentence.*

*The Criminal Procedure Code, the Act on Serving Terms of Imprisonment and certain other regulations apply to offenders serving prison terms.*

**Provision 39a**

- (1) A term of imprisonment is served in one of following four basic types of prisons:
  - (a) prisons where offenders are supervised
  - (b) prisons where offenders are subject to heightened supervision;
  - (c) prisons where offenders are subject to security measures;
  - (d) prisons where offenders are subject to heightened security measures (regime).

The manner of serving a term of imprisonment in individual types of prisons is regulated by another Act.

- (2) As a rule, the court shall allocate an offender to a prison:
  - (a) where he will be supervised if he has been sentenced for a crime committed by negligence and if he has not yet served any term of imprisonment for an intentional crime;

- (b) where he will be subject to heightened supervision if he has been sentenced for a crime committed by negligence and if he has already served a term of imprisonment for some other intentional crime, or if he has been sentenced for an intentional crime for a term not exceeding two years and he has not yet served any term of imprisonment for an intentional crime;
  - (c) where he will be subject to security measures if he has been sentenced for an intentional crime but he does not meet the conditions for being allocated to a prison where he will be supervised or subject to heightened supervision, or for a crime committed by negligence and is not allocated to a prison where he will be supervised or subject to heightened supervision;
  - (d) where he will be subject to heightened security measures if he has been sentenced to life imprisonment or a term of imprisonment as an exceptionally dangerous recidivist (provision 41/1/), or if he has been sentenced for an exceptionally serious crime (provision 41/2/) to a minimum term of imprisonment of eight years, or for an intentional crime and he escaped from custody or prison during the previous five years.
- (3) The court may allocate an offender to a type of prison other than that under sub-provision (2) if, because of the seriousness of his criminal act and the degree and nature of his offence, it is expected that his rehabilitation will be ensured in another type of prison; however, the court shall always allocate an offender sentenced to an exceptional term of imprisonment to a prison where there are heightened security measures.

**Relating provisions of the Criminal Code:**

- provisions 4, 5, 23, 27, 31, 39, 39b to 44, 58 to 60b, 61(1) and (2), 62 to 70, 81;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- provisions 320 to 335 of the Criminal Procedure Code;
- Act on Serving Terms of Imprisonment;
- Act on the Prison Service;
- Decree on Rules for Serving Terms of Imprisonment;

**Commentary on provision 39a:**

*The wording of provision 39a is the result of amendments to the Criminal Code, effective as of 1 January 1994, introducing the present basic classification of prisons. When the court sentences an offender to a term of imprisonment, it concurrently specifies the type of prison where the offender will serve his term. The court may subsequently change the type of prison depending on the offender's behaviour and other factors.*

**Provision 39b**

- (1) The court may decide to transfer a convicted person (an offender) from a prison of one type to another, provided that the subsequent type of prison differs from the (earlier) one by only one degree.
- (2) The court may decide to transfer a convicted person from one type of prison to another with a more liberal regime only when the convicted person's behaviour and manner of fulfilling his duties justify the conclusion that his transfer will contribute to attainment of the purpose for which he is serving a prison term.
- (3) The court may decide to transfer a convicted person from one type of prison to another where there is a stricter regime if:

- (a) the convicted person in question has seriously or repeatedly violated the prison's order or discipline;
- (b) the convicted person in question has been convicted of a crime under a final verdict and such crime was committed during his term of imprisonment.
- (4) A convicted person may not be transferred from a prison with a heightened security regime:
  - (a) if he has been sentenced to an exceptional term of imprisonment and has not served at least ten years of his term; or
  - (b) if he has been sentenced to a term of imprisonment in a prison with a heightened security regime and has not yet served at least one-third of his term in this type of prison.
- (5) A convicted person who is ordered by the court to undergo protective therapy in an institution cannot be transferred to a prison where there is supervision or heightened supervision.
- (6) Acting on a petition submitted by a convicted person who has served continuously at least one-third of his term in a prison of a certain type, but not less than six months, the court may decide to transfer him to a prison with a more liberal regime; this shall not apply to a convicted person sentenced to life imprisonment and serving his term in a prison with a heightened security regime.
- (7) When a petition submitted under sub-provision (6) is not granted, the convicted person concerned may file another petition only after expiry of six months from termination of the proceedings relating to his previous petition.

**Relating provisions of the Criminal Code:**

- provisions 23, 27, 29, 31, 39, 39a, 72, 81a, 89(15)

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Act on Serving Terms of Imprisonment;
- Act on the Prison Service;
- Decree on Rules for Serving Terms of Imprisonment;
- Decree on Rules of Procedure for District and Regional Courts;
- provision 324 of the Criminal Procedure Code;

**Commentary on provision 39b:**

*The provisions of section 39b were introduced into the Criminal Code by Act No. 152/1995 Coll. on the basis of a finding of the Constitutional Court promulgated under No. 8/1995 Coll. These provisions were previously included in the Act on Serving Terms of Imprisonment which explains the use of the term "convicted person" (being the term of adjective law; in Czech "odsouzený") rather than "offender" (a term used in substantive law; in Czech "pachatel").*

**Provision 40**  
**Exceptional Reduction of a Term of Imprisonment**

- (1) If, taking into account the circumstances of the offender, the court is of the opinion that to impose a term of imprisonment provided for in the Code would be disproportionately harsh on the offender, and that the purpose of the punishment can be achieved by a shorter term, the court may reduce the term of imprisonment to below the minimum term set by this Code.



- (2) The court may also reduce a term of imprisonment to below the minimum limit when it sentences an offender for preparation of a crime or for an attempted crime and, in view of the nature and (lesser) seriousness of such conduct, it is of the opinion that application of the term of imprisonment stipulated by this Code would be disproportionately harsh on the offender, and that the purpose of punishment can be achieved by imposing a shorter term of imprisonment.
- (3) The court may also reduce a term of imprisonment to below the minimum limit when it sentences an offender who has significantly contributed to the clearing up of criminal activity committed as part of a criminal conspiracy (band) and assisted in preventing criminal activity prepared or attempted by someone else as part of such criminal conspiracy, if, because of the possibility of the offender's rehabilitation and the nature of the crime he committed, the court believes that the purpose of punishment can be achieved by imposing a shorter term of imprisonment.
- (4) When reducing a term of imprisonment under the provisions of subsections (1) to (3), the court may not impose a term of:
  - (a) less than five years, if the stipulated minimum term of imprisonment is at least twelve years;
  - (b) less than three years, if the stipulated minimum term is at least eight years;
  - (c) less than a year, if the stipulated minimum term is at least five years.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 7, 8, 23, 31, 39, 43, 88, 89(1) and (17);

**Commentary on provision 40:**

*The provisions of section 40 cannot be applied if a minimum prison term is not stipulated in the Criminal Code. This provision may also not be referred to (even by analogy) in the case of punishments other than a term of imprisonment, either unsuspended or suspended. The present wording of provision 40 is the result of amendments enacted in 1990 and in 1995.*

**Sentencing a Particularly Dangerous Recidivist to a Term of Imprisonment  
Provision 41**

- (1) An offender who repeats an especially serious premediated crime, even though he has already been punished for a crime of such type, or for another type of especially serious premediated crime, shall be considered as a particularly dangerous recidivist (habitual offender) if this circumstance, given the seriousness of the crime and particularly the period since the offender's (previous) sentencing, substantially increases the degree of danger represented by the crime to society.
- (2) "Especially serious crimes" are crimes stipulated in the provision 62 (the Penal Code) and those premediated crimes punishable by a maximum term of imprisonment of at least eight years.

**Relating provisions of the Criminal Code:**

- provisions 3, 23, 39, 39a(2) and (3), 42 to 44, 62;

**Commentary on provision 41:**

*The present wording of provision 41 results from amendments enacted in 1990. Sub-provision (1) defines what is meant by "a particularly dangerous recidivist" ("zvlášť nebezpečný recidivista"), while sub-provision (2) provides a definition of an "especially serious crime". See also provision 42.*

### Provision 42

- (1) In the case of a particularly dangerous recidivist, one-third more shall increase the maximum term of imprisonment stipulated in Penal Code. The court shall sentence a particularly dangerous recidivist to a term of imprisonment in the upper half of the range so determined.
- (2) However, the maximum term of imprisonment shall not exceed fifteen years, even after an increase under sub-provision 1. When imposing an extraordinary term of imprisonment of from fifteen years to twenty-five years, the upper limit may not exceed twenty-five years.

**Relating provisions of the Criminal Code:**

- provisions 3, 23, 29, 31, 39, 39a(2) and (3), 41, 62;

**Commentary on provision 42:**

*An offender who is regarded as a particularly dangerous recidivist under provision 41 must be sentenced in accordance with the provisions of section 42. His term of imprisonment is to be increased mandatorily by one-third. If the basic term of imprisonment under the sentencing guidelines is from one year to eight years, the upper half of the range increased under sub-provision (1) will be from five years and ten months to ten years and eight months.*

### Sentencing an Offender Who is Part of a Conspiracy Provision 43

An offender who has committed a premeditated crime as a member of a conspiracy (a conspirator), or an offender who has committed such crime deliberately with a member of a conspiracy, or which the intention of assisting such conspiracy, shall be considered as having committed a crime as part of a conspiracy, if the circumstances of the case or the person of the offender substantially increases the degree of the danger he represents to society.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 6(b), 41, 42, 44, 88(2), 89(17), 163a to 163c.

**Some relating provisions of other Acts:**

- *Act on Serving Terms of Imprisonment;*
- *Act on the Czech Republic's Police;*
- *Money Laundering Act;*
- *Convention on Money Laundering;*

**Commentary on provision 43:**

*The provisions of sections 43 and 44 in their present wording were introduced under Act No. 152/1995 Coll. as part of the measures taken against organised crime.*

### Provision 44

- (1) The maximum term of imprisonment stipulated in this Code shall be raised by one-third in the case of a crime committed by an offender as part of a criminal conspiracy. Such offender shall be sentenced by a court to a term of imprisonment in the upper half of the determined range.
- (2) Following an increase under sub-provision (1), the maximum term of imprisonment may not exceed fifteen years. When imposing an extraordinary term of imprisonment of from fifteen years to twenty-five years, the maximum term of imprisonment may not exceed twenty-five years.

**Relating provisions of the Criminal Code:**

- *provisions 29, 31, 39(1), 39a, 42, 43*

**Some relating provisions of other Acts:**

- *Act on Serving Terms of Imprisonment;*
- *Decree on Rules for Serving Terms of Imprisonment;*

**Commentary on provision 44:**

*A term of imprisonment imposed on an offender who commits a crime as part of criminal conspiracy is mandatorily increased under provision 44.*

**Community Work (Publicly Beneficial Work)  
Provision 45**

- (1) The court may sentence an offender to community work (publicly beneficial work) if the offender has committed a crime for which this Code provides a term of imprisonment not exceeding five years and if, owing to the nature of the committed crime and the possibility of rehabilitating the offender, it can reasonably be assumed that the imposition of a community work sentence on such offender will serve the purpose of punishment as well as if the offender served a term of imprisonment.
- (2) Under the conditions stipulated in sub-provision (1), a community work sentence can be imposed, even though this kind of punishment is not provided for in the Special Part of this Code. It may be ordered as a sole punishment or in addition to another punishment. However, it may not be imposed in addition to a term of imprisonment.
- (3) A community work sentence consists in the convicted offender's duty to do work benefiting community (municipality), such as maintenance of public areas, cleaning and maintaining public buildings and streets (roads), and similar work of benefit to the public.

**Relating provisions of the Criminal Code:**

- *provisions 23, 27, 28, 31, 39 et seq, 45a, 78;*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols concerning the Convention;*
- *Municipalities Act;*
- *Act on District Authorities and Their Powers;*
- *Act on Employment and the Powers of Czech Employment Agencies;*
- *provisions 335 to 340b of the Criminal Procedure Code;*

**Commentary on provision 45:**

*The Czech term "obecní prospíšné práce", literally "publicly beneficial work", is translated as "community work", term used in English-speaking countries. Community work as a punishment was introduced into the (Czech) Criminal Code by Act No. 152/1995 Coll.*

**Provision 45a**

- (1) A community work sentence may be imposed of from 50 to 400 hours. The court may concurrently also impose on the offender, for the duration of the said punishment, other restrictions aimed at introducing order into the offender's way of life; as a rule, the offender is also ordered to compensate damage caused by his crime.
- (2) When imposing a community work sentence, the court shall also take into account the state of the offender's health. The court shall not impose a community work sentence on an

offender whose state of health does not make him fit for systematic performance of community work.

- (3) A convicted offender is obliged to perform community work in person and free-of-charge in his own time, no later than one year from the day when the court ordered him to perform community work.
- (4) If, in the time between imposition of the community work sentence and its end, the offender fails to lead an orderly way of life, or he fails to carry out the community work sentence, the court shall change his punishment from community work, or its remaining part, to a term of imprisonment, and it shall concurrently decide on the manner of the offender's imprisonment; thereby, every two (even just commenced) hours of unperformed community work shall be counted as one day of imprisonment.
- (5) An offender ordered to perform community work shall be regarded as not having been sentenced (convicted) as soon as he has completed his sentence or as soon as his punishment, or its remaining part, was waived under a final verdict.

**Relating provisions of the Criminal Code:**

- provisions 26(4), 31, 39, 39a, 70;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Municipalities Act;
- Act on District Authorities and Their Powers;
- The People's Health Care Act;
- provisions 335 to 340b of the Criminal Procedure Code.

**Commentary on provision 45a:**

*When an offender is sentenced to community work, the court must concurrently order the number of hours in the year for which the offender is to do such work. The prescribed range of between 50 and 400 hours is not reduced when a juvenile is sentenced to community work.*

**Provision 46  
Loss of Honorary Titles and Decorations**

- (1) A court may order the loss of honorary titles and decorations if it sentences an offender who has committed a premeditated crime out of an especially contemptible motive to an unconditional sentence of no less than two years of imprisonment.
- (2) A loss of honorary titles and decorations consists in the convicted offender's losing decorations, honours, scientific and artistic degrees and other honorary titles granted to him under Czech statutory provisions, as well as the right to use foreign decorations and foreign honorary titles.

**Relating provisions of the Criminal Code:**

- provisions 4, 23, 27, 31, 34(a), 35(2), 39, 69(2)

**Some relating provisions of other Acts:**

- Article 63(1)(h) of the Constitution of the Czech Republic;
- Act on State Decorations of the Czech Republic;
- Universities Act;
- Act on the Czech Academy of Sciences;
- Act on the Award of Scientific Titles and on the State Commission for Scientific Titles;
- Decree No. 64/1977 Coll. on proceedings relating to the award of scientific titles;

**Commentary on provision 46:**

*A loss of honorary titles and decorations is a subsidiary punishment which may never be imposed alone. It can only be ordered when the court sentences an offender to unsuspended imprisonment of at least two years because he has committed a premeditated and especially contemptibly-motivated crime.*

**Loss of Military Rank  
Provision 47**

- (1) The court may order punishment in the form of a loss of military rank if it imposes on an offender who has committed a premeditated crime out of an especially contemptible motive an unconditional sentence of at least two years' imprisonment.
- (2) A court may also impose this punishment in addition to another punishment, if such punishment is required because of the nature of the committed crime in order to maintain discipline and order in the armed forces or an armed corps.

**Relating provisions of the Criminal Code:**

- provisions 4, 23, 27, 31, 34(a), 39, 48, 90(4) and (5);

**Some relating provisions of other Acts:**

- *Military Service Act;*
- *Act on Certain Service Relationships of Soldiers;*
- *Act on the Czech Army;*
- *Act on the Service Relationships of Members of the Czech Republic's Police;*
- *Act on the Security Intelligence Service;*
- *Act on the Prison Service;*

**Commentary on provision 47:**

*A loss of military rank is a subsidiary punishment which may only be imposed on an offender who has been sentenced to unsuspended imprisonment of at least two years, because he committed a premeditated and especially contemptibly-motivated crime. For the purposes of the Criminal Code, military ranks are ranks of members of the Czech Army (including reservists), the Czech Police, the Prison Service and the Security Intelligence Service.*

**Provision 48**

A loss of military rank consists in reducing the rank of the convicted offender to that of a private (in the army) and in withdrawing his previous rank in the armed corps.

**Relating provisions of the Criminal Code:**

- provisions 47, 69(2), 90(3) and (4);

**Some relating provisions of other Acts:**

- *Military Service Act;*
- *Act on Certain Service Relationships of Soldiers;*
- *Act on the Czech Army;*
- *Act on the Service Relationships of Members of the Czech Republic's Police;*
- *Act on the Security Intelligence Service;*
- *Act on the Prison Service;*

**Commentary on provision 48:**

*A loss of military rank by an offender who is serving in the Czech Army, the Czech Police or another armed corps results in the termination of his professional activity. In this respect, this punishment is similar to the prohibition of a specific activity under provisions 49 and 50.*

**Prohibition of a Specific Activity  
Provision 49**

- (1) A court may order a prohibition of a specific activity for a period of from one to ten years, if the offender in question has committed a crime related to such activity.
- (2) The court may only order prohibition of an activity as an independent (sole) punishment if the Special Part of this Code permits imposition of such punishment and if, because of the committed crime and the possibility of the offender's rehabilitation, no other punishment is considered necessary to achieve the purpose of the sentence.
- (3) If the court orders prohibition of an activity in addition to an unconditional (unsuspended) term of imprisonment, the prison term shall not be counted as a period when such activity was not performed; however, it shall include the time for which the offender's authorisation to perform such activity was withdrawn under other provisions or on the basis of a decision by a state authority (organ) prior to the sentence taking legal force.

**Relating provisions of the Criminal Code:**

- provisions 23, 27, 28, 31, 38, 39, 50, 61(2), 78, 171(1)(c);

**Some relating provisions of other Acts:**

- provision 350 of the Criminal Procedure Code;
- Labour Code;
- Trades Licensing Act;
- Misdemeanours Act;
- Road Traffic Safety and Movement Act;
- Decree on Road Traffic Rules;

**Commentary on provision 49:**

*An offender may be sentenced to prohibition of a specific activity for a period ranging from one year to ten years, if he has committed a crime connected to the activity. This punishment is ordered in order to temporarily eliminate the offender from performing a specific profession, office or activity which requires a special authorisation or licence. It is not imposed mandatorily. In certain cases (see sub-provision /2/), prohibition of a specific activity may be ordered as a sole punishment.*

**Provision 50**

- (1) The punishment of prohibition of an activity consists in the offender being prohibited from performing a certain job (employment) or profession (occupation), or a certain office or activity which requires a special authorisation or performance of which is regulated by other (special) provisions.
- (2) Once the punishment of prohibition of an activity has been completed, the offender concerned shall be regarded as not having been sentenced.

**Relating provisions of the Criminal Code:**

- provisions 27, 28, 31, 49, 61(2), 70(3);

**Some relating provisions of other Acts:**

- provision 350 of the Criminal Procedure Code;
- Labour Code;
- Trades Licensing Act;
- Misdemeanours Act;
- Road Traffic Safety and Movement Act;
- Decree on Road Traffic Rules;

**Commentary on provision 50:**

*Provision 50 specifies the scope of "activity" which may be prohibited. Provision 50 does not enable the court to order an offender to refrain from his bad habits. On the other hand, some restrictions in this respect may be imposed under other provisions.*

**Forfeiture of Property  
Provision 51**

- (1) Owing to the circumstances of the committed crime and the offender's personal situation, the court may order forfeiture of his property, if the offender has been sentenced to an unsuspended term of imprisonment for a premeditated crime by which the offender acquired, or attempted to acquire, a property benefit.
- (2) The court may only impose forfeiture of property without the conditions under sub-provision (1) being met if the Special Part of this Code permits imposition of such punishment; forfeiture of property may be imposed as a sole sentence if, because of the nature of the crime and the person of the offender, imposition of another punishment is not considered necessary for achieving the purpose of punishing the offender.

**Relating provisions of the Criminal Code:**

- provisions 4, 23, 27 to 29, 35(2), 39, 39a, 41(2);

**Some relating provisions of other Acts:**

- Constitution of the Czech Republic;
- Charter of Fundamental Rights and Freedoms;
- provisions 345 to 349 of the Criminal Procedure Code;
- Civil Code;

**Commentary on provision 51:**

*A sentence of forfeiture of property represents an exception from constitutional protection of the inviolability of property. Forfeiture of property is ordered only under the conditions stipulated in provision 51.*

**Provision 52**

- (1) Forfeiture of property shall apply to the entire property of the convicted offender, or only to a part of his property as determined by the court; forfeiture shall not apply to means or things which are required for satisfying the wants of the offender or persons whose maintenance or upbringing is the offender's duty under statutory provisions.
- (2) A sentence of forfeiture of property shall terminate shared ownership of property based on statutory provisions.
- (3) The forfeited property shall escheat to the state.

**Relating provisions of the Criminal Code:**

- provisions 51, 89(13);

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Civil Procedure Code;
- Family Act;
- provisions 345 to 349 of the Criminal Procedure Code;
- Decree on Rules of Conduct for District and Regional Courts.

**Commentary on provision 52:**

*A court may order forfeiture of all property belonging to a particular offender, or only forfeiture of a part of his property. In both cases, the restricting condition stipulated in sub-provision (1) applies.*

**Pecuniary Penalty  
Provision 53**

- (1) A court may impose a pecuniary penalty in an amount ranging from CZK 2,000 to CZK 5 million, if the offender acquired or attempted to acquire a property benefit by his criminal activity.
- (2) The court may only impose a pecuniary penalty without the conditions under sub-provision (1) being met where:
  - (a) the Special Part of this Code so permits, or
  - (b) it imposes such pecuniary penalty for the commission of a crime punishable by a maximum term of imprisonment not exceeding three years and, because of the nature of the committed crime and the possibility of the offender's rehabilitation, a concurrent sentence of imprisonment is not imposed.
- (3) A pecuniary penalty may be imposed as a sole punishment if, because of the nature of the committed crime and the possibility of the offender's rehabilitation, the court is of the opinion that no other punishment is required.
- (4) The court may determine that the pecuniary penalty shall be paid in appropriate monthly instalments.

**Relating provisions of the Criminal Code:**

- provisions 23, 27, 28, 31, 54, 78;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- provisions 341 to 344 of the Criminal Procedure Code;
- Misdemeanours Act;
- Czech National Bank Act;

**Commentary on provision 53:**

*A pecuniary penalty may be imposed as a sole punishment, or in addition to another punishment, under the conditions laid down in provision 53.*

**Provision 54**

- (1) When fixing a pecuniary penalty, the court shall take into consideration the offender's personal and property situation; the court shall not impose a pecuniary penalty if it is obvious that such penalty would be uncollectible.
- (2) The collected amount of the pecuniary penalty shall escheat to the state.
- (3) If the court imposes a pecuniary penalty, it shall also determine an alternative punishment of imprisonment of up to two years, should the pecuniary penalty not be paid within the fixed time-limit. The alternative punishment, together with a previously imposed term of imprisonment, may not exceed the maximum statutory limit stipulated for such crime.



- (4) An offender who is ordered to pay a pecuniary penalty for a crime committed due to his negligence shall be regarded as not having been sentenced, once the pecuniary penalty has been paid, or if its payment (fulfilment) or part payment was waived under an enforceable verdict.

**Relating provisions of the Criminal Code:**

- provisions 23, 27, 28, 31, 53, 69(1)(c), 70(3), 78;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- provisions 341 to 344 of the Criminal Procedure Code;
- Misdemeanours Act;
- Czech National Bank Act;

**Commentary on provision 54:**

*It is necessary for the court to ascertain the property and personal circumstances of an offender prior to sentencing him to a pecuniary penalty. This type of punishment is not imposed when it is obvious that the pecuniary penalty will be uncollectible. If a pecuniary penalty is ordered and not paid within the determined period, the offender is required to serve a term of imprisonment of a given length, not exceeding two years.*

**Forfeiture of Things  
Provision 55**

- (1) The court may impose forfeiture of a thing which:
- (a) was used to commit a crime;
  - (b) was determined to be used to commit a crime;
  - (c) the offender acquired by his crime, or as a reward for such a crime;
  - or
  - (d) the offender at least partly acquired for another thing stipulated under (c), unless the value of the thing under (c) is negligible in relation to the thing acquired.
- (2) The court may order forfeiture of a thing only if such thing belongs to the offender.
- (3) The forfeited thing shall become the property of the state.
- (4) An offender who is only punished by forfeiture of a certain thing shall be regarded as not having been sentenced, once the decision under which such punishment was imposed becomes final (takes legal effect).

**Relating provisions of the Criminal Code:**

- provision 3(1) and (2), 27, 28, 35(2), 56, 70(3), 73, 78, 89(13);

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;
- provisions 78 to 81 of the Criminal Procedure Code;
- Misdemeanours Act;

**Commentary on provision 55:**

*Forfeiture of a specific thing relates to a crime committed by a particular offender. The objective is to withdraw from the offender concerned a specific thing which he owns and which he used, or might use, in his criminal activity, or which he acquired in connection with his criminal activity. Forfeiture of a specific thing may be imposed as a sole punishment, or in addition to some other type (kind) of punishment – for example in addition to a pecuniary penalty or forfeiture of part of the*

*offender's property not involving such specific thing, or a term of imprisonment. A sentence of forfeiture of a specific thing cannot be suspended.*

#### **Provision 56**

A court may only impose forfeiture of a thing as the sole punishment where the Special Part of this Code permits imposition of this punishment and if, in view of the nature of the committed crime and the possibility of rehabilitating the offender, no other punishment is considered necessary for achieving the purpose of punishment.

#### **Relating provisions of the Criminal Code:**

- *provisions 23, 28, 31;*

#### **Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Civil Code;*
- *provisions 78 to 81 of the Criminal Procedure Code;*
- *Misdemeanours Act;*

#### **Commentary on provision 56:**

*Forfeiture of a specific thing may only be ordered as a sole punishment in accordance with the conditions stipulated in the Criminal Code. The court takes into account the value of the specific thing liable to forfeiture, the nature of the crime committed and the possibility of the offender's rehabilitation.*

#### **Provision 57**

#### **Expulsion (from the Czech Republic)**

- (1) A court may expel from the territory of the Czech Republic a person who is not a citizen of the Czech Republic, or who is not a person granted the status of a refugee; expulsion may be ordered as a sole punishment or in addition to another punishment, if this is required for the safety of the people or property or some other public interest.
- (2) The court shall take into consideration the degree of danger represented by the crime in question to society, the possibility of rehabilitating the offender and the offender's situation, as well as the degree of danger he represents to the safety of people, property or some other public interest, and shall sentence him either to expulsion for a period of from one to ten years, or to expulsion for an indefinite time.
- (3) The court shall not order the punishment of expulsion if:
  - (a) it proved impossible to establish the state citizenship of the offender;
  - (b) asylum was granted to the offender;
  - (c) long-term residence on the territory of the Czech Republic was permitted to the offender and he has his working and social base there, and expulsion would be contrary to the interest of uniting a family; or
  - (d) there is a danger that, in the state (country) to which the offender is to be expelled, he will be prosecuted on grounds of his race, nationality or allegiance to a social group, political ideas or religious belief, or if expulsion would expose the offender to torture or inhuman or degrading treatment or punishment.

#### **Relating provisions of the Criminal Code:**

- *provision 3(4), 23, 28(1), 31(1), 78, 171(1)(b);*

#### **Some relating provision of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*

- *provision 350b to 350f of the Criminal Procedure Code;*
- *Refugees Act;*
- *Act on Foreigners' Stay and Residence on the Territory of the Czech Republic;*
- *Act on the Acquisition and Loss of State Citizenship of the Czech Republic;*
- *International Covenant on Civil and Political Rights;*
- *Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols concerning the Convention;*
- *Convention and Protocol on Refugee Status;*
- *Convention on the Rights of the Child;*
- *Convention on Torture and other Cruel, Inhuman and Degrading Forms of Punishment;*
- *European Convention for the Prevention of Torture;*
- *International Convention for the Elimination of All Forms of Racial Discrimination;*

**Commentary on provision 57:**

*Under provision 57 it does not matter whether an offender who is not a citizen of the Czech Republic or a person granted refugee status is on the territory of the Czech Republic at the time of his sentencing to expulsion. Under the previous wording, an offender could only be expelled for an indefinite period of time. A 1997 amendment now enables expulsion either for a term of between one and ten years or for an indefinite period. The 1997 amendment also introduced grounds on which expulsion from the Czech Republic cannot be ordered. Expulsion may be imposed as a sole punishment, or in addition to another punishment.*

**Provision 57a  
Prohibition of Stay**

- (1) The court may order a prohibition of stay ranging from one year to five years as punishment for a premeditated crime if, because of the offender's previous way of life and the place where he committed his crime, this is required in the interests of the protection of public order, family, health, morality or property; the prohibition of stay may not involve the place or district where the offender has his permanent residential address.
- (2) A prohibition of stay may be imposed as a sole punishment for a crime for which the maximum term of imprisonment stipulated by this Code does not exceed three years, if, because of the nature of the committed crime and the possibility of rehabilitating the offender, the court considers imposition of another punishment unnecessary.
- (3) The court may impose on the offender under sentence appropriate restrictions aimed at introducing order into his way of life.
- (4) The term of the offender's imprisonment shall not be included in the term to which the prohibition of stay applies; a decision under sub-provision (3) shall only be taken by the court after the offender has served his term of imprisonment, or on his conditional release (parole).
- (5) A prohibition of stay consists in the offender being prohibited for the duration of such punishment to stay in a determined place or district; if the offender needs to stay in such a place for personal reasons, he must obtain authorisation (permission) thereto.

**Relating provisions of the Criminal Code:**

- *provisions 4, 23, 26(4), 27, 28, 31, 33(g), 39, 61(2), 63(2), 64, 69, 171(1)(a);*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Act on Reporting and Registering the Stay of Citizens;*
- *Decree implementing the Act on Reporting and Registering the Stay of Citizens;*

**Commentary on provision 57a:**

*Under the Charter of Fundamental Rights and Freedoms, it is only possible to restrict a person's freedom of movements and stay by law, if this is unavoidable for the security of the state (country), maintenance of public order, protection of the health, rights and freedoms of other persons and, within limited areas, for the protection of nature.*

*A 1990 amendment introduced conditions for ordering a prohibition of stay in a certain place.*

*A prohibition of stay may be ordered as a sole punishment, or in addition to another punishment. A juvenile may not be sentenced to prohibition of stay (see provision 78).*

**Division IV**  
**Suspended Sentence, Parole, and Waiver of Remainders of Certain Punishments**

**Suspended Sentence**  
**Provision 58**

- (1) The court may suspend an offender's term of imprisonment when his term of imprisonment does not exceed two years,
  - (a) if, because of the person of such offender, particularly his previous way of life and his living and working milieu and also the circumstances of the case, it is believed that the purpose of punishment will be achieved even without the offender serving a term of imprisonment; or
  - (b) if the court accepts a guarantee of the offender's rehabilitation, and if, in view of the educational influence of the person who offered such guarantee, it can be reasonably assumed that the purpose of punishment will be achieved even without the offender serving a term of imprisonment.
- (2) Where the court approves suspension of an offender's term of imprisonment, such suspension does not apply to the other punishments imposed on the offender (i. e. besides the term of imprisonment).

**Relating provisions of the Criminal Code:**

- provisions 23, 26 to 28, 31, 39, 59 to 60b, 82

**Some other relating provisions:**

- provisions 3 to 6, 329, 330 of the Criminal Procedure Code

**Commentary on provision 58:**

*An offender who has been sentenced to a term of imprisonment of up to two years, may have his term of imprisonment suspended on condition that during the probationary period he will behave in an orderly manner and comply with any restrictions imposed on him.*

**Provision 59**

- (1) When an offender's sentence is suspended, the court shall fix a probationary period of one up to five years; the probationary period shall begin to run as of the day when the verdict becomes final.
- (2) The court may impose on the probationer appropriate restrictions (under provision 26/4/) aimed at his leading an orderly lifestyle; as a rule, it shall order him to provide compensation, to the best of his ability, for the damage he had caused by his crime.

- (3) The time, for which the probationer led an orderly lifestyle and fulfilled the conditions placed on him during the probationary period, shall be included into (credited to) the probationary period if newly ordered under a suspended sentence for the same act, or into the probationary period ordered in the case of an aggregate sentence or a subsequent total sentence.

**Relating provisions of the Criminal Code:**

- provisions 23, 26 to 28, 31, 38, 39, 58, 60 to 60b, 82

**Some other relating provisions:**

- provisions 3 to 6, 329, 330 of the Criminal Procedure Code

**Commentary on provision 59:**

*In the case of a suspended sentence, the probationary period ranges from one to five years, unless the convicted person is a juvenile, when the probationary period ranges from one to three years.*

**Provision 60**

- (1) If, during the probationary period, the probationer has led an orderly lifestyle and complied with the conditions placed on him, the court shall declare that he has proved himself (i. e. that he has stood his test); otherwise the court shall order, if need be even within the probationary period, that the probationer will serve his term of imprisonment.
- (2) If a guarantee of the probationer's reform is withdrawn by the person who provided it, the court shall consider the probationer's behaviour during the probationary period and if it finds that the suspended sentence has failed to meet its purpose, it shall decide that the probationer will serve his term of imprisonment; otherwise, it shall allow the suspended sentence to stand.
- (3) If the court does not take a decision under sub-provision (1) within a year of expiry of the probationary period, without the probationer being at fault in this respect, it shall be assumed that the probationer has stood his test.
- (4) If the court declares that the probationer has stood his test, or that he is considered as having stood the test (sub-provision 1/1), the probationer shall be regarded as not having been sentenced (convicted).
- (5) If the court decides under sub-provision (1) or (2) that the term of imprisonment is to be served, it shall also decide on the manner of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 33(g), 39, 39a, 58, 59, 60a, 60b, 70(2) and (3), 82

**Commentary on provision 60:**

*The court has to ascertain whether the probationer complied with the conditions imposed on him during the probationary period before it concludes that he has proved himself. A probationer who does not comply with the conditions of the probationary period has to serve his term of imprisonment.*

**Suspended Sentence with Supervision  
Provision 60a**

- (1) Under the conditions stipulated in provision 58(1), the court may (conditionally) suspend a sentence if the term of imprisonment involved does not exceed three years, provided that it also orders supervision of the offender concerned.

- (2) In the case of a suspended sentence of a probationer, supervised by a probationer officer, the court shall set a probationary period of from one to five years; the probationary period shall start to run when the decision becomes final (legally effective).
- (3) The court may impose on a probationer who is under suspended sentence and supervision appropriate restrictions and appropriate duties (stipulated in provision 26/4/) aimed at obliging him to lead an orderly life and, as a rule, the court shall also order him to provide compensation as best he can for damage which he caused.
- (4) If a probationer under supervision led an orderly lifestyle during his probationary period and complied with all the conditions imposed on him, the court shall declare that he has proved himself (passed the test); otherwise, the court shall decide, even in the course of the probationary period, that he shall serve his term of imprisonment.
- (5) If, within one year of expiry of the probationary period, the court does not make a decision under sub-provision (4), without the probationer being at fault in this respect, it shall be assumed that the probationer has proved himself.
- (6) If the court declares that the probationer proved himself or if he is regarded as having proved himself (i. e. having stood his test), the probationer shall be regarded as not having been sentenced. If under sub-provision (4) the court makes a decision that the probationer shall serve his term of imprisonment, it shall also decide on the manner of such imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 23, 26 to 28, 31, 39, 58 to 60, 60b, 82

**Some other relating provisions:**

- Higher Judicial Officers Act

**Commentary on provision 60a:**

*A suspended sentence with supervision relates to suspension of the serving of a term of imprisonment. Provision 60a was introduced into the Criminal Code by Act No. 253/1997 Coll. with effect from 1 January 1998.*

**Provision 60b**

The provision on suspended sentences apply, as appropriate, to the relationship between a conditionally suspended term of imprisonment and other punishments imposed under this Code, revocation of a guarantee of an offender's rehabilitation, and inclusion of the time for which a supervised probationer led a proper way of life during his probationary period into any new probationary period.

**Relating provisions of the Criminal Code:**

- provisions 35, 58(2), 59(3), 60(2)

**Commentary on provision 60b:**

*Provision 60b only refers to other provisions on conditionally suspended sentences.*

**Parole and Conditional Waiver of Punishment Prohibiting  
Specific Activity or Stay (Residence)  
Provision 61**

- (1) The court may release a convicted person (parolee) on parole after such person has served one-half of the term of imprisonment to which he has been sentenced, or after the convicted person's term of imprisonment has been reduced by a decision of the President of the (Czech) Republic, provided that during the term of imprisonment the convicted person proved his rehabilitation by his behaviour and fulfilment of his duties and:
  - (a) he can be expected to lead on orderly life in future; or
  - (b) the court accepts a guarantee of completion of the convicted person's rehabilitation.
- (2) After execution of one-half of a punishment prohibiting the convicted person from engaging in a certain activity or staying somewhere, the court may conditionally suspend execution of the punishment, provided that the convicted person proves by his way of life when the punishment was applied that its continued execution is unnecessary or if the court accepts a guarantee of completion of the convicted person's rehabilitation.

**Relating provisions of the Criminal Code:**

- provisions 33(g), 39, 39a, 49, 50, 57a, 62, 63, 64, 70(2) and (3), 87(2)

**Some other relating provisions of other Acts:**

- provisions 331 to 333 of the Criminal Procedure Code;
- Act on Serving Terms of Imprisonment;

**Commentary on provision 61:**

*Provision 61 enables mitigation of imposed punishments after an offender serves one-half of his term of imprisonment, or complies with a prohibition of stay or prohibition of engaging in a specific activity for half of the stipulated term.*

**Provision 62**

- (1) A person convicted of high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a), diversionist activity (provisions 95 and 96), sabotage (provision 97), espionage (provision 105), war treason (provision 114), unlawful crossing of the state border under provision 171b(3), common danger under provision 179(2) and (3), putting the safety of an aircraft or a civil vessel at risk under provision 180a, unlawful taking of an aircraft abroad under provision 180c(2), unlawful production and keeping of addictive and psychotropic substances under provision 187(4), murder (provision 219), robbery under provision 234(2) and (3), hostage-taking under provision 234a(3), rape under provision 241(2) and (3), sexual abuse under provision 242(3) and (4), theft (larceny) under provision 247(4), embezzlement under provision 248(4), fraud under provision 250(4), insurance fraud 250a (5), credit fraud 250b (5), genocide (provision 259 or persecution of a population under provision 263a(3) or crime against peace under provision 1 of the Peace Protection Act, No. 165/1950 Coll., and an especially dangerous recidivist or a person sentenced to an exceptional term of imprisonment (provision 29/2/) may be released on parole only after having served two-thirds of the imposed term of imprisonment.
- (2) A person sentenced to an exceptional term of life imprisonment may be conditionally released on parole after having served at least twenty years of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 29, 39, 39a, 41, 42, 61(1), 63(1) and (3), 64

**Some relating provisions of other Acts:**

- provisions 331 to 333 of the Criminal Procedure Code;
- Act on Serving Terms of Imprisonment;

**Commentary on provision 62:**

*Provision 62 provides that, in respect of the stipulated crimes, an offender may only be conditionally released after having served two-thirds of his term of imprisonment.*

**Provision 63**

- (1) When releasing a convicted person on parole (conditional release from imprisonment), the court shall set a probationary period of from one to seven years; the probationary period starts to run on the day the convicted person (the parolee) is released on parole.
- (2) When conditionally suspending the remainder of a sentence involving a prohibition of engaging in a certain activity or a prohibition of stay (residence), the court shall set a probationary period of up to five years, but the probationary period may not be shorter than the remainder of the imposed punishment (sentence). The probationary period shall start to run on the day when the decision to conditionally suspend the sentence takes legal effect.
- (3) The court may impose on the parolee appropriate restrictions to make him lead an orderly way of life; the court may also order the parolee to compensate, according to his ability, the damage he caused by his crime.

**Relating provisions of the Criminal Code:**

- provisions 26(4), 39, 39a, 49, 50, 57a, 61, 64

**Some other relating provisions:**

- provision 331 to 333 of the Criminal Procedure Code;

**Commentary on provision 63:**

*A probationary period for those conditionally released from prison is from one to seven years.*

**Provision 64**

- (1) If conditional suspension applies to the remainder of the punishment of a parolee or a probationer who has been prohibited from engaging in a certain activity or prohibited from stay, and who has led an orderly way of life in the probationary period and fulfilled the conditions placed on him, the court shall proclaim that he has proved himself; otherwise, the court shall order that the remaining punishment be applied, if need be even during the probationary period.
- (2) If the court declares that a parolee or probationer (whose punishment consisting in a prohibition of engaging in a certain activity or in a prohibition of stay has been conditionally suspended), has proved himself, the punishment shall be considered as having been executed on the day when he was released on parole or when the court's decision suspending the remainder of such punishment took effect.
- (3) A parolee or a probationer, whose remaining punishment prohibiting him from engaging in a certain activity or from staying somewhere has been conditionally suspended, shall be regarded as having served his punishment on the day of his conditional release, or on the day when the decision suspending the prohibition of his activity or stay takes effect, and also if, without fault on his part, the court has failed to issue a decision under sub-provision (1) within one year of expiry of the probationary period.



- (4) The (new) subsequent conditional release of a convicted person on parole while he is serving a term of imprisonment for the same crime shall be permitted only after the convicted person has served one-half of the remaining sentence and, in a case under provision 62(1), after he has served two-thirds of it.
- (5) If a guarantee given for completing the convicted person's rehabilitation is withdrawn by the person who gave it, the court shall review the convicted person's behaviour during the probationary period and, if it finds that the release on parole or suspension of the remaining sentence (prohibiting him from engaging in a specific activity or stay) has not met its purpose, it shall order that the remaining sentence be executed; otherwise, it shall allow the parole or suspension of the remaining sentence to stand.

**Relating provisions of the Criminal Code:**

- provisions 39, 39a, 49, 50, 57a, 61 to 63, 87(2)

**Some relating provisions of other Acts:**

- provisions 331 to 333 of the Criminal Procedure Code;
- Act on Serving Terms of Imprisonment;

**Commentary on provision 64:**

*The court has to consider whether the parolee's (or probationer's) behaviour and way of life proves his rehabilitation.*

**Provision 64a**

**Repealed**

**CHAPTER V**

**EXTINGUISHMENT OF CRIMINAL LIABILITY AND PUNISHMENT**

**Provision 65**

**Cessation of the Danger Represented by a Criminal Act to Society**

The liability to punishment for an act which was dangerous to society when it was committed shall extinguish if, because of a change in the situation or person of the offender, the danger represented by such criminal act to society has passed.

**Relating provisions of the Criminal Code:**

- provisions 3(1) and (2), 3(4), 16;

**Commentary on provisions 65 to 70:**

*Facts under provisions 65 to 67a extinguish criminal liability, whereas the facts stipulated in provisions 68 to 70 extinguish the punishment.*

**Provision 66**

**Effective Repentance**

Liability to punishment for high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a), diversionist activity (provisions 95 a 96), sabotage (provision 97), espionage (provision 105), **endangering official secrets (provisions 106 and 107)**, contravention of provisions on the circulation of goods in relations with foreign countries (provision 124), on disposal of controlled goods and technologies (provisions 124a, 124b and 124c) and on foreign trade in military materiel (provisions 124d, 124e and 124f), endangering foreign exchange management (provision 146), underpayment of taxes, fees (charges) and similar dues (provision 148), mutiny by prisoners (provision 172), common danger (provisions 179 and 180), endangering the environment (provisions 181a and 181b), damaging and endangering the operation of publicly beneficial facilities (provisions 182 to 184), spreading infectious diseases (provisions 189 to 192),

endangering public health with defective foodstuffs and other commodities (provisions 193 and 194), scaremongering (provision 199), hostage-taking (provision 234a), genocide (provision 259) and the use of forbidden (unlawful) means of combat and unpermitted methods of fighting (provision 262) shall extinguish if the offender has voluntarily:

- (a) prevented or put right the harmful effect of his crime; or
- (b) reported the crime at a time when its harmful effects could still be prevented. The report (notification) must be made to a prosecutor or a police organ; a soldier can report the crime to his commander or superior office instead.

**Relating provisions of the Criminal Code:**

- provisions 3, 7(3), 8(3), 147a, 163, 163b, 214;

**Some other relating provisions:**

- provisions 8, 172(1)(f), 188(1)(c), 226(e) of the Criminal Procedure Code;

**Negative Prescription of Criminal Prosecution  
Provision 67**

- (1) Liability to punishment for a crime shall become statute-barred on expiry of the period of the statute of limitations (negative prescription), which is:
  - (a) twenty years, in the case of a crime for which provisions included in the Special Part of this Code permit imposition of an exceptional punishment, and in the case of a crime committed in preparing a privatisation project under the Large-Scale Privatisation Act (officially known as the Act on the Conditions of Transfer of State-Owned Property to Other Persons), No. 92/1991 Coll., as subsequently amended;
  - (b) ten years, if the maximum term of imprisonment is no less than ten years;
  - (c) five years, if the maximum term of imprisonment is no less than three years;
  - (d) three years, in the case of other crimes.
- (2) The period of negative prescription (statute of limitations) shall not include:
  - (a) a period during which the offender could not be tried because of a legal impediment;
  - (b) a period when the offender was abroad;
  - (c) the probationary period if there is a conditional stay of criminal prosecution.
- (3) Negative prescription of a criminal prosecution shall be interrupted:
  - (a) when the offender is accused of a crime affected by negative prescription when also subsequent tasks are directed towards criminal prosecution of the offender by a police organ (agency), investigator, state prosecutor or the court; or
  - (b) when, during a period of negative prescription, the offender commits a new crime which is punishable under this Code by the same or a stricter punishment.
- (4) A new period of negative prescription shall commence to run when the (initial) period of negative prescription is interrupted.

**Relating provisions of the Criminal Code:**

- *provisions 27, 29, 39, 67a, 89(15);*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *provisions 11(1)(b), 172(1)(f), 188(1)(c), 223(1), 257(b) of the Criminal Procedure Code;*
- *Act on the Unlawfulness of the Communist Regime and on Resistance to it;*
- *Act on Eliminating the Negative Prescription of Prosecution for Major Crimes against Peace, War Crimes and Crimes against Humanity;*
- *Judicial Rehabilitation Act;*
- *Large-Scale Privatisation Act;*

**Provision 67a**

Expiry of a period of negative prescription shall not extinguish liability to punishment for:

- (a) the crimes stipulated in Chapter X, with the exception of a crime under provision 261;
- (b) the crimes of terror (provision 93 and 93a), causing common danger (provision 179(2) and (3)), murder (provision 219), harming someone's health (provision 221(2)(b), (3) and (4), and 222), restricting personal freedom (provision 232), unlawful taking of a person abroad (provision 233) and breaking into someone's home (provision 238(2) and (3)) if any such crime is committed in circumstances which result in it being regarded as a war crime or a crime against humanity, under the rules of international law;
- (c) a crime under provision 1 of the Peace Protection Act, No. 165/1950 Coll., promulgated on 20 December 1950.

**Relating provisions of the Criminal Code:**

- *provision 67;*

**Some relating provisions of other Acts:**

- *Peace Protection Act;*
- *Act on Eliminating the Negative Prescription of Prosecution for Major Crimes against Peace, War Crimes and Crimes against Humanity Committed in the Interest of Occupying Forces;*
- *Convention on the Imprescriptibility of War Crimes and Crimes against Humanity;*

**Negative Prescription of Punishment****Provision 68**

- (1) An imposed punishment (sentence) cannot be enforced after expiry of a negative prescription period, which is:
  - (a) twenty years, in the case of a sentence to exceptional punishment;
  - (b) fifteen years, in the case of a sentence to imprisonment for a term exceeding ten years;
  - (c) ten years, in the case of a sentence to imprisonment for a term of no less than five years;
  - (d) five years, in the case of another punishment.
- (2) The period of negative prescription shall start to run as of the day when the sentence becomes final and, in the case of a suspended sentence or of release on parole, on the day when the verdict ordering enforcement of the punishment (sentence) takes legal effect. The period of negative prescription shall not include a period of time when the punishment could not be enforced because the convict was abroad, or because he was in prison for another

crime. With regard to the prohibition of a specific activity, a pecuniary penalty, a punishment in the form of a prohibition of stay (residence) and expulsion, the period of negative prescription shall not include the period of time when the convicted person serves his term of imprisonment.

- (3) The period of negative prescription shall be interrupted:
  - (a) if the court takes steps to enforce a punishment to which the period of negative prescription is related; or
  - (b) if, during this period, the convicted person commits a new crime for which this Code provides the same or a stricter punishment.
- (4) A new period of negative prescription shall commence to run when the (initial) period of negative prescription is interrupted.

**Relating provisions of the Criminal Code:**

- *provisions 27, 29, 39, 60, 64, 68a;*

**Some relating provisions of other Acts:**

- *Criminal Procedure Code;*
- *Act on Eliminating the Negative Prescription of Prosecutor for Major Crimes against Peace, War Crimes and Crimes against Humanity Committed in the Interest of Occupying Forces.*

**Provision 68a**

Execution of a punishment imposed for any crime stipulated in provision 67a shall not be statute-barred.

**Relating provisions of the Criminal Code:**

- *provisions 67a, 68;*

**Some relating provisions of other Acts:**

- *Peace Protection Act;*
- *Act on Eliminating the Negative Prescription of Prosecution for Major Crimes against Peace, War Crimes and Crimes against Humanity Committed in the Interest of Occupying Forces;*
- *Convention on the Imprescriptibility of War Crimes and Crimes against Humanity.*

**Deletion of a Sentence  
Provision 69**

- (1) The court shall delete a convicted person's sentence (from the Criminal Register) if, following execution of his punishment, or remission of his punishment (a pardon) or negative prescription applying to the execution of his punishment, the convicted person has been continuously leading an orderly way of life for a period of no less than:
  - (a) ten years, in the case of a sentence to a term of imprisonment exceeding five years;
  - (b) five years, in the case of a sentence to a term of imprisonment exceeding one year;
  - (c) three years, in the case of a sentence involving a term of imprisonment not exceeding one year, forfeiture of property or a prohibition of stay (residence), or a pecuniary penalty for a deliberate crime.
- (2) In the case of a sentence involving loss of honorary titles and decorations or loss of military rank, the period under sub-provision (1) shall be governed by the length of the term of

imprisonment to which the convicted person was sentenced, in addition to another punishment.

- (3) If after completion of the convict's punishment, or its remission (pardon) or negative prescription, the convict proves his reformation by exemplary behaviour and an honest attitude to work, the court may delete the sentence, acting on an application submitted either by the convict or by the person authorised to offer a guarantee for completion of the convict's reformation, even prior to expiry of the period stipulated in sub-provision (1).
- (4) In the case of a parolee who is regarded as having completed his term of imprisonment on the day he is conditionally released on parole, the period stipulated in sub-provision (1) shall be related to the length of his actual imprisonment; if the convict's term of imprisonment was reduced under a decision (pardon) of the President of the Czech Republic, the period stipulated in sub-provision (1) shall be related to such reduced term.

**Relating provisions of the Criminal Code:**

- provisions 27, 33(g), 39 to 64, 70, 87;

**Some relating provisions of other Acts:**

- Article 62(g) of the Constitution of the Czech Republic;
- provisions 363 to 365 of the Criminal Procedure Code;
- Criminal (Records) Register Act;

### **Provision 70**

- (1) An offender shall be regarded as not having been sentenced, once his sentence is deleted from the Criminal (Records) Register.
- (2) If an offender was sentenced to two or more parallel punishments, his sentence may not be deleted from the Criminal (Records) Register until expiry of the longest period set for deletion of a punishment under this Code.
- (3) The provision of subsection (2) shall apply mutatis mutandis to a case where an offender was sentenced to two or more parallel punishments in respect of which the offender may be regarded under this Code as not having been convicted.

**Relating provisions of the Criminal Code:**

- provisions 24(2), 45a(5), 50(2), 54(4), 55, 60(4), 87;

**Some relating provisions of other Acts:**

- provisions 363 to 365 of the Criminal Procedure Code;
- Criminal (Records) Register Act;

## **CHAPTER VI PROTECTIVE MEASURES**

### **Provision 71 Types of Protective Measures**

- (1) Protective measures shall include protective therapy (medical treatment), reformatory training and seizure of a thing.
- (2) Reformatory training may be ordered only in relation to a juvenile.

**Relating provisions of the Criminal Code:**

- *provisions 16(3), 72, 73, 84 to 86;*

**Some relating provisions of other Acts:**

- *Article 39 of the Charter of Fundamental Rights and Freedoms;*
- *provisions 351 to 357 of the Criminal Procedure Code;*

**Commentary on provisions 71 to 73:**

*In addition to the threat of punishment and imposition and execution of punishment, there are also protective measures which are used to attain the purpose of the law (this Code) and which are regulated in this Chapter.*

**Provision 72**  
**Protective Therapy**

- (1) A court shall order protective therapy in the cases laid down in provisions 25 and 32(2), or if an offender is not criminally liable because of insanity and it would be dangerous if he remained at large.
- (2) The court may also order protective therapy,
  - (a) if an offender commits a crime in a state approaching insanity and his remaining at large would be dangerous; or
  - (b) if an offender who excessively uses addictive substances commits a crime under their influence or in connection with their misuse; the court shall not order protective therapy when it is obvious, taking into account the person of the offender, that such therapy would not serve its purpose.
- (3) The court may order protective therapy in addition to a punishment, or when it waives such punishment.
- (4) If an offender is sentenced to a term of imprisonment, his protective therapy shall, as a rule, commence in prison after he starts serving his term of imprisonment. In other cases, protective therapy is usually provided in a medical institution. If, owing to the nature of the offender's illness and the therapeutical possibilities, it can be expected that the purpose of the therapy can be attained by outpatient treatment, the court may order this or, where appropriate, to change the protective therapy provided while the offender is in the medical institution to outpatient treatment, or vice versa. If the term of imprisonment served in prison proves insufficient for the purpose of the therapy (treatment), the court may order that such therapy be continued either in a curative medical institution or in an outpatients' department after the imprisonment.
- (5) Protective therapy (treatment) shall continue as long as its purpose requires. However, protective therapy imposed under sub-provision (2) may be brought to an end if, in the course of such therapy, it is established that the purpose of the therapy (treatment) cannot be attained. The offender's release from protective therapy shall be ordered by the court.
- (6) The court shall abandon a protective therapy (treatment) if, prior to its commencement, the grounds on which the protective therapy was ordered cease to exist.

**Relating provisions of the Criminal Code:**

- *provision 12, 23 to 25, 32, 77, 89 (10);*

**Some relating provisions of other Acts:**

- *Article 8(6) of the Charter of Fundamental Rights and Freedoms;*

- *provisions 351 to 353 of the Criminal Procedure Code;*
- *provisions 41 to 43 of the Decree on Rules of Procedure for District and Regional Courts;*
- *provision 9 of the Act on the Prevention of Alcoholism and Other Forms of Toxic Addiction;*
- *provisions 191a to 191g of the Civil Procedure Code;*

**Provision 73  
Seizure of a Thing**

- (1) Unless the court orders forfeiture of a particular thing under provision 55(1), it may order that such thing be seized,
  - (a) if it belongs to an offender who cannot be prosecuted or sentenced,
  - (b) if it belongs to an offender whose punishment has been waived by the court, or
  - (c) if the safety of the people or property, or a similar public interest, so requires.
- (2) The seized thing shall become the property of the state.

**Relating provisions of the Criminal Code:**

- *provision 55(1);*

**Some other relating provisions:**

- *provisions 42, 178, 230, 239, 239a of the Criminal Procedure Code;*

**CHAPTER VII  
SPECIAL PROVISIONS  
ON THE PROSECUTION OF JUVENILES**

**Provision 74  
General Provisions**

- (1) When punishing a person whose age at the time he committed a crime was over fifteen and not over eighteen years (a juvenile), the court shall consider special care which society provides for young people.
- (2) Unless this Chapter includes special provisions, the other provisions of this Code shall apply to juveniles.

**Relating provisions of the Criminal Code:**

- *provisions 11, 89(15);*

**Some other relating provisions:**

- *provisions 36(1)(c), 36a (1)(c) and (2)(c), 291 to 301 of the Criminal Procedure Code;*

**Commentary on provisions 74 to 87:**

*For the purposes of the criminal law, a juvenile is a person between the ages of 15 and 18. A person who becomes a major under other statutory provisions (for example, the Civil Code) is still regarded as a juvenile under the criminal law, if the person is between the ages of 15 and 18 (with the exception of provision 34 of the Criminal Procedure Code on legal representation).*

*A person who is not yet 15 (and even on the day when he becomes 15) is not liable for an act otherwise having the attributes of a crime.*

*An offender who commits a criminal act on the day he is 18 is still considered a juvenile.*

*Provision 86 stipulates that a person who has reached the age of 12 but is still under 15 and commits an act for which the Criminal Code imposes an exceptional term of imprisonment on adults shall be ordered in civil-law proceedings to undergo reformatory training (education).*

*An act committed by a juvenile which has the attributes of a crime, but which represents only a small threat to society, is not regarded as a crime (provision 75).*

*The purpose of punishments imposed on juveniles for their criminal activity is primarily to reform them. The types of punishment which can be imposed on juveniles are stipulated in provision 78. Terms of imprisonment are reduced to one-half in the case of juveniles and are to be in the range stipulated in provision 79.*

### **Provision 75 Criminal Liability**

An act whose features are specified in this Code shall not be considered as a crime if committed by a juvenile and if the degree of danger it represents to society is small.

**Relating provisions of the Criminal Code:**

- *provisions 3, 74;*

### **Provision 76 The Purpose of Punishment**

The purpose of punishment of a juvenile shall primarily be to bring him up so that he becomes a decent citizen, taking into consideration his personal characteristics, his family upbringing and the milieu from which he comes.

**Relating provisions of the Criminal Code:**

- *provisions 23, 77 to 82;*

**Some other relating provisions:**

- *provisions 51 to 58 of the Act on Serving Terms of Imprisonment;*

### **Provision 77 Waiver of Punishment**

- (1) If the court waives punishment of a juvenile, it may ask the person authorised to offer a guarantee for the juvenile's rehabilitation, even though such guarantee has not been offered, to assist in creating conditions in which the juvenile can lead an orderly way of life.
- (2) The court may also waive punishment of a juvenile if it believes that the reformatory training (provision 84) which it concurrently orders is more appropriate to the juvenile's rehabilitation than punishment.

**Relating provisions of the Criminal Code:**

- *provisions 24, 25, 84;*

**Some other relating provisions:**

- *provision 4 of the Criminal Procedure Code;*

### **Imposition of Punishments Provision 78**

The court may impose on a juvenile only punishments which involve imprisonment, community work, forfeiture of a thing, expulsion and, if the juvenile earns money, a pecuniary penalty; punishment by prohibiting a specific activity may only be imposed on a juvenile if this does not hinder his vocational training, whereby the maximum term of such punishment may not therefore exceed five years.



**Relating provisions of the Criminal Code:**

- *provisions 35 to 37, 39 to 40, 45, 45a, 49, 50, 53 to 57, 79 to 81;*

**Provision 79**

- (1) The terms of imprisonment set in this Code shall be reduced to one-half in the case of juveniles the maximum term may not exceed five years and the minimum term one year.
- (2) If a juvenile commits a crime for which the Special Part of this Code permits imposition of an exceptional punishment, and if the degree of danger represented by such crime to society in respect of the contemptible manner and motive of the crime, or its seriousness and reversibility is exceptionally high, the court may sentence the juvenile to a term of from five to ten years' imprisonment, if it believes that a term of imprisonment within the range stipulated in sub-provision (1) would not suffice for the purpose of his punishment.
- (3) The court may also sentence a juvenile to a term of imprisonment of from five to ten years if he committed his crime while serving as a soldier at the time of defence emergency or in a combat situation, and if the Special Part of this Code permits imposition of an exceptional punishment for such crime, and the crime frustrated or substantially endangered military (combat) operations or substantially threatened discipline or order in the armed forces or in an armed corps, and if the court believes that a term of imprisonment as stipulated in sub-provision (1) would not suffice for the purpose of his punishment.

**Relating provisions of the Criminal Code:**

- *provisions 23 et seq, 29, 31 et seq, 39 et seq, 81 82;*

**Provision 80****Aggregate and Subsequent Total Sentences**

If a court imposes an aggregate or a subsequent total sentence on an offender who committed his crimes both before he attained the age of eighteen and after he was eighteen, the court shall proceed under the provisions of section 35 and/or section 37, whereby the limits applying to crimes committed before the offender was over eighteen shall be considered under the provisions of section 79.

**Relating provisions of the Criminal Code:**

- *provisions 35, 37, 79;*

**Provision 81****Serving a Term of Imprisonment**

- (1) Persons who are not over the age of eighteen years shall serve their term of imprisonment separately from other convicted persons in special prisons or sections.
- (2) A court may decide that a juvenile who is already over the age of eighteen shall serve his term of imprisonment in such special prison or section, thereby taking into consideration the length of such term and the degree and nature of the juvenile's demoralisation.

**Relating provisions of the Criminal Code:**

- *provisions 39a, 76;*

**Some relating provisions of other Acts:**

- *provisions 5, 6, 51 to 58 of the Act on Serving Terms of Imprisonment;*
- *Decree on Rules for Serving Terms of Imprisonment;*

### **Provision 81a**

- (1) If a juvenile reaches the age of eighteen while serving a term of imprisonment, the court may decide that he should be transferred to a prison for other convicts. When deciding so, the court shall take into consideration in particular the degree of the juvenile's rehabilitation and the period of imprisonment which he still has to serve. If the court transfers him to such prison, it may concurrently decide that he shall serve his imprisonment in type of prison which may differ from the type of prison in which he was previously held by one degree.
- (2) A decision to transfer a convicted person to a prison for other convicts shall always be considered as a decision to transfer him to a prison with a stricter regime.

#### **Relating provisions of the Criminal Code:**

- *provisions 39a, 39b, 76, 81;*

#### **Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Act on Serving Terms of Imprisonment;*
- *Act on the Prison Service;*
- *Decree on Rules for Serving Terms of Imprisonment;*
- *Decree on Rules of Procedure for District and Regional Courts;*

### **Provision 82 Suspended Sentence**

- (1) When imposing a suspended sentence on a juvenile, the court shall set a probationary period of from one to three years.
- (2) If a juvenile who received a suspended sentence had not attained the age of twenty at the time when he gave cause for the sentence to be executed, the court may, in exceptional circumstances, leave the suspended sentence in effect. However, it may commensurately extend the probationary period, but not by more than two years.

#### **Relating provisions of the Criminal Code:**

- *provisions 58 to 60;*

### **Provision 83 Repealed**

### **Reformative Training Provision 84**

- (1) If the court passes sentence on a juvenile, it may order reformative training (upbringing):
  - (a) if the juvenile is not being properly brought up;
  - (b) if the previous upbringing of this juvenile has been neglected;
  - (c) if this is required because of the milieu in which the juvenile lives.
- (2) Reformative training cannot be ordered in the case of soldiers.

#### **Some relating provisions of other Acts:**

- *provisions 291 to 301, 354 to 357 of the Criminal Procedure Code;*
- *Decree on Rules of Procedure for District and Regional Courts;*

### **Provision 85**

- (1) Reformatory training is provided in special training facilities. If the inmate's state of health so requires, such reformatory training shall be provided in a medical institution.
- (2) Proper pedagogical guidance shall be provided in the course of reformatory training to ensure that the inmate is vocationally trained.
- (3) Reformatory training shall last as long as its purpose requires, but no longer than the inmate reaches the age of eighteen; however, if the inmates interest so requires, the court may extend the period of reformatory training until he reaches the age of nineteen.
- (4) If the circumstances for which reformatory training was ordered no longer exist, the court shall waive it.
- (5) If the reformation of a certain inmate has progressed to such an extent that it may be expected that he will lead an orderly way of life and work properly, without even his confinement in a reformatory facility, and despite the fact that not all of the circumstances for which reformatory training was ordered have ceased to exist, the court may conditionally place the juvenile outside the reformatory facility.
- (6) If the juvenile fails to meet expectations regarding his way of life and proper work when placed outside a reformatory training facility, the court shall cancel his conditional placement outside such facility and decide that the juvenile shall receive further training in the facility.

#### **Some relating provisions of other Acts:**

- *provisions 291 to 301, 354 to 357 of the Criminal Procedure Code;*
- *provisions 25 to 31b of the Act on School Establishments;*
- *provisions 3 to 38 of the Decree on School Establishments providing Institutional and Protective Care;*
- *provision 44 of the Decree on Rules of Procedure for District and Regional Courts;*

### **Provision 86**

If a person who has reached the age of twelve but is under fifteen years old commits a crime for which he may be sentenced to an exceptional punishment under the provisions of the Special Part of this Code, the court shall order his reformatory training (education) in civil-law proceedings; the court may also so order if this is necessary to ensure the proper education of a person under fifteen years of age who commits an act which would otherwise be considered a crime.

#### **Relating provisions of the Criminal Code:**

- *provisions 11, 89(15);*

#### **Some relating provisions of other Acts:**

- *provisions 176 to 189 of the Civil Procedure Code;*
- *Family Act;*

### **Provision 87 Deletion of a Sentence**

- (1) The court shall decide whether the conviction of a juvenile be deleted, taking into consideration his behaviour while serving his term of imprisonment and afterwards. If the juvenile's punishment was mitigated by a decision of the President of the Czech Republic, the court shall do so when the juvenile is released from prison after he has served the reduced term of imprisonment.

- (2) If the court declares that a juvenile conditionally released from prison has proved himself, he shall be regarded as not having been sentenced.
- (3) A juvenile punished by a pecuniary penalty shall be considered as not having been sentenced once he has paid the penalty, or once the punishment has been entirely waived under a final decision.
- (4) A juvenile sentenced to forfeiture of a particular thing shall be regarded as not having been sentenced once the verdict under which such punishment was ordered has become final (legally effective).

**Relating provisions of the Criminal Code:**

- provisions 53 to 56, 61 to 64;

**Some other relating provisions:**

- provisions 139, 331 to 333, 344(1), 363 to 365 of the Criminal Procedure Code;

## CHAPTER VIII JOINT PROVISIONS

### Provision 88

- (1) Circumstances requiring a higher punishment shall be taken into consideration only if their gravity substantially increases the degree to which the crime represents a danger to society.
- (2) The fact that an offender committed a crime as a member of an organised group shall not prevent him from being concurrently punished, under the conditions stipulated in this Code, as someone who committed a crime as part of a criminal conspiracy.

**Relating provisions of the Criminal Code:**

- provisions 3(4), 6, 31(3), 34(g), 43 et seq, 89(17);

**Commentary on provisions 88 to 90:**

*Provisions 88 to 90 explain some terms used in the Criminal Code.*

*Of particular importance is the explanation of the terms relating to various degrees of damage. Under provision 89(11) of the Criminal Code (and Government Decree No. 464/1991) Coll. determining the minimum monthly wage for the purposes of the Criminal Code:*

*"damage which is not negligible" ("škoda nikoli nepatrná") means damage which amounts to no less CZK 2,000;*

*"damage which is not small" ("škoda nikoli malá") refers to damage in an amount equal to six times the minimum monthly wage (CZK 12,000);*

*"significant damage" ("víšší škoda") refers to damage equal to twenty times the minimum monthly wage (CZK 40,000);*

*"substantial damage" ("znaèená škoda") is damage equal to no less than one hundred times the minimum monthly wage (CZK 200,000);*

*"large-scale damage", also referred to as "extensive damage" ("škoda velkého rozsahu"), means damage amounting to no less than five hundred times the minimum wage (CZK 1 million).*

*Provision 89 also explains other terms, such as "a close person" ("osoba blízká"), "severe injury to health" ("tížká újma na zdraví"), "a public official" ("veøejný èinitel"). The term "soldier" ("voják") is explained in provision 90.*

**Provision 89**

- (1) The term "crime" shall mean an act punishable in judicial proceedings and, unless a specific provision indicates otherwise, also the preparation of a crime, or an attempted crime and the organising of a crime, or instigating and assisting one.
- (2) The term "act" or "conduct" shall also mean the omission of an act which the offender was obliged to perform according to the circumstances and his situation.
- (3) "Continuation in a crime" ("a continuing crime") shall mean conduct whose individual parts follow a common intent, thereby constituting the fact of a criminal act, and are associated by being committed in the same or a similar manner, from the standpoint of time and their object.
- (4) "A crime is committed publicly" if it is committed:
  - (a) by means of the content of printed matter or the distribution of written material, or by film, radio or TV broadcasting, or in another similarly effective manner; or
  - (b) in the presence of two concurrently present persons.
- (5) "A crime is committed with a weapon" if the offender or, with his knowledge, one of his accomplices uses a weapon in an attack, to overcome or prevent resistance, or if he carries a weapon for this purpose; unless specific provisions stipulate otherwise, a weapon shall mean any object by which a bodily assault can be made more emphatic.
- (6) A crime is also committed violently (forcibly) if an offender uses a trick to make another person helpless.
- (7) "A severe injury to health" shall mean serious harm to health or a serious illness. Under these conditions, a severe injury shall mean:
  - (a) maiming;
  - (b) loss or substantial deterioration of the ability to work;
  - (c) crippling a limb;
  - (d) loss or substantial deterioration in the functioning of one (or more) of the senses;
  - (e) injury to an important organ;
  - (f) disfigurement;
  - (g) inducing an abortion;
  - (h) agonising suffering; or
  - (ch) long-term impairment of health.
- (8) "A close person" shall mean any relative in direct ascent or descent, an adoptive parent(s) and an adopted child (person), siblings, or a husband or wife; other persons in a family or similar relationship shall only be considered as close persons when the harm suffered by one of them is justifiably felt by the other as his own harm.

- (9) "A public official" shall mean an elected (public) representative or other person authorised by the state administration or local (municipal) authority, a court or other state organ, or a member of the armed forces or armed corps insofar as he takes part in the fulfilment of the tasks set by society and the state, for which he exercises authority entrusted to him as part of his responsibility. Criminal liability and protection of a public official under individual provisions of this Code shall require that a crime be committed in connection with the official's authority (competence) and responsibility. The official or the another responsible employee of state body, self-administration, Armed Services or security services of foreign state are deemed on these conditions as public officials if it is stipulated by an international agreement that is bound for the Czech Republic.
- (10) "An addictive substance" shall mean alcohol, narcotic and psychotropic substances and other substances capable of adversely influencing a person's psyche or his self-control and judgement or his social behaviour.
- (11) "Damage which is not negligible" shall mean damage amounting to no less than the minimum monthly wage stipulated in a Government Decree (Order), "damage which is not small" shall mean damage in an amount equal to no less than six times the minimum monthly wage, "significant damage" shall mean damage which amounts to no less than twenty times the minimum monthly wage, "substantial damage" shall be damage equal to no less than one hundred times the minimum monthly wage, and "large-scale damage" (or "extensive damage") shall mean damage amounting to no less than five hundred times the minimum monthly wage. The said amounts shall similarly apply for determining the benefit value or the value of a thing.
- (12) When the amount of a damage is determined, it shall be based on the price for which the object of the attack is usually sold at the place and time of such attack. If the amount of a damage cannot be established in this manner, it shall be based on the cost of obtaining an identical or similar thing or restoring it to its previous condition (to the condition prior to it being damaged).
- (13) The term "thing" shall also mean a controllable natural force. The provisions on things also apply to securities.
- (14) "Burglary" shall mean entering locked premises by a trick, or unlawfully forcing a lock or some other security (safety) device.
- (15) Wherever this Code relates to an effect occurring on the lapse of a certain period of time, the day on which the event determining the beginning of such period took place shall not be included in the period.
- (16) For the purposes of the Criminal Code, an individual (a natural person) who carries on a business (entrepreneurial) activity in accordance with another Act shall be considered an organisation.
- (17) "Criminal conspiracy" shall mean a group of several persons, when such group has its own internal organisational structure with a division of roles (among individual persons) and their activities are aimed at attaining a profit by a systematic involvement in deliberate criminal activity.

***Relating provisions of the Criminal Code:***

- provisions 3, 7, 8, 10, 43 et seq, 163a to 163c;

***Some relating provisions of other Acts:***

- *provision 100 of the Criminal Procedure Code;*
- *Official Secrets Protection Act;*

- *Government Order on Lists of Official Secrets;*
- *Act on the Prevention of Alcoholism and Other Forms of Toxic Addiction;*
- *Government Order on Poisons and Certain Other Substances Harmful to Health;*
- *Government Order determining the Minimum Monthly Wage for the Purposes of the Criminal Code;*
- *Act on Prices;*
- *Decree implementing the Act on Prices;*
- *provisions 34a to 34c of the Act on the Czech Republic's Police;*

#### **Provision 90**

- (1) If this Code requires a special feature, capability or position on the part of an offender for the commission of a crime, the offender or his accomplice may only be a person who possesses the required (characteristic) feature, capability or position. A soldier may only commit a military crime under the provisions of Chapter XII of the Special Part of this Code.
- (2) If this Code stipulates that an offender must possess a special (characteristic) feature, capability or position, it shall suffice if such special feature, capability or position pertains to a legal entity in whose name (on whose behalf) the offender is acting.
- (3) An organiser, instigator or assistant of a crime stipulated in sub-provision (1) and (2) may also be a person who does not possess the (characteristic) feature, capability or position required therein.
- (4) Wherever this Code refers to "a soldier", this term shall mean:
  - (a) a soldier on active service;
  - (b) a person who, by virtue of his having been called up for special duty, has become a member of the armed forces;
  - (c) a member of a militarily-organised or other corps whose members are subject, under other laws, to the provisions on military crimes, provided that these persons are on active service;
  - (d) a soldier or member of a corps under (c) who is not on active service if he is in uniform; or
  - (e) a prisoner of war.
- (5) Wherever this Code refers to "military service" or "military duty", it shall mean service or duty by the persons stipulated in sub-provision (4).

#### **Relating provisions of the Criminal Code:**

- *provisions 9, 10(1), 273 to 293;*

#### **Some relating provisions of other Acts:**

- *Military Service Act;*
- *Act on the Czech Republic's Police;*
- *Act on the Security Intelligence Service;*
- *Act on the Prison Service;*

**PART TWO  
SPECIAL PART**

**CHAPTER I  
CRIMES AGAINST THE REPUBLIC**

**Division 1  
Crimes against the Foundations of the Republic**

**Provision 91  
High Treason**

A citizen of the Czech Republic who is in contact with a foreign power or a foreign agent and commits the crime of subversion of the Republic, terror, diversionist activities or sabotage shall be sentenced to a term of imprisonment of from twelve to fifteen years or to an exceptional punishment.

***Relating provisions of the Criminal Code:***

- *provisions 7, 29, 39 et seq, 41(2), 62, 66, 90(1), 166 to 168;*

***Commentary on provision 91:***

*Only a citizen of the Czech Republic can commit this crime.*

**Provision 92  
Subversion of the Republic**

- (1) Whoever, actin with intent to undermine the constitutional order, territorial integrity or defence capability of the (Czech) Republic or to destroy its independence, participates in violent acts against the Republic or its organs shall be sentenced to a term of imprisonment of from eight to twelve years.
- (2) An offender shall be sentenced to imprisonment for a term of from twelve to fifteen years or to an exceptional punishment (a term of imprisonment):
  - (a) if he commits an act under sub-provision (1) as a member of an organised group;
  - (b) if he causes by such act severe injury to the health of two or more persons, or if he causes someone's death;
  - (c) if he causes by such act large-scale (extensive) damage or other particularly severe consequences; or
  - (d) if he commits such act at the time of a state defence emergency.

***Relating provisions of the Criminal Code:***

- *provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168;*

***Commentary on provision 92:***

*The Czech term "rozvracení republiky", as used in provision 92, is translated here as "subversion of the Republic", but it is also referred to in some other translations as "sedition".*



**Terror  
Provision 93**

Whoever, acting with intent to undermine the constitutional order, intentionally kills another person or attempts to do so, shall be sentenced to a term of imprisonment of from twelve to fifteen years or to an exceptional punishment (an exceptional term of imprisonment).

**Relating provisions of the Criminal Code:**

- provisions 7, 8, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168, 219;

**Commentary on provision 93:**

*A person sentenced for terror can be conditionally release only after having served two-thirds of his term of imprisonment (see provision 62(1)).*

**Provision 93a**

- (1) Whoever takes persons as hostages and threatens to kill them, or to harm their health or to cause them some other harm (injury), and does so in order to enforce fulfilment of conditions detrimental to the constitutional order of the Republic, shall be sentenced to a term of imprisonment of from three to ten years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to twelve years:
  - (a) if he commits an act under sub-provision (1) as a member of an organised group;
  - (b) if a person under eighteen years of age is taken as a hostage when such act is committed;
  - (c) if two or more persons are taken as hostages when such act is committed;
  - (d) if he causes severe injury to someone's health when such act is committed.
- (3) An offender who causes someone else's death when committing an act under sub-provision (1) shall be sentenced to imprisonment for a term of from ten to twelve years, or to an exceptional punishment (an exceptional term of imprisonment).

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168, 234a, 235;

**Commentary on provision 93a:**

*Provision 93a was introduced into the Criminal Code under an amendment of 1990.*

**Provision 94  
Repealed**

**Diversiionist Activities  
Provision 95**

- (1) Whoever, acting with intent to damage the constitutional order or defence capability of the (Czech) Republic:
  - (a) exposes people to the danger of death or severe injury (harm) to their health, or exposes another person's property to the danger of large-scale (i. e. extensive) damage by causing a fire or flood, or by causing damage b the use of explosives, gas, electricity or other similarly dangerous substances or power, or commits some other similarly dangerous act (common danger), or

(b) increases the common danger or impedes any act averting or lessening such danger, shall be punished by imprisonment for a term of from five to twelve years.

(2) An offender shall be sentenced to a term of imprisonment of from twelve to fifteen years or to an exceptional term,

(a) if he commits the act stipulated in sub-provision (1) as a member of an organised group;

(b) if he commits such act repeatedly;

(c) if by such act he causes severe injury to the health of two or more persons, or someone's death;

(d) if by such act he causes large-scale (extensive) damage;

(e) if he commits such act during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168, 179;

**Commentary on provision 95:**

*The heading of provision 95 ("záškodnictví") is translated here as "diversionist activities", but it is also translated as "terrorist activities".*

**Provision 96**

(1) Whoever destroys, damages or makes useless another person's or his own thing with the intent stipulated in provision 95(1) shall be sentenced to a term of imprisonment of from three to ten years.

(2) An offender who commits an act stipulated in sub-provision (1) at the time of a state defence emergency shall be sentenced to a term of imprisonment of from ten to fifteen years or to an exceptional punishment (an exceptional term of imprisonment).

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168, 257, 258;

**Commentary on provision 96:**

*The intent to damage the constitutional order when destroying, damaging or making useless another person's thing is what distinguishes this crime from that referred to in provisions 257 to 258.*

**Provision 97**

**Sabotage**

(1) Whoever, acting with intent to damage the constitutional order or defence capability of the Republic, abuses his employment, profession, position or office, or commits some other act for the purpose of:

(a) frustrating or obstructing fulfilment of an important task by a state organ, the armed forces or an armed corps, or by an economic organisation or other institution; or

(b) causing a breakdown in the work of such organ or organisation, or causing serious damage to it;

shall be sentenced to imprisonment for a term of from three to ten years.

- (2) An offender shall be sentenced to a term of imprisonment of from eight to twelve years,
  - (a) if he commits an act stipulated in sub-provision (1) as a member of an organised group, or
  - (b) if he commits such act at the time of a state defence emergency.
- (3) An offender shall be sentenced to imprisonment for a term of from ten to fifteen years or to an exceptional punishment (an exceptional term of imprisonment),
  - (a) if he causes severe injury to the health of two or more persons, or someone's death, by an act under sub-provision (1);
  - (b) if he causes large-scale (extensive) damage or some other particularly serious consequence; or
  - (c) if he organises such act at the time of a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 166 to 168;

**Commentary on provision 97:**

*A person sentenced for sabotage under provision 97 can be conditionally released from prison only after having served two-thirds of his term of imprisonment (see provision 62(1)).*

**Provisions 98 to 104  
Repealed**

**Division 2  
Crimes against the Security of the Republic**

**Provision 105  
Espionage**

- (1) Whoever spies out an official secret (i. e. a fact to be kept in confidence under another Act) the misuse of which can seriously endanger or damage the constitutional system, sovereignty, territorial integrity, defence and security of the Czech Republic or another state (country) or defence and security of an international organisation (whose interests the Czech Republic is bound to protect in the mentioned spheres) with the intent of disclosing such official secret to a foreign power, or whoever collect data containing an official secret with the same intent, or whoever intentionally divulges such official secret to a foreign power, shall be sentenced to a term of imprisonment of from two to eight years.
- (2) The same sentence shall be imposed on any person who enables or facilitates activity under sub-provision (1) by an offender or by an organisation whose objective is to seek out official secrets.
- (3) A term of imprisonment of from eight to fifteen years shall be imposed on an offender:
  - (a) who commits an act under sub-provision (1) or (2) as a member of an organised group whose objective is to seek out official secrets;
  - (b) who commits such act, even though he was especially entrusted with the task of protecting official secrets;

- (c) who acquires by such act substantial benefit, or if he commits such act to a substantial extent, or
- (d) if his act concerns an official secret, which in a special Act is classified as "strictly secret".
- (4) The offender shall be sentenced to a term of imprisonment of from twelve to fifteen years, or to an exceptional term of imprisonment if he commits an act under sub-provision (1) or (2) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 41(2), 62, 66, 106, 107, 166 to 168;

**Other relating provisions:**

- Official Secrets Protection Act;

**Commentary on provision 105:**

*The Official Secrets Protection Act (No. 148/1998 Coll., "Zákon o ochrání utajovaných skutečností") amended the wording of provisions 105 to 107 of the Criminal Code as of 1 November 1998.*

**Endangering an Official Secret  
Provision 106**

- (1) Whoever seeks out an official secret stipulated in a special Act with intent of disclose it to an unauthorised person, or who collects data containing an official secret with the said intent or intentionally divulges an official secret to an unauthorised person, shall be sentenced to a term of imprisonment of up to three years, or to prohibition of a specific activity or to a pecuniary penalty.
- (2) A term of imprisonment of from two to eight years shall be imposed on an offender:
  - (a) who intentionally divulges to an unauthorised person an official secret classified in a special Act as "strictly secret" or "secret";
  - (b) who commits an act under sub-provision (1), even though the protection of official secrets was his special responsibility; or
  - (c) who acquires by such act substantial benefit, or who causes substantial damage or some other particularly serious consequence.
- (3) A term of imprisonment of from five to twelve years shall be imposed on an offender:
  - (a) if his act is stipulated in sub-provision (1) and concerns an official secret related to securing the defence capability of the Republic and classified in a special Act as "strictly secret", or
  - (b) if such act is committed during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 66, 105, 107, 167, 168;

**Other relating provisions:**

- Official Secrets Protection Act;

**Commentary on provision 106:**

*The previous wording of provision 106 (as well as of provisions 105 and 107) dealt with crimes involving "state secrets", whereas the present wording speaks of "official secrets". A term of imprisonment of up to twelve years can be imposed on an offender for an act under sub-provision (3), whereas under the provisions effective until October 1998 the maximum term of imprisonment was five years.*

**Provision 107**

Whoever through negligence causes disclosure of an official secret classified in a special Act as "strictly secret" or "secret" or "confidential" shall be sentenced to a term of imprisonment of up to three years, or to prohibition from a specific activity or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 66, 105, 106, 168;

**Other relating provisions:**

- Official Secrets Protection Act;

**Commentary on provision 107:**

*Disclosure of an official secret through negligence is punished by imprisonment for up to three years, or by a prohibition of a specific activity or by a pecuniary penalty, whereas, under the wording in effect until October 1998, an offender could be sentenced to imprisonment or prohibition of a specific activity but not to a pecuniary penalty.*

**Provisions 107a to 112****Repealed****Division 3****Crimes against the Defence of the Republic****Provision 113****Collaboration with Enemy**

Whoever provides benefit to or supports an enemy in any way during a state defence emergency shall be sentenced to a term of imprisonment of from one to ten years, unless a more severely punishable act is involved.

**Relating provisions of the Criminal Code:**

- provisions 7, 39 et seq;

**Commentary on provision 113:**

*An enemy is understood to be a country with which the Czech Republic is at war or on which it has declared war, or which has engaged in activities causing the Czech Republic to order a mobilisation of its armed forces.*

**Provision 114****Wartime Treason**

Any citizen of the Czech Republic who serves in an enemy's army or armed corps during a state defence emergency (of the Czech Republic) shall be sentenced to a term of imprisonment of from ten to fifteen years or to an exceptional term of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 7, 29, 39 et seq, 41(2), 62, 90(1), 167;

**Commentary on provision 114:**

"An enemy's army" ("*nepřátelské vojsko*") means an army of the country with which the Czech Republic is at war, or an army of such country's ally. "An enemy's armed corps" ("*nepřátelský ozbrojený sbor*") refers to a militarily-organised formation which is not directly a part of such enemy's army. The term "to serve in an enemy's army or armed corps" ("*konat službu v nepřátelském vojsku neb ozbrojeném sboru*") refers not only o soldiers on active service but also to service in logistical or similar units.

Under the Czech Criminal Code, an offender under provision 11 can only be a citizen of the Czech Republic.

**Provision 115**  
**Service in a Foreign Army**

- (1) Any citizen of the Czech Republic who serves without authorisation in the armed forces of a foreign power or a foreign armed corps shall be sentenced to a term of imprisonment of from three to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to ten years if he commits an act under sub-provision (1) during defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 7, 39 et seq, 41(2), 90(1);

**Commentary on provision 115:**

"An army (the armed forces) of a foreign power" ("*vojsko cizí mocnosti*") can be an army of any other country; the term "service in a foreign army" ("*the armed forces*") also involves service in foreign legions. "A foreign armed corps" ("*cizí ozbrojený sbor*") is a foreign paramilitary force, e. g. police, which is not part of the army.

**CHAPTER II**  
**ECONOMIC CRIMES**

**Division 1**  
**Crimes against the Economic System**

**Provisions 116 and 117**  
**Repealed**

**Provision 118**  
**Unauthorised Business Activity**

- (1) A person who, to a significant extent, provides services or carries on production or other gainful activity without being authorised thereto shall be sentenced to imprisonment for a period of up to one year or by a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a period of from six months to three years:
  - (a) if he employs another person to perform the unauthorised activity under sub-provision (1); or
  - (b) if he acquires a substantial benefit by engaging in such unauthorised activity.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Some relating provisions of other Acts:**

- Commercial Code;
- Trades Licensing Act;

**Commentary on provision 118:**

Under the Commercial Code, "business (or entrepreneurial) activity" ("podnikání") is defined as systematic activity which is independently carried on for the purpose of making a profit by an entrepreneur (an individual or a legal entity) in his/its own name and at his/its own liability.

An "entrepreneur" ("podnikatel") means:

- a person (natural or legal) recorded in the Commercial Register ("obchodní rejstřík");
- a person carrying on a business activity on the basis of an authorisation (licence or permit) to conduct a certain trade ("živnost"; in German "Gewerbe") under the Trades Licensing Act ("živnostenský zákon"; in German "Gewerbegesetz");
- a person carrying on a business activity on the basis of an authorisation issued under statutory provisions other than those regulating the issue of a trade authorisation – for example a notary;
- any individual engaged in farming (agricultural production), if he is recorded in an appropriate register under special statutory provisions.

It should be noted that, for the purposes of the Commercial Code and the Trades Licensing Act, a foreign person ("zahraniční osoba") means an individual (a natural person) whose residence is located outside the territory of the Czech Republic, or a legal entity whose registered office is located outside the Czech Republic. A legal entity (even if its capital is wholly foreign-owned) which has its registered office in the Czech Republic is regarded as a Czech legal entity. An individual whose permanent residential address is located in the Czech Republic is considered a Czech person.

A foreign person's or a Czech legal entity's authorisation to carry on a business activity in the Czech Republic takes effect as of the day on which the person, or its organisational component (branch), or a Czech legal entity is entered in the Czech Commercial Register ("obchodní rejstřík"). A foreign person or a Czech legal entity is authorised to carry on, in the Czech Republic, the range of business activities specified in the entry in the Commercial Register. An individual who is considered a Czech person is authorised to engage in the business activity entered in the relevant register (mostly the Trades Licensing Office Register).

Any individual who himself wishes to conduct a trade ("živnost"; in German "Gewerbe") in the Czech Republic must be at least 18 years old and legally competent and have a clean criminal record. In addition, an individual who is not a Czech or Slovak citizen must prove a knowledge of the Czech language to the Trades Licensing Office; a foreigner must also have a long-term residence permit, unless his business is to be run by "a responsible person". Specific qualifications are also stipulated for certain trades or professions.

An individual who is an entrepreneur can carry on his trade through "a responsible person" ("odpovídny zástupce"), generally referred to as "a proxy". A responsible person (proxy) is the individual in charge of the proper conduct of the trade in question, and must stay in the Czech Republic and meet the general and specific requirements for carrying on the particular trade. No one can act as a responsible person for more than two entrepreneurs. A legal entity which wishes to carry on a certain trade must always appoint an individual as its responsible person.

Some specific procedures (and restrictions) apply – for example, to the export and import of military materiel and other commodities.

Any business activity which is not duly authorised, either under the provisions of the Trades Licensing Act, Commercial Code or other relevant laws, is regarded as "unauthorised business activity" ("neoprávněné podnikání").

**Provision 118a**  
**Unlicensed Operation of a Lottery or Similar Game of Chance**

- (1) A person operating a lottery or a similar game of chance without a licence shall be sentenced to imprisonment for a period of up to two years or to a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a period of from one to five years:
  - (a) if he commits a crime under sub-provision (1) as a member of an organised group; or
  - (b) if he acquires a substantial benefit by committing such crime.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54;

**Some other relating provisions:**

- Lotteries and Gaming Act;

**Commentary on provision 118a:**

*The provisions of section 118a were introduced into the criminal Code by an amendment of 1993. The term "lottery or similar game of chance" is defined in the Lotteries and Gaming Act, No. 202/1990 Coll., as subsequently amended. A lottery or similar game of chance means a game in which an individual participates voluntarily by paying money in exchange for a chance of receiving money or a prize in return.*

**Provisions 119 and 120**  
**Repealed**

**Provision 121**  
**Activity Detrimental to a Consumer**

- (1) A person who causes damage which is not negligible to someone else's property by activity which is detrimental to a consumer, in particular by cheating on the quality, quantity or weight of goods, or a person who puts onto the market goods, works or services to a significant extent while concealing substantial defects in them, shall be sentenced to imprisonment for a period of from six months to three years, or barred from business activity or ordered to pay a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a period of from two to eight years:
  - (a) if he commits a crime under sub-provision (1) as a member of an organised group;
  - (b) if he acquires a substantial benefit by committing such crime;
  - (c) if during the previous five years he was convicted, or released from imprisonment, for committing the same type of crime.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Some relating provisions of other Acts:**

- Consumer Protection Act;
- Trades Licensing Act;
- Act on Prices;



**Commentary on provision 121:**

*Provision 121 specifies two different kinds of activities detrimental to a consumer, each being independently (of the other) regarded as criminal activity. The damage caused must not be negligible. Under provision 89(11), "damage which is not negligible" means damage reaching at least the minimum monthly wage of CZK 2,000 as determined by Government Order (Decree) No. 464/1991 Coll.*

**Provisions 122 and 123  
Repealed**

**Provision 124**

**Violation of Statutory Provisions on the Circulation of Goods in Relations with Foreign Countries**

- (1) A person who jeopardises the common interest by violating a prohibition of, or restrictions on, the import, export or transit of goods shall be sentenced to imprisonment for a period of up to two years, or to a pecuniary penalty, or forfeiture of a particular thing.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years, if:
  - (a) he commits a crime under sub-provision (1) together with at least two other persons; or
  - (b) he causes substantial damage or some other serious consequence by committing such a crime.

**Relating provisions of the Criminal Code:**

- provisions 39a et seq, 53 to 56, 66, 89(11);

**Some relating provisions of other Acts:**

- Customs Code;
- Decree implementing certain provisions of the Customs Code;
- Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;

**Commentary on provision 124:**

*The provisions of section 124 relate to a number of Acts regulating the import, export or transit of goods, such as firearms, poisons and items of cultural value.*

*The protection of economic and certain other interests is ensured through supervision and control by the customs authorities.*

**Violation of Statutory Provisions on the Disposal of Goods and Technologies Liable to Control Procedures  
Provision 124a**

- (1) A person violating a prohibition or restrictions on the disposal of goods or technologies under special provisions (Note 2) shall be sentenced to a term of imprisonment of up to three years or to a pecuniary penalty.
- (2) A person who, without permission (authorisation, licence), exports goods or technologies liable to control procedures under special statutory provisions (Note 2), or who transfers such goods or technologies to a foreign country or an organisation which has its seat (registered office) abroad, or to a foreign representative (official), shall be sentenced to a term of imprisonment of from three to eight years, or to a pecuniary penalty or forfeiture of property.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 66;*

**Some relating provisions of other Acts:**

- *Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree implementing the Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree introducing a general import licence for controlled goods;*

**Commentary on provision 124a:**

*The provisions of section 124a relate to the Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures (No. 21/1997 Coll.) and its Implementing Decree (No. 43/1997 Coll.). The control procedure under Act No. 21/1997 Coll. applies to:*

*equipment, sets, products, their parts and components, materials, software, chemical and biological materials, viruses and precursors;*

*technologies, by which is understood information and know-how recorded in documentation or on carriers (media) for data transmission, models, prototypes, technical drawings and sketches, diagrams, collotypes or manuals, or educational and technical sets which can be used in the preparation of design plans for the manufacture, use or modification of goods, including software and technical data, but not the goods themselves,*

*if, taking into consideration their character, these can be used for civilian and military purposes (hereafter referred to as "controlled goods"; in Czech "kontrolované zboží").*

**Provision 124b**

- (1) A person who breaches or does not fulfil an important duty relating to his employment, profession, position or office, so that an authorisation (permission, licence) is unjustifiably issued for disposal of goods and technologies which are subject to control procedures under special statutory provisions (Note 2), or so that such goods are not entered in the records kept on such goods and technologies, shall be sentenced to imprisonment for a period of up to three years, to prohibition from his professional activity or to a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years or a pecuniary penalty, if:
  - (a) goods reach a foreign country as a consequence of an act under sub-provision (1);
  - (b) he commits such crime with the intention of acquiring a substantial benefit; or
  - (c) he causes substantial damage or some other substantial detriment.
- (3) An offender shall be sentenced to a term of imprisonment of from three to eight years or a pecuniary penalty, if:
  - (a) he commits a crime under sub-provision (1) in association with an organised group active in other countries;
  - (b) he commits such crime with the intention of acquiring a large-scale (extensive) benefit; or
  - (c) by committing such a crime, he causes large-scale damage or large-scale detriment.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54, 66, 89(11);*

**Some relating provisions of other Acts:**

- *Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree implementing the Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree introducing a general import licence for controlled goods;*

**Commentary on provision 124b:**

*Provision 124b relates in particular to the provisions of the Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures and its implementing Decree (No. 43/1997 Coll.).*

**Provision 124c**

- (1) A person who, on the basis of false or incomplete information, obtains a document required by the authorities responsible for controlling goods and technologies under special statutory provisions (Note 2) shall be sentenced to a term of imprisonment of up to two years or to a pecuniary penalty.
- (2) The same sentence shall apply to a person who destroys, damages, conceals or makes unusable any documents required for registration of goods and technologies subject to special statutory provisions (Note 2), or who does not keep such records, or who interferes with computer hardware or software used to record such goods or technologies.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 66;*

**Some relating provisions of other Acts:**

- *Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree implementing the Act Regulating the Exportation and Importation of Goods and Technologies Liable to International Control Procedures;*
- *Decree introducing a general importation licence for controlled goods;*

**Commentary on provision 124c:**

*Provision 124c (together with provision 124a and 124b) was introduced into the Criminal Code by Act No. 545/1990 Coll. with effect as of 1 February 1991.*

**Violation of Statutory Provisions on Foreign Trade in Military Materiel  
Provision 124d**

- (1) A person who, without permission (authorisation) or a licence, engages in foreign (external) trade in military materiel shall be sentenced to a term of imprisonment of from one to eight years, or to prohibition of his (business, professional) activity or to a pecuniary penalty.
- (2) An offender who commits a crime under sub-provision (1) shall be sentenced to a term of imprisonment of from three to ten years, or to prohibition of his (business, professional) activity, to forfeiture of property or pecuniary penalty, if:
  - (a) he commits the crime in association with an organised group;
  - (b) he commits the crime during a state defence emergency;

- (c) he commits such kind of crime repeatedly;
- (d) he obtains substantial benefit by the crime; or
- (e) by committing the crime he causes large-scale damage or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 66, 89(11);

**Some relating provisions of other Acts:**

- Act on Foreign Trade in Military Materiel;
- Decree implementing certain provisions of the Act on Foreign Trade in Military Materiel;

**Commentary on provision 124d:**

*The provisions of sections 124d to 124f were introduced into the Criminal Code by the Act on Foreign Trade in Military Materiel (No. 38/1994 Coll.) with effect as of 1 April 1994. Transactions with foreign contractual partners concerning the export or import (or re-export or re-import) of military materiel may be undertaken only by a legal entity which has a registered office in the Czech Republic and obtained an authorisation (subsequently, a specific licence) to conclude a contract. The application for an authorisation of this kind is submitted to the Licensing Administration of the (Czech) Ministry of Industry and Trade. The authorisation specifies the territory/territories and commodity/commodities, as well as the period of time (not exceeding five years) for which it is valid.*

*Subsequently, a separate specific licence had to be applied for in the case of each contract involving import or export of military materiel into/from the Czech Republic. The Licensing Administration of the Ministry of Industry and Trade decides on such applications within 60 days. An application for a licence may be rejected if the circumstances warrant this. A preliminary application may be submitted in respect of an extensive deal(s), resulting, if approved, in the award of a preliminary licence.*

*Under Act No. 38/1994 Coll., a fine of up to CZK 5 million may be imposed on a person who concludes a contract involving military materiel without having an appropriate licence. In exceptional cases, the fine may be increased to CZK 30 million.*

*Provision 124d of the Criminal Code stipulates further sanctions for unauthorised trade in military materiel with a partner abroad.*

**Provision 124e**

- (1) A person who breaches or does not fulfil an important duty relating to his employment, profession, position or office, so that an authorisation is unjustifiably issued for dealing in military materiel or for trading in military materiel with foreign countries, or who issues a false or incomplete document on the basis of which such an authorisation (permission) or licence for a particular deal in certain military materiel is issued unjustifiably, shall be sentenced to a term of imprisonment of from six months to three years, or prohibition of his (professional) activity or to a pecuniary penalty.
- (2) An offender who commits a crime under sub-provision (1) shall be sentenced to a term of imprisonment of from two to five years or to a pecuniary penalty, if:
  - (a) the military materiel reaches its destination abroad;
  - (b) he commits such crime with the intention of acquiring a substantial benefit;

- (c) by committing such a crime he causes substantial damage or some other comparable consequence;
- (d) he commits such a crime in association with an organised group.
- (3) An offender who commits a crime under sub-provision (1) shall be sentenced to a term of imprisonment of from three to ten years or a pecuniary penalty, if:
  - (a) he commits the crime in association with an organised group active in other countries;
  - (b) he commits the crime with the intention of acquiring a substantial benefit; or
  - (c) by committing the crime he causes large-scale damage or some other comparable (especially serious) consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 66, 89(11);

**Some relating provisions of other Acts:**

- Act on Foreign Trade in Military Materiel;
- Decree implementing the Act on Foreign Trade in Military Materiel;

**Commentary on provision 124e:**

*The requisites of an application for granting an authorisation for the import or export of military materiel are contained in provision 9 of the Act on Foreign Trade in Military Materiel, while provision 15 of the same Act states the requisites of an application for granting a licence to conclude a specific deal in military materiel with a contractual party abroad.*

*Unlawful issue of documents related to foreign trade in military materiel is subject to sanctions under provision 124e of the Criminal Code.*

**Provision 124f**

- (1) A person who submits an application for an authorisation or licence for dealing in military materiel and encloses with such application a false or incomplete document, or who conceals facts relevant to the issue of such authorisation or licence, shall be sentenced to a term of imprisonment of up to three years or to a pecuniary penalty.
- (2) The same sentence shall be imposed on a person who destroys, damages, conceals or makes unusable records (data) of foreign deals in military materiel, or who does not keep such records, or who interferes with computer hardware or software used for storing data (records) of foreign trade in military materiel.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66;

**Some relating provisions of other Acts:**

- Act on Foreign Trade in Military Materiel;
- Decree implementing certain provisions of the Act on Foreign Trade in Military Materiel;

**Commentary on provision 124f:**

*Sub-provision (1) contains the sanctions to which a person who fraudulently acquires an authorisation or a licence for foreign trade in military materiel is liable. Sub-provision (2) deals with the special case of misrepresentation of data in economic and business records (see provision 125).*

**Division 2**  
**Crimes against Economic Discipline**

**Provision 125**  
**Misrepresentation of Data Relating to Economic Results and Assets**

- (1) Whoever does not keep books of account, accounting entries or other documents serving to reflect the position of his (its) economic management and property, or their supervision, although under the law he (it) is obliged thereto, or who presents false or grossly distorting data in such books of account, accounting entries or other documents, or who destroys, damages, makes useless or conceals such books of account, accounting entries or other documents, and thus endangers someone else's property rights or the timely and proper tax assessment, shall be sentenced to a term of imprisonment of from six months to three years, or prohibition of a specific activity or to a pecuniary penalty.
- (2) The same sentence shall be imposed on a person who provides false or grossly distorted data in documentation required for entry into the Commercial Register.
- (3) An offender who by his act under sub-provision (1) or (2) causes damage to someone else's property or some other especially serious consequence shall be sentenced to a term of imprisonment of from one year to five years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Some relating provisions of other Acts:**

- Commercial Code;
- Accounting Act;
- Act on Auditors and the Czech Republic's Chamber of Auditors;
- Tax System Act;
- Administration of Taxes Act;
- Income Taxes Act;
- Decree implementing certain provisions of the Income Taxes Act;
- Value Added Tax Act;
- Decree on the sale of goods for prices excluding VAT and of certain products for prices excluding excise duties in connection with the crossing of a state border;
- Real Estate Tax Act;
- Decree implementing certain provisions of the Real Estate Tax Act;
- Inheritance Tax, Gift Tax and Real Estate Transfer Tax Act;
- Road Tax Act;
- Excise Duties Act;

**Commentary on provision 125:**

*Provision 125 was amended under Act No. 253/1997 Coll. The purpose of provision 125 is to protect the interests of the addressee (usually the state, but also, for example, in some cases shareholders and business partners), so that the addressee is given accurate information. Sub-provision (1) relates to accounting records, sub-provision (2) concerns applications for entry into the Commercial Register and the supporting documents.*

*Under provision 36 of the Commercial Code, all entrepreneurs entered in the Commercial Register are to use a double-entry bookkeeping system which reflects the position of, and movements in, their business property (assets and liabilities) and the net business assets (net worth), costs (expenses), income (revenues), and profit or loss of their enterprises. Provision 37 of the Commercial Code stipulates that entrepreneurs who are not entered in the Commercial Register are to use a single-entry bookkeeping system to document their receipts, expenditure and business property, assets and liabilities, in such a manner as to make possible determination of their net business assets (net worth) and the financial results of their business activity. They may*

use a double-entry bookkeeping system instead of a single-entry bookkeeping system if they wish to, but they must do so for the entire accounting period, which is one calendar year.

Provision 2 of the Accounting Act stipulates that accounting units are to use either a double-entry or single-entry bookkeeping system when accounting for the state of, and changes in, their assets and payables, the difference between assets and payables, expenses and revenues, or payments and receipts, and their financial results. Accounting units are to account for events during the period to which these events relate, taking into consideration their nature and timing. If this principle cannot be observed, the accounting units may record these events when they become aware of them (provision 3 of the Accounting Act).

Provision 27 to 31 of the Commercial Code stipulate the details of the data to be entered in the Commercial Register and of the documents which must be filed with the registration court.

The term "substantial damage" in sub-provision (3) means a sum equal at least to 100 times the minimum monthly wage stipulated for the purposes of the Criminal Code (CZK 2,000 x 100 = 200,000).

### **Provision 126 Breaches of Duties in Bankruptcy and Composition Proceedings**

A person who, after a bankruptcy order, thwarts or makes performance of the tasks undertaken by the administrator of bankrupt estate (bankruptcy trustee) substantially difficult, and thus jeopardises full and correct ascertainment of the property belonging to the bankrupt estate or realisation of such property, shall be sentenced to a term of imprisonment of from six months to three years, or prohibition of his activity or to a pecuniary penalty.

#### **Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 256 to 256b;

#### **Some relating provisions of other Acts:**

- Bankruptcy and Composition Act;
- Decree implementing certain provisions of the Bankruptcy and Composition Act;

#### **Commentary on provision 126:**

The provisions of section 126 were introduced by Act No. 253/1997 Coll. Bankruptcy and composition (settlement) proceedings are subject to the Bankruptcy and Composition Act, provision 1(2) of which provides that "a debtor is considered insolvent if he (it) has two or more creditors and is unable to meet his obligations (to pay debts), as they fall due. If a debtor has ceased to make payments, it is assumed that he (it) is unable to meet his due obligations".

It is further stipulated that an individual (who is an entrepreneur) or a legal entity is also considered to be insolvent if he (it) is overburdened with debts. An individual or a legal (business) entity is regarded as overburdened with debts if he (it) has two or more creditors and his (its) due obligations exceed the value of his property (assets). The purpose of the bankruptcy or composition (settlement) proceedings is to satisfy the claims of creditors against the debtor's property on a pro rata basis. A petition for adjudication of a bankruptcy order can be filed by the debtor or any of his (its) creditors, or another person entitled under a special Act. If it is proven that the debtor is insolvent and all the other conditions of the Bankruptcy and Composition Act are met, the court adjudicates a bankruptcy order without undue delay. The right to dispose of the bankrupt's estate then passes to the bankruptcy trustee.

An offender under provision 126 of the Criminal Code may be anybody who thwarts or makes performance of the bankruptcy trustee's duties substantially difficult and thus puts at risk correct ascertainment of property belonging to the bankrupt estate.

**Provision 127**  
**Breaches of Mandatory Rules in Economic Relations**

- (1) A person who essentially breaches the rules of economic relations, as stipulated in generally binding statutory provisions, with the intention of acquiring for himself or someone else a substantial unjustified advantage, shall be sentenced to a term of imprisonment of up to two years, or prohibition of his activity or to a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years, if by committing a crime under sub-provision (1) he causes a serious disruption of economic activity or supplies of a substantial curtailment of state income (revenues).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Some relating provisions of other Acts:**

- Commercial Code
- Act on Protection of Economic Competition

**Commentary on provision 127:**

*The purpose of provision 127 is to protect economic discipline and support the development of economic competition within the given rules. Under provision 42 of the Commercial Code, abuse of economic competition by a participant means unfair competitive conduct and unpermitted restriction of economic competition. Provision 44(2) of the Czech Commercial Code stipulates that unfair competition means in particular:*

- *deceptive advertising;*
- *deceptive marking of goods and services;*
- *conduct contributing to mistaken identity;*
- *parasitic use of the reputation of another competitor's enterprise, products or services;*
- *bribery;*
- *disparagement;*
- *violation of trade secrets;*
- *endangering the health of consumers and the environment.*

*The protection of economic competition between products and services on the market against restriction, distortion or elimination (referred to collectively as "interference") is subject to the Act on Protection of Economic Competition (also known as the Anti-Trust Act).*

**Provision 128**  
**Misuse of Information in Business Relations**

- (1) A person who, without authorisation and with intent to acquire an advantage or benefit for himself or someone else, uses information acquired in the course of carrying out his employment, profession, position or office, if such information is not yet available to the public and can substantially influence business decisions, and who concludes or initiates conclusion of a contract, or effects an operation on an organised market in either commodities or securities, shall be punished either by imprisonment for a period of up to three years, a prohibition of his activities, or by a pecuniary penalty.
- (2) Such punishment shall also apply to a person who, with intent under sub-provision (1) and as an employee, member of an organ, partner, businessman (entrepreneur) or participant in the business activities of two or more companies or organisations involved in the same or a similar business, concludes or initiates conclusion of a contract to the detriment of one or more of the companies.



- (3) An offender shall be punished by a term of imprisonment of from two to eight years if by committing the crime under sub-provision (1) or (2), he acquires for himself or someone else substantial benefit.
- (4) The offender shall be punished by a term of imprisonment of from five to twelve years if, by committing the crime under sub-provision (1) or (2), he acquires for himself or someone else a large-scale (i. e. extensive) benefit.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 89(11);

**Some relating provisions of other Acts:**

- Act on Certain Measures Relating to Protection of the Public Interest;
- Commercial Code;

**Commentary on provision 128:**

The objective of provision 128 is to protect equal conditions of economic competition. Sub-provision (2) relates to the prohibition of competitive conduct, which is regulated in provisions 65, 84, 99, 136, 196 and 249 of the Commercial Code.

The term "substantial benefit" ("znaèný prospìch") in sub-provision (3) means a benefit of at least CZK 200,000, while a "large-scale benefit" (also referred to as an "extensive benefit", "prospìch velkého rozsahu") in sub-provision (4) means a benefit of at least CZK 1 million.

**Provision 128a**  
**Fraudulent Manipulation of Public Tenders and Public Auctions**

- (1) A person who, in connection with a public tender or public auction, and with intent to cause damage to someone else or acquire an advantage for himself or someone else, gives priority or provides more advantageous conditions to one of the competitors to the detriment of other competitors shall be sentenced to imprisonment for a term of from six months to three years.
- (2) An offender shall be sentenced to imprisonment for a term of from two to eight years, if:
  - (a) he commits the crime under sub-provision (1) as a contracting authority or organiser of a public tender or public auction, a member of a privatisation commission, an auctioneer or a member of an organised group;
  - (b) by committing such a crime he causes substantial damage or acquires a substantial benefit for someone else.
- (3) The sentence stated in sub-provision (2) shall also apply to a person who, in the circumstances stipulated in sub-provision (1), requires, receives or accepts a promise of material or other benefit.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(11), 90(1);

**Some relating provisions of other Acts:**

- Commercial Code;
- Civil Code;
- Public Procurement Act;
- Act on Transfers of State-owned Property to Other Legal Entities and Individuals;
- Decree on public auctions involving transfers of state-owned property to other legal entities and individuals, and on admission charges for such auctions;
- Civil Procedure Code;

**Commentary on provision 128a:**

*Provision 128a uses the Czech term "veřejná soutěž", which can be translated as "public prize competition" or "public commercial tender". Under the Civil Code, a public (prize) competition is a unilateral act on the part of the announcer of the competition addressed to unspecified persons, but specifying the object of the competition and other relevant particulars. The announcer of the competition is obliged to award the prizes as announced in the terms of the competition to those whose performance is regarded as best.*

*Under the Commercial Code, a public (commercial) tender is a competition for the most advantageous bid to conclude a specific contract. The award of contracts by public authorities is further subject to the Public Procurement Act.*

*A public auction ("veřejná dražba") is regulated by the Small-scale Privatisation Act (officially known as "the Act on Transfers of State-owned Property to Other Legal Entities and Individuals") and the Decree on Public Auctions.*

**Provision 128b**

A person who, in connection with fraudulent manipulation of a public tender:

- (a) forces someone else to refrain from participation in the tender by a trick or by a threat of violence or other serious harm;
- (b) provides, offers or promises material or other benefit to someone else for refraining from participation in the tender; or
- (c) requires or accepts a material or other benefit for refraining from participation in the tender,

shall be sentenced to imprisonment for a term of up to two years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Some relating provisions of other Acts:**

- *Commercial Code;*
- *Civil Code;*

**Commentary on provision 128b:**

*The term "fraudulent manipulation" ("pletichy") in provision 128b refers to any conduct stipulated under letters (a) to (c).*

**Provision 128c**

A person who, in connection with the fraudulent manipulation of a public auction:

- (a) forces someone else to refrain from submitting bids at the auction by a trick or by a threat of violence or other serious harm;
- (b) provides, offers or promises material or other benefit to someone else for refraining from bidding during an auction; or
- (c) requires or accepts material or other benefit for refraining from bidding during an auction,

shall be punished by imprisonment for a term of up to two years or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Some relating provisions of other Acts:**

- *Act on Transfers of State-owned Property to Other Legal Entities and Individuals;*
- *Decree on public auctions involving transfers of state-owned property to other legal entities and individuals, and on admission charges for such auctions;*
- *Civil Procedure Code.*

**Commentary on provision 128c:**

*Public auctions were held particularly in connection with the Small-Scale Privatisation Act (officially known as "the Act on Transfers of State-owned Property to Other Legal Entities and Individuals").*

**Provision 129**  
**Issue of a False Confirmation**

Whoever, acting in the name of a bank or other legal entity which has been authorised to engage in financial activities under a special Act, or as an auditor, issues a false confirmation of someone's financial or property situation shall be sentenced to imprisonment for a term of up to two years, or prohibition of a specific activity or to a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54;*

**Some relating provisions of other Acts:**

- *Banking Act;*
- *Czech National Bank Act;*
- *Act on Savings and Credit Co-operatives;*
- *Decree on Financial Services for Citizens;*
- *Housing Savings Act;*
- *Act on Auditors and the Czech Republic's Chamber of Auditors;*
- *Investment Companies and Investment Funds Act;*
- *State-Contributory Supplementary Pension Insurance Act;*
- *Securities Act;*
- *Stock Exchange Act;*
- *Insurance Act;*

**Commentary on provision 129:**

*The wording of provision 129 was introduced by Act No. 253/1997 Coll.*

**Provisions 130 to 139**  
**Repealed**

**Division 3**  
**Crimes Relating to Currency and Taxation**

**Provision 140**  
**The Counterfeiting and Altering of Money**

- (1) A person who acquires for himself or someone else counterfeit or altered money, or who stores such money (knowing it to be counterfeit or altered), shall be sentenced to imprisonment for a term of from two to eight years.
- (2) A person who counterfeits or alters money with intent to put such money into circulation as genuine (real) or valid currency, or as money of a higher value, or who circulates such money, shall be sentenced to imprisonment for a term of from five to ten years.

- (3) An offender shall be sentenced to imprisonment for a term of from ten to fifteen years, if:
- (a) he commits crime under sub-provision (1) or (2) as a member of an organised group; or
- (b) he commits such a crime to a substantial extent.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Some relating provisions of other Acts:**

- *Czech National Bank Act;*
- *Decree on the reproduction of banknote, coins, cheques, securities and payment cards, and the production of imitations;*
- *Monetary Reform Act;*

**Commentary on provision 140:**

*The counterfeiting of money means fabrication of money, without authority, with a view to deceiving or defrauding, by putting such money into circulation as genuine money. The term "counterfeit money" and "altered money" refers to both Czech and foreign money. Under this provision, and in accordance with the Czech Republic's international obligations, protection is granted to Czech and foreign currencies, payment cards and securities.*

**Provision 141  
Use of Counterfeit or Altered Money**

A person who uses (circulates) counterfeit or altered money, which he received as genuine, shall be punished by imprisonment for a term of up to two years, or a pecuniary penalty or forfeiture of a thing.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56;*

**Some relating provisions of other Acts:**

- *Czech National Bank Act;*
- *Decree on the reproduction of banknote, coins, cheques, securities and payment cards, and the production of imitations them;*
- *Monetary Reform Act;*

**Commentary on provision 141:**

*Liability to punishment for using counterfeit or altered money is considered under Czech law, even if the criminal act is committed abroad by a foreign national.*

**Provision 142  
Manufacture and Possession of Counterfeiting Equipment**

- (1) A person who, for himself or someone else, manufactures, provides or stores equipment or another thing used in counterfeiting or altering money shall be punished by imprisonment for a period of up to two years.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if he commits the crime under sub-provision (1) at his place of employment.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 142:**

*A crime under provision 142 is similar in nature to preparation of a crime under provision 140 par 2 (first sentence).*

**Provision 143  
Joint Provisions**

Protection under provisions 140 to 142 shall also be provided for foreign currencies and domestic and foreign cash-free payment transfers (orders), as well s to domestic and foreign securities.

**Relating provisions of the Criminal Code:**

- *provisions 140 to 142;*

**Some relating provisions of other Acts:**

- *Part Two, Chapter 1, Division 5 of the Commercial Code;*
- *Civil Code;*
- *Securities Act;*
- *Bills of Exchange and Cheques Act;*
- *Bonds Act;*
- *Investment Companies and Investment Funds Act;*
- *Large-Scale Privatisation Act;*
- *Government Order on the Issue and Use of Investment Vouchers;*

**Commentary on provision 143:**

*Protection is granted to Czech and foreign currencies, cheques, bills of exchange, payment cards, documentary letters of credit, traveller's cheques, bills of lading, warehouse certificates, vouchers, shares, bonds, investment (participation) certificates, and certain documents (certificates) representing money and it is absolutely applicable for EURO protection.*

**Provision 144  
Jeopardise the Circulation of Domestic Money**

- (1) A person who produces or issues substitute domestic money without authorisation, or who circulates such substitutes, shall be punished by imprisonment for a period of up to six months or a pecuniary penalty.
- (2) The same punishment shall apply to a person who:
  - (a) refuses to use domestic money without justification;
  - (b) collects small denominations of domestic money without economic justification; or
  - (c) debases domestic money.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Some other relating provisions:**

- *Decree on the reproduction of banknotes, coins, cheques, securities and payment cards, and the production of imitations;*
- *Decree on the procedure for acceptance and handling of money, and on replacement of incomplete and damaged banknotes and coins;*

**Commentary on provision 144:**

*The term "substitute domestic money" refers to means of payment which are intended to fulfil the function of money. It does not include vouchers which entitle their holders to receive, for example, goods or jettons.*

**Provision 145  
Counterfeit and Altered Stamps**

- (1) A person who counterfeits or alters postage or duty stamps with intent to cause detriment to someone else or acquire unjust benefit for himself or someone else, or who circulates such stamps, or uses them as if they were genuine, shall be punished by imprisonment for a term of up to one year, a pecuniary penalty or forfeiture of a specific thing.
- (2) An offender shall be sentenced to imprisonment for a term of from six months to five years, if:
  - (a) he commits a crime under sub-provision (1) to a substantial extent; or
  - (b) he acquires a substantial benefit by such crime.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56;*

**Some relating provisions of other Acts:**

- *Postal Act;*
- *Decree on Duty Stamps;*
- *Government Order Implementing the Postal Act;*

**Commentary on provision 145:**

*Provision 145 protects genuine postage or duty stamps and therefore state revenues. "Substantial benefit" refers to a benefit of at least CZK 200,000.*

**Provision 145a  
Counterfeiting and Altering Duty Stamps**

- (1) A person who, with intent to cause damage to someone else, or acquire unjust benefit for himself or someone else, counterfeits or alters stamps or other items issued by a state authority, or by a legal entity authorised thereto, for use in marking goods to show that tax due has been paid, or a person who introduces into circulation, or uses, such duty stamps as if they were genuine, shall be punished by imprisonment for a term of up to one year, or a pecuniary penalty or forfeiture of a specific thing.
- (2) An offender shall be sentenced to imprisonment for a term of from six months to five years, if:
  - (a) he commits a crime under sub-provision (1) to a substantial extent; or
  - (b) he acquires a substantial benefit by such crime.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56, 89(11);*

**Some other relating provisions of other Acts:**

- *Excise Duties Act;*
- *Decree specifying details of the identification of certain tobacco products;*
- *Roads Act;*

- *Government Order n Motorway and Expressway Tolls;*
- *Decree on specimen labels and records proving payment of motorway and expressway tolls.*

**Commentary on provision 145a:**

*The provisions of section 145a refer to duty stamps (as used, for example, on packets of cigarettes), road toll stamps and similar duty stamps issued by the Czech Republic's Ministry of Finance.*

**Provision 146**

**Violations of Prohibitions during a Foreign Exchange State of Emergency**

Whoever at the time of a foreign exchange state of emergency violates prohibitions stipulated under the Foreign Exchange Act for a foreign exchange state of emergency, and applying to such state of emergency, shall be sentenced to imprisonment for a term ranging from one to six years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Some other relating provisions:**

- *Foreign Exchange Act;*

**Commentary on provision 146:**

*The Czech Republic's Foreign Exchange Act stipulates in provision 32(3) that "a foreign exchange state of emergency can be declared by the Government when an unfavourable balance of payments situation immediately and seriously threatens the country's ability to make payments to foreign countries and its internal monetary stability. A foreign exchange state of emergency takes effect on the day when the Government announces it in the public media, and ends on the day stipulated by the Government in its emergency announcement, but no later than three months after the day of such announcement in the public media."*

*At a time of foreign exchange emergency, it is forbidden:*

- *to acquire foreign exchange for Czech currency;*
- *to effect any payment from the Czech Republic abroad, including transfers of pecuniary means between banks and their branches;*
- *to deposit pecuniary means in accounts abroad, unless a special permit is issued by the relevant foreign exchange authority.*

*During a foreign exchange emergency, it is forbidden:*

- *to sell Czech securities to non-residents;*
- *to accept financial credits (loans) from non-residents;*
- *to establish non-residents' accounts in the Czech Republic and deposit pecuniary means in such accounts;*
- *to transfer pecuniary means from abroad to this country between banks and their branches, unless a special permit is issued by the relevant foreign exchange authority.*

**Provision 147**

**Failure to Transfer Taxes and Statutory Social Insurance and Health Insurance Contributions**

Whoever as a payer fails to fulfil, to a significant extent, his statutory obligation to transfer on behalf of a taxpayer withheld taxes, social insurance contributions (premiums) or health insurance contributions, or contributions to the state employment policy fund, shall be punished by imprisonment for a term of from six months to three years or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 147a, 148, 148a;*

**Some relating provisions of other Acts:**

- Tax System Act;
- Administration of Taxes Act;
- Income Taxes Act;
- Decree implementing certain provisions of the Income Taxes Act;
- Value Added Tax Act;
- Decree on the sale of goods for prices excluding VAT and the sale of certain products for prices excluding excise duties, in connection with the crossing of the state border;
- Real Estate Tax Act;
- Decree implementing certain provisions of the Real Estate Tax Act;
- Inheritance Tax, Gift Tax and Real Estate Transfer Tax Act;
- Road Tax Act;
- Excise Duties Act;
- Social Security and State Employment Policy Contributions Act;
- General Health Insurance Contributions Act;

**Commentary on provision 147:**

The wording of provision 147 was introduced in 1997. Provision 147 stipulates the sanctions applicable to a person /an employer) who withholds from employees taxes and/or statutory social insurance and health insurance contributions, but fails to transfer them to the relevant financial authority and/or insurance company.

**Provision 147a**  
**Special Provision on Effective Repentance**

Liability to punishment for non-transfer of taxes, social insurance contributions, health insurance contributions and contributions to the state employment policy fund (provision 147) shall terminate if the offender subsequently fulfils his obligation before the court of first instance announces its verdict.

**Relating provisions of the Criminal Code:**

- provision 147;

**Some relating provisions of other Acts:**

- Tax System Act;
- Administration of Taxes Act;
- Income Taxes Act;
- Decree implementing certain provisions of the Income Taxes Act;
- Value Added Tax Act;
- Decree on the sale of goods for prices excluding VAT and of certain products for prices excluding excise duties in connection with the crossing of a state border;
- Real Estate Tax Act;
- Decree implementing certain provisions of the Real Estate Tax Act;
- Inheritance Tax, Gift Tax and Real Estate Transfer Tax Act;
- Road Tax Act;
- Excise Duties Act;
- Social Security and State Employment Policy Contributions Act;
- General Health Insurance Contributions Act;

**Commentary on provision 147a:**

Provision 147a only applies if the offender concerned fully pays withheld taxes and contributions due to the appropriate financial authority and/or insurance companies. Under the provisions of Acts like the Administration of Taxes Act, the offender is still bound to pay the applicable penalties for late payment.



**Provision 148**  
**Curtailment of Taxes, Fees and Similar Mandatory Dues**

- (1) A person who significantly curtails his payment of taxes, custom duties, social security or health insurance contributions (premiums), or fees or other similar payments, shall be punished by imprisonment for a term of from six months to three years or a pecuniary penalty.
- (2) The same sentence shall apply if someone fraudulently acquires an advantage in respect of statutory (mandatory) payments under provision (1).
- (3) An offender shall be sentenced to imprisonment for a term of from one to eight years, if:
  - (a) he commits a crime under sub-provision (1) or (2) together with at least two other persons;
  - (b) he breaks an official seal in order to facilitate the committing of such crime; or
  - (c) he causes substantial damage by such crime
- (4) An offender shall be sentenced to imprisonment for a term of from five to twelve years, if he causes large-scale damage by an act under sub-provision (1) or (2).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66, 89(11);

**Some relating provisions to provision 148**

- Tax System Act;
- Administration of Taxes Act;
- Income Tax Act;
- Decree implementing certain provisions of the Income Taxes Act;
- Act on Reserves for the Purposes of Determining Income Tax Bases;
- Value Added Tax Act;
- Decree on the sale of goods for prices excluding VAT and sale of certain products for prices excluding excise duties in connection with the crossing of state border;
- Real Estate Tax Act;
- Decree implementing certain provisions of the Real Estate Tax Act;
- Inheritance Tax, Gift Tax and Real Estate Transfer Tax Act;
- Road Tax Act;
- Excise Duties Act;
- Act on Administrative Fees Collected by Czech Administrative Organs;
- Decree on Exemptions from Administrative Charges;
- Act on Court Fees;
- Decree on Exemptions from Court Fees;
- Act on Radio and Television Fees;
- Act on Local Fees;
- Air Protection and Air Pollution Fees Act;
- Act on Fees for the Discharge of Waste Waters onto Surface Waters;
- Waste Disposal Act;
- Social Security and State Employment Policy Contributions Act;
- General Health Insurance Contributions Act;
- Customs Code;
- Government Order Introducing the Customs Tariff;

**Commentary on provision 148**

The provision 148 is intended to protect the interest of the state in the proper assessment of taxes, custom duties, mandatory insurance contributions (premiums) and similar dues.

**Provision 148a**  
**Breaches of Rules on identification of Goods by Stamps**

- (1) A person who disposes of stamps for identification of certain goods for tax purposes contrary to the statutory provisions, with intent to cause damage to someone else, or to provide unjust benefit for himself or someone else, or,
- who circulates goods without such stamps and does so contrary to the statutory provisions,
- shall be punished by imprisonment for a term of from six months to three years or by pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years, if:
- (a) he commits a crime under sub-provision 1 together with at least two other persons; or
- (b) he requires a substantial benefit by such crime.
- (3) An offender shall be sentenced to imprisonment for a term of from five to twelve years if, by a crime under sub-provision (1), he acquires a large-scale (extensive) benefit.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Some relating provisions of other Acts:**

- Excise Duties Act;
- Decree specifying details of the identification of certain tobacco products;
- Abolition of the State Tobacco Monopoly Act;

**Commentary on provision 148a:**

*The provisions of section 148a relate to the provisions of the Excise Duties Act, which stipulate that packets of cigarettes sold in the Czech Republic must be identified by special tobacco stamps.*

**Provision 148b**  
**Non-Compliance with Reporting Duty in Tax Procedures**

- (1) Whoever fails to fulfil his statutory reporting duty to the tax administrator, and thus significantly jeopardises the proper and timely tax assessment of another person, shall be sentenced to imprisonment for a term of from six months to three years.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if he causes substantial damage by such act.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 148;

**Some relating provisions of other Acts:**

- Tax System Act;
- Administration of Taxes Act;
- Income Taxes Act;
- Decree implementing certain provisions of the Income Taxes Act;
- Value Added Tax Act;
- Decree on the sale of goods for prices excluding VAT and of certain products for prices excluding excise duties in connection with the crossing of a state border;
- Real Estate Tax Act;

- Decree implementing certain provisions of the Real Estate Tax Act;
- Inheritance Tax, Gift Tax and Real Estate Transfer Tax Act;
- Road Tax Act;
- Excise Duties Act;

**Commentary on provision 148b:**

*Provision 148b was introduced into the Criminal Code by Act No. 253/1997 Coll. The Czech tax laws impose a reporting duty in tax matters not only on persons liable to taxes, but also on third persons, such as courts and notaries.*

**Division 4**

**Crimes Breaching Rules on Unfair Competition, Trademarks, Protected Designs, Inventions and Copyright**

**Provision 149  
Unfair Competition**

A person who harms the good reputation, or jeopardises the operation or development of a competitor's company by conduct contrary to the rules on economic competition, or contrary to the practices of competition, shall be punished by imprisonment for a term of up to one year, or a pecuniary penalty or forfeiture of a specific thing.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53 to 56;

**Some other relating provisions:**

- provisions 44 to 55 of the Commercial Code;

**Commentary on provision 149:**

*Provision 149 of the Criminal Code relates to provisions 44 to 52 of the Commercial Code.*

**Provision 150**

**Infringement of Rights Relating to Trademarks, Commercial Names and Protected Designations of Origin**

- (1) A person who circulates products unjustifiably marked with a trademark which is the exclusive right of someone else, or a trademark easily interchangeable with such, shall be punished by imprisonment for a term of up to six months, or to a pecuniary penalty or forfeiture of a specific thing.
- (2) The same punishment shall apply to a person who, in pursuit of an economic benefit:
  - (a) unjustifiably uses a commercial name, or any designation interchangeable with such; or
  - (b) circulates products unjustifiably marked with a designation of origin which belongs exclusively to someone else, or a designation of origin easily interchangeable with such.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53 to 56;

**Some relating provisions of other Acts:**

- Trademarks Act;
- provisions 8 to 12 of the Commercial Code;
- Act on Protecting the Designation of the Origin of Goods;
- Decree on procedures relating to designation of the origin of goods;

**Commentary on provision 150:**

*The most important statutory provisions of other Acts relating to provision 150 are stated above.*

**Provision 151**  
**Infringement of Industrial Rights**

A person who infringes rights relating to a protected invention, industrial design, utility design or the topography of a semiconductor product shall be punished by imprisonment for a term of up to one year or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Some relating provisions of other Acts:**

- *Patents Act;*
- *Decree on procedures relating to patents;*
- *Act on Protection of the Topography of Semiconductor Products;*
- *Act on Measures for Protection of Industrial Rights;*

**Commentary on provision 151:**

*Provision 151 is intended to protect the results of creative technical activity in connection with industrial rights.*

**Provision 152**  
**Infringement of Copyright**

- (1) A person who makes use of a work which is covered by copyright, or a performance by a performing artist, a sound or picture recording or a radio or television performance covered by a right similar to copyright, in a manner which only the author, performing artist, sound or picture recording producer, radio or television organisation or other bearer of such rights is entitled to do, or a person who infringes these rights in another way, shall be punished by imprisonment for a term of up to two years, or by a pecuniary penalty or forfeiture of a specific thing.
- (2) An offender shall be punished by imprisonment for a term of from six months to five years, or by a pecuniary penalty or forfeiture of a specific thing, if:
  - (a) he acquires a substantial benefit by a crime under sub-provision (1); or
  - (b) he commits such crime to a substantial extent.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56, 89(11);*

**Some relating provisions of other Acts:**

- *Act on Joint Administration of Copyrights;*
- *Decree on exemptions from the duty to conclude written contracts for the distribution of literary and scientific works and works of art;*
- *Decree regulation remuneration and compensation to entitled persons for acquisition of audio or audio/visual copies of items protected by the Copyright Act and their public loan for private use;*

**Commentary on provision 152:**

*Provision 152 is intended to protect the results of literary and scientific activity and creative artistic work in accordance with Article 34 of the Charter of Fundamental Rights and Freedoms, Article 3 of the Czech Constitution and the provisions of the Copyright Act.*

**CHAPTER III  
CRIMES AGAINST PUBLIC ORDER**

**Division 1  
Crimes against Exercise of Powers by State Organs and Public Officials**

**Attacks on a State Organ  
Provision 153**

- (1) Whoever uses violence with intent to influence exercise of power (authority) by an organ of the state administration or a local administration, court or some other state organ (agency) shall be sentenced to a term of imprisonment of from six months to five years.
- (2) An offender shall be sentenced to a term of imprisonment of from three to ten years:
  - (a) if he causes severe injury to health by an act under sub-provision (1);
  - (b) if he causes large-scale damage or another especially serious consequence by such act.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 19, 39 et seq, 89(6), (7) and (11);

**Some provisions of other Acts relating to provisions 153 to 178a (i. e. Chapter III):**

- Constitution of the Czech Republic;
- Charter of Fundamental Rights and Freedoms;
- Act on Courts and Judges;
- Higher Judicial Officers Act;
- Act on the Czech Republic's Police;
- Act on Foreigners' Stay and Residence on the Territory of the Czech Republic;
- Act on Serving Terms of Imprisonment;
- Decree on Rules for Serving Terms of Imprisonment;
- Detention Act;
- Decree on the Rules of Detention;
- Act on the Prison Service;
- Official Secrets Protection Act;
- Act on the Security Intelligence Service;
- Act on the Czech Intelligence Services;
- Act on the Military Intelligence Service;
- Military Police Act;
- Act on the State Prosecutor's Office;
- Court Experts and Interpreters Act;
- Misdemeanours Act;
- Political Parties and Movements Act;
- Municipalities Act;
- Act on Municipal Police;
- Act on District Authorities and their Powers;
- Parliamentary Elections Act;
- Act on Use of the State's Emblem, Flag and Other Symbols;
- Act on State Symbols of the Czech Republic;
- Local Referendum Act;
- Municipal Elections Act;
- Family Act;

- *Act on Protection of Personal Data in Information Systems;*
- *Gamekeeping Act;*
- *Fisheries Act;*

**Commentary on provision 153:**

*The purpose of provision 153 is to protect the performance of power by state and other authorities, the courts, the state prosecutor's office and similar institutions. Violence ("násilí"), as referred to in provision 153, may consist in an attack on the building of a state authority, the damaging of its equipment and similar activities. The perpetrator of a crime under provision 154 may be prosecuted irrespective of his citizenship (see provision 19).*

**Provision 154**

- (1) Whoever threatens another person with death, injury to health or large-scale damage:
  - (a) with intent to influence the exercise of powers by a state organ; or
  - (b) because of the exercise by a state organ of its powers, shall be sentenced to a term of imprisonment of up to two years.
- (2) Whoever grossly insults or slanders a state organ when it exercises its powers, or because of exercise of its powers, shall be sentenced to a term of imprisonment of up to one year or to a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 89(11);*

**Commentary on provision 154:**

*A threat of death or injury to the health of another person or of large-scale damage which relates to the future or past exercise by a state organ of its powers need not be immediate to meet the factual requirements of a case under provision 154.*

**Assaults on Public Officials  
Provision 155**

- (1) Whoever uses violence
  - (a) with intent to influence the exercise of powers by a particular public official; or
  - (b) because of the exercise by a particular public official of his powers, shall be sentenced to a term of imprisonment of up to three years.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if:
  - (a) he commits an act under sub-provision (1) with a weapon;
  - (b) he injures another person's health by such act;
  - (c) he causes significant damage by his act;
- (3) An offender shall be sentenced to a term of imprisonment of from three to ten years if he causes a serious injury to health by his act under sub-provision (1).
- (4) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years if he causes death by his act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 19, 39 et seq, 89(5) to (7), (9) and (11), 157;

**Commentary on provision 155:**

*Someone who assaults a public official can be prosecuted under Czech law even if he is not a Czech citizen (see provision 19).*

**Provision 156**

- (1) Whoever threatens another person with death, injury to health or large-scale damage:
  - (a) with intent to influence a particular public official's exercise of his powers; or
  - (b) because a particular public official exercises his powers, shall be sentenced to imprisonment for a term of up to two years.
- (2) Whoever commits an act under sub-provision (1) with a weapon shall be sentenced to imprisonment for a term of up to three years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(5), (9) and (11), 157;

**Commentary on provision 156:**

*Individuals who occupy posts of responsibility in state authorities and similar bodies are to be protected against threats of violence from those who would attempt to influence their decision-making.*

**Provision 157  
Joint Provision**

The protection under provision 155 and 156 shall also be granted to a person who has displayed his support for a particular public official, or who has helped to protect such public official.

**Commentary on provision 157:**

*A citizen who helps to protect a public official also enjoys protection under provisions 155 and 156.*

**Provision 158  
Abuse of Power by a Public Official**

- (1) A public official who, with intent to cause damage to someone else or acquire an unjust benefit for himself or someone else,
  - (a) exercises his powers in a manner contrary to the law;
  - (b) exceeds his authority; or
  - (c) fails to fulfil a duty pursuant to his office,

shall be sentenced to imprisonment for a term of from six months to three years or disqualified from public office.

- (2) An offender shall be sentenced to imprisonment for a term of from three to ten years, if:

- (a) he acquires a substantial benefit for himself or someone else by committing a crime under sub-provision (1);
- (b) he causes a serious disruption of the activity of a company or organisation by committing such a crime; or
- (c) he causes substantial damage or some other especially serious detriment by such a crime.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 89(9) and (11), 90(1);

**Commentary on provision 158:**

*Provisions 158 and 159 are intended to protect society and citizens against breaches of their duties by public officials, committed intentionally or through negligence.*

**Provision 159**  
**Thwarting of a Task by Public Official's Negligence**

- (1) A public official whose negligence thwarts or makes substantially difficult execution of an important task shall be sentenced to imprisonment for a term of up to one year or disqualified from public office.
- (2) An offender shall be sentenced to imprisonment for a term of up to three years or disqualified from public office, if:
  - (a) he causes serious disruption of the operations of an enterprise or organisation by an act under sub-provision (1);
  - (b) he causes substantial damage or some other serious consequence by such act.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 89(9) and (11), 90(1);

**Commentary on provision 159:**

*Provision 159 concerns the failure of a public official to carry out a task as a result of negligence and a serious breach of his duty.*

**Division 3**  
**Bribery**

**Provision 160**  
**Bribe-Taking**

- (1) Whoever takes a bribe, or allows another person to promise him a bribe, in connection with a matter of public interest, shall be sentenced to imprisonment for a term of up to two years or disqualified from public office.
- (2) Whoever asks for a bribe under the circumstances in sub-provision (1) shall be sentenced to imprisonment for a term of from six months to three years.
- (3) An offender shall be sentenced to imprisonment for a term of from one to five years or a pecuniary penalty if he commits an act under sub-provision (1) or (2):
  - (a) with intent to provide substantial benefit for himself or someone else; or



- (b) as a public official.
- (4) An offender shall be sentenced to imprisonment for a term of from two to eight years if he commits an act under sub-provision (1) or (2):
  - (a) with intent to obtain a large-scale (extensive) benefit for himself or someone else; or
  - (b) as a public official, with intent to obtain a substantial benefit for himself or someone else.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 89(9), 90(1), 161;

**Commentary on provision 160:**

*A bribe ("úplatek") is an unjust benefit given to a person who is dealing with a matter of public interest. No minimum value of a bribe is stipulated in the Criminal Code. Indirect bribery is the subject of provision 162.*

**Provision 161  
Bribe-Giving**

- (1) Whoever gives, offers or promises a bribe to another person in connection with a matter of public interest shall be sentenced to imprisonment for a term of up to one year or a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years or to a pecuniary penalty if:
  - (a) he commits an act under sub-provision (1) with intent to obtain a substantial benefit for himself or someone else, or if he causes by such act substantial damage or some other especially serious consequence to another person; or
  - (b) he involves a public official in such act.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(9), 160, 163;

**Commentary on provision 161:**

*Sub-provision (2) has been in effect as of 9 June 1999, as have been the provisions of section 160(3) and (4).*

**Provision 162  
Indirect Bribery**

- (1) Whoever asks for or accepts a bribe to use his influence to affect the exercise of a public official's powers, or for having done so, shall be sentenced to imprisonment of a term of up to two years.
- (2) Whoever gives, offers or promises a bribe on the grounds under sub-provision (1) shall be sentenced to imprisonment for a term of up to one year.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(9), 160, 161, 163;

**Commentary on provision 162:**

*A crime under provision 162 is committed if someone asks for, or accepts, a bribe and promises to influence the conduct of a public official in a particular matter.*

**Provision 162a  
Joint Provisions**

- (1) A bribe is an unjust benefit consisting in direct material enrichment, or some other advantage being provided or to be provided to the person being bribed, or with such person's consent to another person, and to which he is not entitled.
- (2) A public official under provisions 160 to 162, in addition to the person stipulated in provision 89(9), means a person holding office
  - (a) in a legislative or judiciary organ (body), or foreign country's administrative organ; or
  - (b) in an enterprise in which a foreign country (state) has a decisive influence, or in an organisation formed by countries (states) or other bodies subject to public international law,

if performance of such office is connected with authority to administer matters of public interest and a crime is committed in connection with the exercise of such authority.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 160 to 162;*

**Commentary on provision 162a:**

Provision 162a was introduced into the Criminal Code by Act No. 96/1999 Coll. with effect from 9 June 1999.

**Provision 163  
Special Provisions on Effective Repentance**

Liability to punishment for bribe-giving (provision 161) or indirect bribery (provision 162) shall be voided if the offender gave or promised the bribe only because he was asked for it, but he reported it to the prosecutor's office or a police organ voluntarily and without delay.

**Relating provisions of the Criminal Code:**

- *provisions 161, 162;*

**Commentary on provision 163:**

*The special provisions 163 can only be applied if an offender provided or promised a bribe because he was asked for it and voluntarily and without delay reported this fact to the state prosecutors office or police.*

**Division 4  
Criminal Conspiracy**

**Provision 163a  
Participation in a Criminal Conspiracy**

- (1) A person who instigates a criminal conspiracy, or  
 who participates in, or  
 supports such conspiracy,  
 shall be sentenced to imprisonment for a term of from two to ten years or to forfeiture of property.

- (2) The provisions of provisions 43 and 44 shall not apply to a person who commits an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 10(1), 34(g), 39 et seq, 43, 44, 51, 52, 89(17), 163b, 163c;

**Commentary on provision 163a**

The legal definition of "a criminal conspiracy" ("zloèinné spolèení") can be found in provision 89(17).

**Provision 163b**

The liability to punishment (sentence) of a person who commits an act under provision 163a shall be voided if he reports such criminal conspiracy to the state prosecutor's office or to a police organ, at a time when it was still possible to eliminate the danger which arose from an act (other than that under provision 163a) to an interest protected by this Code. A soldier may also make a report to his commander or superior officer in such a situation.

**Relating provisions of the Criminal Code:**

- provisions 66, 89(17), 163a, 163c;

**Commentary on provision 163b:**

Provision 163b relates to provision 163a.

**Provision 163c**

- (1) A policeman who undertakes assignments as an agent under a special Act, and as a result takes part in or supports a criminal conspiracy, shall not be liable to punishment (sentence) if the purpose of his act under provision 63a is to reveal a perpetrator of criminal activity committed as part of such criminal conspiracy.
- (2) Liability to punishment (sentence) shall not be voided in the case of an agent who instigated or organised a criminal conspiracy.

**Relating provisions of the Criminal Code:**

- provisions 43, 89(17), 163a, 163b;

**Some other relating provisions:**

- Act on the Czech Republic's Police;

**Commentary on provision 163c:**

The use of an agent must be authorised by a regional court judge.

**Division 5  
Some Forms of Criminal Connivance and Assistance**

**Provision 164  
Instigation**

Whoever publicly incites other persons to commit a crime or not to fulfil en masse an important duty imposed by law shall be sentenced to imprisonment for a term of up to two years.

**Relating provisions of the Criminal Code:**

- provisions 3(1), 39 et seq, 75, 89(1) and (4), 294;

**Commentary on provision 164:**

*An offender is liable to sentence under provision 164 if he incites others to commit a crime or en masse not to fulfil a lawful duty, even if the other persons ignore such incitement.*

**Provision 165  
Connivance of a Crime**

- (1) Whoever connives publicly a crime or publicly praises the perpetrator of a crime shall be sentenced to imprisonment for a term of up to one year.
- (2) Such sentence shall also be imposed on a person who, with intent to express consent to a crime,
  - (a) rewards its perpetrator (offender) or a person closely related to the perpetrator, or provides compensation (indemnification) for such crime; or
  - (b) collects money for such reward or compensation.

**Relating provisions of the Criminal Code:**

- provisions 3(1), 9(1), 39 et seq, 75, 89(1), (4) and (8), 294;

**Commentary on provision 165:**

*Depending on the particulars of a case, the court may need to consider whether an offender's activity falls under provision 165 or provision 7(1) or provision 10(1)(b) of the Criminal Code.*

**Provision 166  
Assistance to an Offender**

- (1) Whoever assists an offender with intent to enable him to escape criminal prosecution, punishment or a protective measure or its performance shall be sentenced to imprisonment for a term of up to three years; however, if he assists an offender who has committed a crime which under this Code is liable to a lesser sentence (punishment), such lesser sentence shall be applied to him.
- (2) Whoever commits a crime under sub-provision (1) in favour of a close person shall not be liable to sentence (punishment), unless he does so with intent:
  - (a) to assist a person who has committed (an act of) high treason (provision 91), subversion (provision 92), terror (provision 93 and 93a), diversion activities (provision 95 and 96), sabotage (provision 97), espionage (provision 105/3/ and /4/) or genocide (provision 259); or
  - (b) to provide a material benefit for himself or another person.

**Relating provisions of the Criminal Code:**

- provisions 3(1), 9(1), 39 et seq, 75, 89(1) and (8), 294;

**Commentary on provision 166:**

*Assistance to an offender under provision 166 is granted only after the offender has committed a crime. It differs from assistance under provision 10(1)(c) of the Criminal Code.*

**Provision 167  
Failure to Act to Prevent a Crime**

- (1) Whoever reliably learns that another person is preparing or committing (an act of) high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a),

diversionist activities (provisions 95 and 96), sabotage (provision 97), espionage (provision 105), endangering an official secret, wartime treason (provision 114), violation of the provisions on disposal of goods and technologies liable to control procedures (provisions 124a, 124b and 124c), violation of the provisions on foreign trade in military materiel (provisions 124d, 124e, 124f), counterfeiting or altering money (provision 140), illegal crossing of the state border under provision 171b(2) and (3), unauthorised disposal (handling) of personal data under provision 178(3), common danger under provision 179, endangering the safety of an aircraft or civil vessel under provision 180a, unlawful taking of an aircraft abroad under provision 180c(2), unlicensed production and possession of addictive and psychotropic substances and poisons under provisions 187 and 188, cruelty to a charge (provision 215), murder (provision 219), robbery (provision 234), hostage-taking (provision 234a), rape (provision 241), sexual abuse under provision 242, larceny under provision 247(4), embezzlement under provision 248(4), fraud under provision 250(4), insurance fraud under provision 250a(5), credit (loan) fraud under provision 250b(5), participation under provisions 251(3) and 251a(3), genocide (provision 259), use of a prohibited weapon or unpermitted form of combat (provision 262), wartime cruelty (provision 263), plunder during war operations (provision 264), disobedience under provision 273(2)(a), resistance and breach of a military duty under duress under provision 275(2)(a), violation of soldiers' rights and protected interests under provisions 279a(3) and 279b(3), desertion under provision 282 or endangering the morale of a military unit under provision 288(2), or whoever does not get to thwart the commission or completion of any such crime shall be sentenced to imprisonment for a term of up to three years; however, if this Code provides for a lesser punishment, he shall be sentenced to such lesser punishment.

- (2) Whoever commits an act under provision (1) shall not be liable to sentence (punishment) if he could not thwart the crime without considerable difficulties or without exposing himself or a close person to the danger of death, injury to health, some other serious detriment or criminal prosecution. However, exposure of a close person to criminal prosecution shall not relieve an offender of his liability to punishment if he fails to act to prevent any of the following crimes: high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a), diversionist activities (provisions 95 and 96), sabotage (provision 97), espionage (provision 105), endangering an official secret under provision 106 or genocide (provision 259).
- (3) A crime can also be thwarted by being timely reported to the state prosecutor's office or a police organ; a soldier may report the crime to his commander or superior officer instead.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(1) and (8);

**Commentary on provision 167:**

*Provision 89(8) of the Criminal Code defines "a close person" for the purposes of criminal law.*

**Provision 168**  
**Failure to Report a Crime**

- (1) Whoever reliably learns that another person has committed an act of high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a), diversionist activities (provisions 95 and 96), sabotage (provision 97), espionage (provisions 105/2/, /3/ and /4/), endangering an official secret (provisions 106 and 107), violation of the provisions on disposal of goods and technologies liable to control procedures (provisions 124a, 124b and 124c), violation of the provisions on foreign trade in military materiel (provisions 124d, 124e and 124f), counterfeiting or altering money (provision 140), unauthorised disposal of personal data (provision 178/3/), participation in a criminal conspiracy (provision 163a/1/), common danger under provision 179, endangering the safety of an aircraft or civil vessel

under provision 180a, unlawful taking of an aircraft abroad under provision 180c(2), cruelty to a charge (provision 215), murder (provision 219) genocide (provision 259) or use of a prohibited weapon or unpermitted form of combat, and fails to report the crime, without delay, to the state prosecutor's office or a police organ, or in the case of a soldier, to his commander or superior officer instead, shall be sentenced to imprisonment for a term of up to three years; if this Code provides a lesser punishment for one of the above-mentioned crimes, he shall be sentenced to such lesser punishment.

- (2) Whoever commits an act under sub-provision (1) shall not be criminally liable if he was unable to report the crime without exposing himself or a close person to the danger of death, injury to health or some other serious detriment or criminal prosecution. However, exposure of a close person to the danger of criminal prosecution shall not relieve an offender of his criminal liability if he fails to report an act of high treason (provision 91), subversion (provision 92), terror (provisions 93 and 93a), diversion activities (provisions 95 and 96), sabotage (provision 97), espionage (provision 105/2/, /3/ and /4/), endangering an official secret (provisions 106 and 107) or genocide (provision 259).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(1) and (8);

**Commentary on provision 168:**

*The duty to report a crime under provision 168(1) relates to a person who learns of a crime, irrespective of whether or not he learns or knows the identity of the offender. Some exceptions from this duty are stipulated in sub-provision (2).*

**Division 6**

**Other Interference with the Activity of a State Organ**

**Provision 169  
Repealed**

**Provision 169a  
Interference with the Independence of a Court**

- (1) Whoever influences a judge to breach his duties in proceedings before a court shall be sentenced to imprisonment for a term of from six months to three years.
- (2) An offender shall be sentenced to imprisonment for a term of from three years to ten years if he commits an act under sub-provision (1) with intent:
- (a) to provide a substantial benefit for himself or someone else; or
  - (b) to cause substantial damage or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(11);

**Some relating provisions of other Acts:**

- Act on Courts and Judges;
- Constitutional Court Act;
- Higher Judicial Officers Act;

**Commentary on provision 169a:**

*Provision 169a is intended to protect the independence of judges.*

**Provision 169b**

## **Contempt of Court**

Whoever repeatedly and grossly disturbs a hearing before a court, or who repeatedly behaves at such hearing in a contemptible manner, or

who repeatedly frustrates a hearing before a court,

shall be punished by imprisonment for a term of up to two years or by a pecuniary penalty.

### **Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

### **Some relating provisions of other Acts:**

- *Act on Courts and Judges;*
- *Constitutional Court Act;*
- *Higher Judicial Officers Act;*

### **Commentary on provision 169b:**

*Provision 169b is intended to protect the authority of the courts and the timely and orderly conduct of court hearings.*

## **Provisions 170 and 170a Repealed**

### **Provision 171 Frustrating Execution of an Official Decision**

- (1) Whoever frustrates or substantially obstructs execution of a decision of a court or another state organ by:
  - (a) staying without permission and a serious reason in a place or district from which he has been prohibited, or by not complying with a restriction imposed on him in connection with his sentence;
  - (b) staying in the territory of the Czech Republic, even though he has been expelled from it or prohibited from staying on its territory;
  - (c) performing an activity which he has been prohibited from carrying on;
  - (d) committing an act (activity) which seriously frustrates the purpose of protective therapy (treatment) or rehabilitation (of his behaviour) as imposed by the court, or by making implementation of such decision difficult, particularly by escaping from an institution; or
  - (e) by committing an act (activity) which seriously frustrates the purpose of his detention or sentence,

shall be punished by imprisonment for a term of up to six months or by a pecuniary penalty.

- (2) Whoever frustrates or substantially obstructs execution of a decision taken by a court or another state organ (agency) by:
  - (a) destroying, damaging, making useless, concealing, alienating or removing the thing to which such decision applies; or

- (b) escaping from his guard, custody (detention) or prison (where he is serving his term of imprisonment),

shall be punished by imprisonment for a term of up to five years or a pecuniary penalty.

- (3) If after unsuccessful measures have been taken against a particular person in civil proceedings to attain execution of a civil court's decision or a court-approved agreement on the upbringing of minor children, and such person frustrates execution of the said decision or agreement, or if he undertakes a significant act in order to frustrate another state organ's decision on the upbringing of minor children, such person shall be sentenced to imprisonment for a term of up to one year.

**Relating provisions of the Criminal Code:**

- provisions 23, 39 et seq, 49, 50, 53, 54, 57, 57a, 72, 76, 84 to 86;

**Some other relating provisions:**

- provisions 67, 351 et seq, 354 et seq of the Criminal Procedure Code;

**Commentary on provision 171:**

*Provision 171 protects the interest of society in ensuring that there is proper compliance with decisions (verdicts) of courts and other state organs.*

**Illegal Crossing of the State Border  
Provision 171a**

- (1) A person who organises for another person or enables such person to make an illegal crossing of the (Czech) state border shall be punished by imprisonment for a term of up to one year or by a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from six months to three years if:
- (a) he commits an act under sub-provision (1) with intent to conceal or facilitate another crime;
- (b) he commits such an act for remuneration; or
- (c) he commits such an act as a member of an organised group.

**Relating provisions of the Criminal Code:**

- provisions 10, 39 et seq, 53, 54;

**Commentary on provision 171a:**

*The Czech Republic is responsible for protecting its state border (frontier) against illegal crossings. The number of immigrants illegally crossing the Czech state border has been increasing in recent years. This provision is aimed at those who organise or enable such illegal crossings.*

**Provision 171b**

- (1) Whoever crosses the state border (frontier) by using force (violence) or the threat of immediate force shall be punished by imprisonment for a term of from one to five years or by forfeiture of his property.
- (2) An offender shall be punished by imprisonment for a term of from two to eight years or by forfeiture of his property if:



- (a) he organises an act under sub-provision (1);
  - (b) he commits such act with a weapon or together with at least two other persons;
  - (c) he commits such act with intent to conceal or facilitate another crime;
  - (d) by such act he causes a serious injury to health or some other especially serious consequence; or
  - (e) he commits such act during a state defence emergency.
- (3) An offender shall be sentenced to imprisonment for a term of from eight to fifteen years if he causes death by an act under sub-provision (1), or if he commits such act as a soldier during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 10, 39 et seq, 51, 52, 62, 89(5) to (7), 167(1);

**Commentary on provision 171b:**

*Unlawful crossing of the state border without the use of force (violence) or the threat of force is regarded as a misdemeanour.*

**Provision 171c**

Whoever breaches the provisions on international flights by breaking into the air space of the Czech Republic (without permission) shall be sentenced to imprisonment for a term of from six months to three years.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Commentary on provision 171c:**

*Regulations governing international flights are issued by such bodies as the International Civil Aviation Organisation.*

**Provision 172  
Mutiny by Prisoners**

- (1) Whoever takes part in a mutiny by a group of prisoners against the prison authority, its order or the prison rules shall be sentenced to imprisonment for a term of from one to five years.
- (2) An offender who organises a criminal act under sub-provision (1) shall be sentenced to imprisonment for a term of from three to eight years.

**Relating provisions of the Criminal Code:**

- provisions 10(1), 39 et seq, 66;

**Some relating provisions of other Acts:**

- *Act on the Prison Service;*
- *Detention Act;*
- *Act on Serving Terms of Imprisonment;*

**Commentary on provision 172:**

*A prisoner ("vìzeò") is a person who is serving a term of imprisonment or who is kept in detention based on a court's decision.*

**Provision 173  
Repealed**

**Provision 174**

- (1) Whoever falsely accuses another person of a crime with intent to bring about the criminal prosecution of such person shall be sentenced to imprisonment for a term of up to three years.
- (2) An offender shall be sentenced to imprisonment for a term of from three to eight years if by an act under sub-provision (1) he causes substantial damage or another especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 3(1), 39 et seq, 75, 89(1) and (11), 294;

**Some other relating provisions:**

- provision 12(10) of the Criminal Procedure Code;

**Commentary on provision 174:**

*A person who intentionally falsely accuses someone else of undertaking an activity which is a misdemeanour rather than a crime is not sentenced under provision 174.*

**Provision 175  
Perjury**

- (1) A person who as a witness, expert or interpreter appearing before a court, a prosecutor's office or an investigating or police organ, insofar as such organ carries out preliminary proceedings under the Criminal Procedure Code, or before a commission of inquiry set up by the Chamber of Deputies:
  - (a) makes a false statement concerning a fact which is of substantial significance for the court's decision (verdict) or for ascertainment of a situation by the Chamber of Deputies' Commission of inquiry; or
  - (b) withholds such fact,

shall be punished by imprisonment for a term of up to three years or a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for a term of from three to eight years if by his act under sub-provision (1) he causes substantial damage or another especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Some relating provisions of other Acts:**

- Act on Rules of Procedure in the Chamber of Deputies;
- provision 12(10) of the Criminal Procedure Code;

**Commentary on provision 175:**

*Perjury ("køivá výpovï") relates to a circumstance which is of substantial importance for just consideration of the criminal case.*

**Provision 176**

### Forging and Altering a Public Document

(1) Whoever forges a public document or substantially alters its contents with intent to present such document as genuine, or

whoever uses such document as genuine,

shall be punished by imprisonment for a term of up to two years or a pecuniary penalty.

(2) An offender shall be sentenced to imprisonment for a term of from one to five years if:

- (a) he commits an act under sub-provision (1) as a member of an organised group; or
- (b) if by such act, he causes substantial damage or another especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Commentary on provision 176:**

The term "public document" ("veřejná listina") is not defined in the Criminal Code. In provision 134 of the Civil Procedure Code public documents are defined as those issued by Czech courts or other state agencies within the scope of their competence, and further those documents declared to be public under special provisions. Such documents are either orders (for example, judgements) or certificates (for example, birth certificates).

### Provision 176a

#### Unauthorised Making and Keeping of the State Seal and an Official Stamp

Whoever, without authorisation, makes for himself or another person a state seal or a stamp of a state authority containing a picture of the state emblem, or a stamp whose imprint is obligatory on documents which under special provisions are regarded as public documents, or whoever makes an object, which can be used for such purpose, shall be punished by imprisonment for a term of up to one year, to prohibition of a specific activity or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 176;

**Some relating provisions of other Acts:**

- Act on State Symbols of the Czech Republic;
- Act on Use of the State's Emblem, Flag and other Symbols;
- Notarial Act;

**Commentary on provision 176a:**

The provisions of section 176a were introduced by Act No. 253/1997 Coll. with effect from 1 January 1998.

### Provision 177

#### Frustrating Elections or a Referendum

Whoever prevents another person by violence or deceit from exercising his electoral right or right to vote in a referendum, or in such manner forces another person to exercise his electoral right or right to vote, or

forges in a document data concerning the number of members of a particular political party or in a petition for electoral purposes or in another document related to the elections or a referendum, or intentionally uses such a document as genuine, or

with intent incorrectly adds up votes or violates the secrecy of voting, or

whoever frustrates in any other gross manner the preparation of course of elections of representatives to legislative bodies or local bodies (local government) or the preparation or course of a particular referendum,

shall be sentenced to imprisonment for a term of from six months to three years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(6);*

**Some relating provisions of other Acts:**

- *Parliamentary Elections Act;*
- *Municipal Elections Act;*
- *Political Parties and Movements Act;*
- *Constitution of the Czech Republic;*
- *Charter of Fundamental Rights and Freedoms;*
- *Local Referendum Act;*

**Commentary on provision 177:**

*Provision 177 protects society's interest in the undisturbed and proper preparation, holding and course of general and local elections or referenda.*

**Provision 178  
Unauthorised Disposal of Personal Data**

- (1) Whoever, even through negligence, communicates or allows access to data gathered in connection with the performance of public administration shall be punished by imprisonment for a term of up to three years, or to prohibition of a specific activity or a pecuniary penalty.
- (2) A person who acquires data on another person in connection with his profession, employment or office and who, even through negligence, communicates the data to another person, or allows access to such data by another person, thus breaching a duty of confidentiality stipulated by law, shall be liable to a sentence under sub-provision (1).
- (3) An offender shall be punished by imprisonment for a term of from one to five years, or to prohibition of a specific activity or a pecuniary penalty if:
  - (a) by his act under sub-provision (1) or (2) he causes a serious detriment to the rights and justified interests of the person whom such data relates;
  - (b) he commits an act under sub-provision (1) or (2) through the press, film, radio or TV broadcasting or in another similarly effective manner;
  - (c) he commits an act under sub-provision (1) or (2) by breaching duties arising from his profession, employment or office.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54, 206;*

**Some other relating provisions:**

- *Act on Protection of Personal Data in Information Systems;*

**Commentary on provision 178:**

*Article 10 of the Charter of Fundamental Rights and Freedoms stipulates that everybody is entitled to protection from the unauthorised collection, publication or other misuse of personal data.*

**Provision 178a  
Poaching**

- (1) A person who hunts or catches game (animals) or fish without permission (a licence), or who hides or transfers to himself or another person such game or fish shall be punished by imprisonment for a term of up to two years, or by a pecuniary penalty, prohibition of a specific activity or by forfeiture of a specific thing.
- (2) An offender shall be punished by imprisonment for a term of from six months to five years and by forfeiture of a particular thing if he commits an act under sub-provision (1):
  - (a) with intent to provide a material benefit for himself or another person;
  - (b) in an especially contemptible manner;
  - (c) by (use of) a method of mass effect; or
  - (d) as a member of an organised group.

Such sentence shall also apply to an offender who was sentenced for an act under sub-provision (1) in the preceding three years.

**Relating provisions of the Criminal Code:**

- *provisions 34(g), 39 et seq, 49, 50, 53 to 56, 251;*

**Some relating provisions of other Acts:**

- *Gamekeeping Act;*
- *Fisheries Act;*
- *Misdemeanours Act;*
- *Decree implementing the Gamekeeping Act;*
- *Decree implementing the Fisheries Act;*

**Commentary on provision 178a:**

*Provision 178a in its present wording came into effect as of 1 October 1998 (amendment by Act No. 92/1998 Coll.).*

**CHAPTER FOUR  
CRIMES CAUSING COMMON DANGER**

**Common Danger  
Provision 179**

- (1) Whoever intentionally exposes people to the danger of death or severe injury to health, or exposes another person's property to the danger of large-scale damage, by causing a fire or flood or damage by the use of explosives, gas, electricity or similarly dangerous substances, or forces or commits another similarly dangerous act (common danger), or

whoever increases common danger or obstructs its prevention or mitigation,

shall be sentenced to imprisonment for a term of from three to eight years.

- (2) An offender shall be sentenced to imprisonment for a term of from eight to fifteen years if:
- (a) he commits an act under sub-provision (1) as a member of an organised group;
  - (b) he commits such act repeatedly within a short period of time; or
  - (c) by such act he causes serious injury to the health of two or more people, death, large-scale damage or another especially serious consequence.
- (3) An offender shall be sentenced to imprisonment for a term of from twelve to fifteen years or an exceptional punishment (an exceptional term of imprisonment) if:
- (a) he intentionally causes death by an act under sub-provision (1); or
  - (b) he commits such act during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 66, 89(7) and (11), 180;

**Commentary on provision 179:**

*Common danger is caused by an intentional criminal act perpetrated in order to expose people to the immediate danger of serious injury or death and/or property to the danger of large-scale damage.*

**Provision 180**

- (1) Whoever, through negligence, causes or increases common danger or makes its prevention or mitigation more difficult, shall be punished by imprisonment for a term of up to one year or prohibition from a specific activity.
- (2) An offender shall be punished by imprisonment for a term of up to three years or prohibition of a specific activity if:
- (a) he causes severe injury or death by an act under sub-provision (1);
  - (b) he commits such act by breaching an important duty arising from his employment, profession or office, or by breaching a duty imposed on him under law; or
  - (c) he causes substantial damage by such act.
- (3) An offender shall be punished by imprisonment for a term of from one to five years or a pecuniary penalty if by an act under sub-provision (2)(b) he causes:
- (a) large-scale damage; or
  - (b) severe injury to health or death.
- (4) An offender shall be sentenced to imprisonment for a term of from three to ten years if, by an act under sub-provision (2)(b), he causes severe injury to the health, or the death, of two or more persons.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 66, 89(7) and (11);

**Commentary on provision 180:**

*An offender who causes common danger by negligence, or who aggravates it or makes its prevention or mitigation more difficult, is sentenced under provision 180.*

**Endangering the Safety of an Aircraft or Civil Vessel  
Provision 180a**

- (1) A person who, while on board an aircraft or civil vessel, with intent to acquire or exercise control over such means of transport:
- (a) uses violence or a threat of immediate violence against another person;
  - (b) threatens another person with death, injury to health or an act causing large-scale damage; or
  - (c) abuses the defencelessness of another person;

shall be punished by imprisonment for a term of from eight to fifteen years or by forfeiture of property.

- (2) An offender shall be punished by imprisonment for a term of from twelve to fifteen years or an exceptional punishment (imprisonment for a period of exceptional length) and possibly also forfeiture of property, if:
- (a) by his act under sub-provision (1) he causes death; or
  - (b) he commits such act during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 51, 52, 89(11);

**Commentary on provision 180a:**

*The Czech Republic is a signatory to international conventions intended to prevent illegal seizures of means of transportation.*

**Provision 180b**

A person who provides false information which can endanger the safety or operation of an aircraft during flight or of a civil vessel during its voyage shall be punished by imprisonment for a term of up to three years or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54;

**Commentary on provision 180b:**

*Provision 180b is intended to protect both the safety and operation of aircraft and civil vessels during flights and voyages.*

**Provision 180c  
Unlawful Taking of an Aircraft Abroad**

- (1) A person who without authorisation seizes or uses an aircraft entrusted to him in order to take it unlawfully abroad shall be punished by imprisonment for a term of from three to ten years or forfeiture of property.

- (2) An offender who causes death by an act under sub-provision (1) shall be sentenced to imprisonment for a term of from ten to fifteen years or to an exceptional punishment (imprisonment for a period of exceptional length) and possibly also forfeiture of property.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 51, 52;

**Commentary on provision 180c:**

*An offender sentenced under provision 180c may only be conditionally released from prison after having served at least two-thirds of his term of imprisonment (see provision 62/1/).*

**Provision 181  
Breach of Duty and Extreme Dearth**

A person who, without good reason, frustrates or obstructs the prevention or mitigation or a threat of extreme dearth affecting a larger group of persons by:

- (a) refusing assistance enjoined on him by law, or to which he has bound himself; or
- (b) frustrating such assistance offered by another person,

shall be punished by imprisonment for a term of up to three years, or by prohibition of a specific activity or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Commentary on provision 181:**

*The threat of dearth facing a large group of people may arise from such events as a flood or a disaster at a nuclear power plant.*

**Endangering the Environment  
Provision 181a**

- (1) A person who intentionally exposes the environment to major damage, by violating legal provisions governing environmental protection or the management of natural resources, shall be punished by imprisonment for a term of up to three years or prohibition from a specific activity.
- (2) An offender shall be sentenced to imprisonment for a term of from one to six years, if he causes substantial harm to the environment by an act under sub-provision (1).
- (3) An offender shall be sentenced to imprisonment for a term of from three to eight years, if he causes extensive damage to the environment by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 66;

**Some relating provisions of other Acts:**

- *Environment Act;*
- *Nature and Landscape Protection Act;*
- *Decree implementing certain provisions of the Nature and Landscape Protection Act;*

**Commentary on provision 181a:**

*Provision 181a applies to an offender who intentionally exposes the environment to major damage or causes substantial or extensive environmental damage.*



### Provision 181b

- (1) A person who by his negligence endangers the environment (provision 181a/1/) shall be punished by imprisonment for a term of up to one year, prohibition of a specific activity or a pecuniary penalty.
- (2) An offender shall be punished by imprisonment for a term of up to three years or prohibition of a specific activity if:
  - (a) he commits a crime under sub-provision (1) by breaching an important duty arising from his employment, profession, position or office, or a duty assigned to him under the law; or
  - (b) he causes substantial harm to the environment by committing such a crime.
- (3) An offender shall be sentenced to imprisonment for a term of from one to five years, if he causes extensive damage to the environment by an act under sub-provision (2)(a).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Some relating provisions of other Acts:**

- Environment Act;
- Nature and Landscape Protection Act;
- Decree implementing certain provisions of the Nature and Landscape Protection Act;

**Commentary on provision 181b:**

*Provision 181b applies to an offender who by his negligence exposes the environment to substantial damage or causes extensive environmental damage.*

### Damaging and Endangering the Operation of a Public Utility Provision 182

- (1) Whoever intentionally endangers the operation of:
  - (a) a public telecommunications facility, a post office or a public transport facility;
  - (b) a facility preventing the leaking of contaminating substances;
  - (c) a power or water-supply facility;
  - (d) a public facility for the prevention of fire, flood or other natural disasters;
  - (e) a submarine cable or pipeline;
  - (f) a defensive or protective facility against air and other similar attacks or their consequences;  
or
  - (g) any other similar public facility

shall be punished by imprisonment for a term of up to three years or a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for a term of from one to six years if:
  - (a) he causes a breakdown in the operation of a public utility by an act under sub-provision (1);  
or

(b) he commits such act during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66;

**Commentary on provision 182:**

*This provision protects public utilities against intentional damage.*

**Provision 183**

Whoever intentionally destroys or renders useless a clearly marked sign indicating a point of the geodesic network or a basic level point or a key gravimetric point, shall be punished by imprisonment for a term of up to one year or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66;

**Some relating provisions of other Acts:**

- Geodesy Act;  
- Act on Geodesy and Cadastral Organs;

**Commentary on provision 183:**

*The wording of provision 183 was last amended in 1990. Misdemeanours relating to geodesy and cartography are subject to provision 37 of the Misdemeanours Act.*

**Provision 184**

A person who through negligence endangers the operation of a public utility (a public beneficial facility; provision 182/1/) shall be punished by imprisonment for a term of up to six months or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66;

**Commentary on provision 184:**

*Liability to punishment under provision 184 is voidable by effective repentance under provision 66.*

**Provision 185  
Unauthorised Arming**

(1) A person who, without authorisation, makes (produces) or obtains for himself or another person a firearm, or keeps it (in his possession), shall be punished by imprisonment for a term of up to one year or forfeiture of a thing.

(2) A person, who without authorisation:

(a) obtains for himself or another person, or keeps (in his possession), an explosive, a weapon of mass destruction or components (parts) which are required for the use of such weapon; or

(b) accumulates, makes or obtains for himself or another person weapons or ammunition,

shall be sentenced to imprisonment for a term of up to three years.

- (3) A sentence under sub-provision (2) shall be also imposed on a person who designs, constructs and uses (illegally) facilities for the production of chemical weapons.
- (4) An offender shall be sentenced to imprisonment for a term of from one to five years if:
- (a) he commits an act under sub-provisions (2) and (3) as a member of an organised group;
  - (b) commits such act to a significant extent; or
  - (c) commits such act at the time of a state defence emergency.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56;*

**Some relating provisions of other Acts:**

- *Firearms Act;*
- *Decree implementing certain provisions of the Firearms Act;*
- *Act on Mining, Explosives and the State Mining Administration;*
- *Decree on Explosives;*

**Commentary on provision 185:**

*Under the Annex to the Trades Licensing Act ("živnostenský zákon"), development, manufacture, repair, modification, purchase, sale and destruction of weapons, and ammunition for such weapons, require special licences.*

**Provision 186**

**Unauthorised Production and Possession of Radioactive Material and Other Highly Dangerous Substances**

- (1) A person who produces, imports, transits, exports or keeps for, or obtains for, another person, radioactive material or a highly dangerous substance or objects for its production, shall be punished by imprisonment for a term of from one to five years, prohibition of a specific activity or a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from two to ten years if:
- (a) by such act he causes serious injury to health;
  - (b) by such act he acquires a substantial benefit.
- (3) An offender shall be sentenced to imprisonment for a term of from eight to fifteen years if:
- (a) by his act under sub-provision (1) he causes serious injury to two or more persons, or death;
  - (b) by such act he acquires a large-scale benefit; or
  - (c) he commits such act as a member of an organised group.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54, 89(7) and (11);*

**Some relating provisions of other Acts:**

- *Nuclear (Power) Act;*
- *Act on Certain Measures Relating to the Prohibition of Chemical Weapons;*

- *Decree implementing the Act on Certain Measures Relating to the Prohibition of Chemical Weapons;*
- *Convention on Prohibiting the Development, Production, Stockpiling and Use of chemical Weapons and their Destruction;*

**Commentary on provision 186:**

*Under an amendment by Act No. 19/1997 Coll. the scope of provision 186 was extended to include highly dangerous substances and objects for their production.*

**Unauthorised Production and Possession of Narcotic and Psychotropic Substances and Poisons  
Provision 187**

- (1) A person who produces, imports, exports, transits, offers, mediates, sells or otherwise obtains, or keeps for another person, narcotic or psychotropic substance, a preparation containing a narcotic or psychotropic substance, a precursor or a poison, shall be sentenced to imprisonment for a term of from one to five years.
- (2) An offender shall be sentenced to imprisonment for a term of from two to ten years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group, or on a significant scale; or
  - (b) he commits such act against a person under eighteen years of age.
- (3) An offender shall be sentenced to imprisonment for a term of from eight to twelve years if:
  - (a) by an act under sub-provision (1) he acquires a substantial benefit;
  - (b) he commits such act against a person under fifteen years of age; or
  - (c) by such act he causes serious injury to health.
- (4) An offender shall be sentenced to imprisonment for a term of from ten to fifteen years if:
  - (a) by an act under sub-provision (1) he causes serious injury to the health of two or more persons or death;
  - (b) by such act he acquires a large-scale benefit; or
  - (c) he commits such act in association with an organised group active in two or more countries (states).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7) and (11), 195;*

**Some relating provisions of other Acts:**

- *Government Order on Poisons and Certain Other Substances Harmful to Health;*
- *Decree determining narcotics and poisons for the purposes of provisions 187 and 188 of the Criminal Code;*

**Commentary on provision 187:**

*Act No. 112/1998 Coll. introduced the present wording of provision 187 and added provision 187a.*

**Provision 187a**

- (1) A person who keeps, without authorisation, a narcotic or psychotropic substance or poison in a quantity greater than small shall be punished by imprisonment for a term of up to two years or by a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if he commits an act under sub-provision (1) on a significant scale.

**Relating provisions of the Criminal Code:**

- provisions 34(j), 39 et seq, 53, 54, 195;

**Some relating provisions of other Acts:**

- Government Order on Poisons and Certain Other Substances Harmful to Health;
- Decree determining narcotics and poisons for the purposes of provisions 187 and 188 of the Criminal Code;

**Commentary on provision 187a:**

*The phrase "a quantity greater than small" is interpreted as meaning a larger amount of a narcotic or psychotropic substance than a person would require for his own use. Courts will consider each case individually. (For the possibility of a suspended sentence, see provisions 26 and 60a).*

**Provision 188**

- (1) A person who produces, or obtains or keeps (in his possession), for himself or someone else, an object determined for unauthorised production of a narcotic or psychotropic substance, a preparation containing a narcotic or psychotropic substance, or poison shall be punished by imprisonment for a term of from one to five years, prohibition from a specific activity, a pecuniary penalty or forfeiture of a thing.
- (2) An offender shall be sentenced to imprisonment for a term of from two to ten years if:
  - (a) he commits an act under sub-provision (1) on a significant scale;
  - (b) he commits any act against a person under eighteen years of age;
  - (c) by such act he acquires a substantial benefit.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53 to 56, 89(11), 195;

**Some relating provisions of other Acts:**

- Government Order on Poisons and Certain Other Substances Harmful to Health;
- Decree determining narcotics and poisons for the purposes of provisions 187 and 188 of the Criminal Code;

**Commentary on provision 188:**

*The present wording of provisions 188 and 188a results from amendments introduced by Act No. 112/1998 Coll.*

**Provision 188a  
Spreading of Addiction**

- (1) A person who induces someone else to abuse an addictive substance (other than alcohol), or supports someone else in doing so, or otherwise instigates or spreads abuse of an addictive substance, shall be punished by imprisonment for a term of up to three years, prohibition from a (specific) activity or a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if he commits an act under sub-provision (1) against a person of under eighteen years of age.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54;

**Some relating provisions of other Acts:**

- Act on the Prevention of Alcoholism and Other Forms of Toxic Addiction;
- Government Order on Poisons and Certain Other Substances Harmful to Health;

**Commentary on provision 188a:**

*Alcoholic beverages are not included in the provisions of section 188a. The serving of alcoholic beverages to juveniles is subject to provision 218.*

**Spreading an Infectious Disease  
Provision 189**

A person who intentionally causes or aggravates the danger of introduction or spread of an infectious human disease shall be sentenced to imprisonment for a term of up to three years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 66, 195;

**Some relating provisions of other Acts:**

- Decree determining infectious diseases for the purposes of the Criminal Code;
- Decree on Measures against Contagious Diseases;

**Commentary on provision 189:**

*Infectious human diseases for the purposes of the Criminal Code are stipulated in Decree No. 104/1987 Coll. Liability to punishment under provision 189 is voided by effective repentance (provision 66).*

**Provision 190**

A person who, through negligence causes or aggravates, the danger of introduction or spread of an infectious human disease shall be punished by imprisonment for a term of up to one year or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66, 195;

**Some relating provisions of other Acts:**

- Decree determining infectious diseases for the purposes of the Criminal Code;
- Decree on Measures against Contagious Diseases;

**Commentary on provision 190:**

*Effective repentance voids an act under provision 190.*

**Provision 191**

- (1) A person, who even through negligence, causes or aggravates the danger of introduction or spread of an infectious disease among domesticated or other economically important animals shall be punished by imprisonment for a term of up to one year or a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for a term of from six months to three years if he causes such disease to spread by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66, 195;

**Some relating provisions of other Acts:**

- Veterinary Care Act;
- Decree identifying infectious diseases affecting farm animals and other livestock;
- Decree on Animal Health Care;
- Decree listing economically important plant and animal species;

**Commentary on provision 191:**

*Decree No. 123/1967 Coll. infectious a list of infectious animal diseases for the purposes of provision 191 of the Criminal Code. Provision 66 on effective repentance is applicable to an act under provision 191.*

**Provision 192**

- (1) A person who, through negligence, causes or aggregates the danger of introduction or spread of an infectious disease or pestilence among utility vegetation shall be punished by imprisonment for a term of up to one year or a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from six months to three years if he causes the spread of such disease or pestilence by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66, 195;

**Some relating provisions of other Acts:**

- Act on Developing the Production of Vegetation;
- Act on Phytosanitary Care;
- Decree listing economically important plant and animal species;

**Commentary on provision 192:**

*The Annex to Decree No. 62/1964 Coll. lists diseases and pestilence affecting utility vegetation. Provision 66 on effective repentance is applicable to an act under provision 192.*

**Endangering Public Health through Defective Foodstuffs and Other Products  
Provision 193**

- (1) Whoever intentionally sells, or produces for this purpose, or supplies to another person, foodstuffs or products whose consumption or use for their usual purpose is dangerous to human health shall be punished by imprisonment for a term of up to two years or a pecuniary penalty.
- (2) An offender shall be sentenced to imprisonment for a term of from one to five years if he causes severe injury to the health of two or more persons, or death, by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 66, 89(7);

**Some relating provisions of other Acts:**

- Act on Foodstuffs and Tobacco Products;

- Decree No. 325/1997 Coll., No. 326/1997 Coll., No. 327/1997 Coll., No. 328/1997 Col., No. 329/1997 Coll., No. 330/1997 Coll., No. 331/1997 Coll., No. 332/1997 Coll., No. 333/1997 Coll., No. 334/1997 Coll. and No. 335/1997 Coll., implementing provision 18 of the Act on Foodstuffs and Tobacco Products;
- Product Technical Requirements Act;
- Government Order stipulating the technical requirements of low-voltage electrical equipment;
- Government Order stipulating the technical requirements of engineering equipment;
- Government Order stipulating the technical requirements of toys;
- Government Order stipulating the technical requirements of personal protective aids;
- Government Order stipulating the technical requirements of firearms and ammunition;
- Government Order stipulating the technical requirements of simple pressure vessels;
- Government Order stipulating the technical requirements of equipment and protection systems determined for use in circumstances involving danger of an explosion;
- Government Order stipulating the technical requirements of gas appliances;
- Government Order stipulating the technical requirements of construction products;

**Commentary on provision 193:**

*Relating Acts and Decrees (Orders) are listed above. Provision 66 on effective repentance is applicable to an act under provision 193. A corresponding misdemeanour is subject to provision 29(1)(d) and (h) of the Misdemeanours Act.*

**Provision 194**

A person who, through negligence, sells or, for the purposes of sale, produces or procures for himself or someone else foodstuffs or other products whose use for the usual purpose is harmful to human health shall be punished by imprisonment for a term of up to six months, a pecuniary penalty or forfeiture of a thing.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53 to 56, 66;

**Some relating provisions of other Acts:**

- Act on Foodstuffs and Tobacco Products;
- Decrees No. 325/1997 Coll., No. 326/1997 Coll., No. 327/1997 Coll., No. 328/1997 Coll., No. 329/1997 Coll., No. 330/1997 Coll., No. 331/1997 Coll., No. 332/1997 Coll., No. 333/1997 Coll., No. 334/1997 Coll. and No. 335/1997 Coll., implementing provision 18 of the Act on Foodstuffs and Tobacco Products;
- Product Technical Requirements Act;
- Government Order stipulating the technical requirements of low-voltage electrical equipment;
- Government Order stipulating the technical requirements of engineering equipment;
- Government Order stipulating the technical requirements of toys;
- Government Order stipulating the technical requirements of personal protective aids;
- Government Order stipulating the technical requirements of firearms and ammunition;
- Government Order stipulating the technical requirements of simple pressure vessels;
- Government Order stipulating the technical requirements of equipment and protection systems determined for use in circumstances involving danger of an explosion;
- Government Order stipulating the technical requirements of gas appliances;
- Government Order stipulating the technical requirements of construction products;

**Commentary on provision 194:**

*Liability to punishment can be voided under provision 66. A corresponding misdemeanour is subject to provision 29(1)(d) and (h) of the Misdemeanours Act.*

**Provision 194a  
Unlicensed Production of Spirit**



- (1) A person who without a licence burns or otherwise produces a greater quantity of spirit, or who without a licence keeps or introduces onto the market a greater quantity of spirit, shall be punished, unless such act is liable to a more severe punishment, by imprisonment for a term of up to one year, a pecuniary penalty or forfeiture of a thing.
- (2) Such sentence shall also apply to a person who, without a licence (authorisation), makes or keeps equipment for the production of spirit.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, to 56;*

**Some relating provisions of other Acts:**

- *Act on the Prevention of Alcoholism and Other Forms of Toxic Addiction;*
- *Decree implementing the Act on the Prevention of Alcoholism and Other Forms of Toxic Addiction;*
- *Act on Combating Alcoholism;*
- *Act on Spirit;*
- *Excise Duties Act;*

**Commentary on provision 194a:**

*A corresponding misdemeanour is subject to provision 30(1)(d) of the Misdemeanours Act.*

**Provision 195  
Joint Provisions**

- (1) A special Act determines narcotic and psychotropic substances and preparations containing a narcotic or psychotropic substance or precursor.
- (2) The Government shall determine in a Decree (Order) poisons in the meaning of provisions 187, 187a and 188 and infectious diseases in the meaning of provisions 189 to 192, and also to which pestilences the provisions of section 192 apply.

**Relating provisions of the Criminal Code:**

- *provisions 187 to 188, 189 to 192;*

**Some relating provisions of other Acts:**

- *Government Order on Poisons and Certain Other Substances Harmful to Health;*
- *Decree determining narcotics and poisons for the purposes of provisions 187 and 188 of the Criminal Code;*
- *Decree determining infectious diseases for the purposes of the Criminal Code;*
- *Decree on Measures against Contagious Diseases;*
- *Veterinary Care Act;*
- *Decree identifying infectious diseases affecting farm animals and other livestock for the purposes of the Criminal Code;*
- *Decree on Animal Health Care;*
- *Decree listing economically important plant and animal species;*
- *Act on Developing the Production of Vegetation;*
- *Act on Phytosanitary Care;*

**Commentary on provision 195:**

*Decrees relating to provision 195 are listed above.*

**CHAPTER V  
CRIMES GROSSLY INFRINGING CIVIC COEXISTENCE  
Violence against a Group of Citizens or an Individual  
Provision 196**

- (1) A person who threatens a group of citizens with death, injury to health or large-scale material damage shall be sentenced to imprisonment for a term of up to one year.
- (2) A person who uses violence (force) against a group of citizens or an individual, or threatens them with death, injury to health or large-scale material damage, because of their political conviction, nationality, race, religion or lack of religious faith, shall be sentenced to imprisonment for a term of from six months to three years.
- (3) A sentence under sub-provision (2) shall also apply to those who associate themselves or act in concert to commit such crime.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(11);

**Commentary on provision 196:**

*Misdemeanours against civil co-existence which relate to provisions 196, 197a and 198 of the Criminal Code are subject to provision 49(1)(c) of the Misdemeanours Act.*

**Provision 197**

**Repealed**

**Provision 197a**

A person who threatens another with death, serious injury to health or other serious detriment in a manner giving rise to reasonable fear, shall be punished by a term of imprisonment of up to one year or a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(7);

**Commentary on provision 197a:**

*Criminal prosecution for a crime under provision 197a of the Criminal Code is subject to provision 163a of the Criminal Procedure Code.*

**Provision 198**

**Defamation of a Nation, Race or Conviction**

- (1) A person who publicly defames
  - (a) a nation, its language or a race; or
  - (b) a group of inhabitants of the Republic because of their political conviction, religion or lack of religious faith,

shall be sentenced to imprisonment for a term of up to two years.

- (2) An offender who commits an act under sub-provision (1) together with at least two other persons shall be sentenced to imprisonment for a term of up to three years.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Commentary on provision 198:**

*The phrase "a group of inhabitants of the Republic" may refer to a group of people who have long-term residence permit in the Czech Republic and live there, and not only to Czech citizens living there.*

**Provision 198a**  
**Incitement of National and Racial Hatred**

- (1) Whoever publicly incites hatred of another nation or race or calls for restriction of the rights and freedoms of other nationals or members of a particular race shall be sentenced to a term of imprisonment of up to two years.
- (2) The same sentence shall apply to a person who aids and abets an offender to commit an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 198a:**

*Equality of people, irrespective of their nationality and race, is one of the fundamental human rights.*

**Spreading Alarming News**  
**Provision 199**

- (1) A person who intentionally causes the danger of serious agitation among at least part of the population of a locality by spreading alarming news which is false shall be punished by a term of imprisonment of up to one year or a pecuniary penalty.
- (2) If a person, knowing that news under sub-provision (1) is false and that it might evoke measures leading to the danger of serious agitation among at least part of the population of a locality (place), communicates such news to an enterprise or organisation or a police organ or another state organ or to the mass media, he shall be punished by a term of imprisonment of from six months to three years or a pecuniary penalty.
- (3) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (2) repeatedly; or
  - (b) by such act he causes serious disruption to the economic operation or economic activity of an enterprise or organisation, or to the activity of a state organ or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 66;*

**Commentary on provision 199:**

*Corresponding misdemeanours are those under provisions 47(1)(c) and 49(1)(c) of the Misdemeanours Act.*

**Provision 200**

A person who, by spreading alarming news during a state defence emergency, causes, even through negligence, the danger of serious agitation, demoralisation or defeatism among at least part of the population in a place shall be sentenced to a term of imprisonment of from six months to three years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 200:**

*The term "defence emergency" refers to a situation in which the armed forces are mobilised, a state of war is declared or war is declared.*

**Provision 201**  
**Endangering Others under the Influence of an Addictive Substance**

A person who induces himself by means of an addictive substance in a state which renders him incapable of performing his job, or which leads to him undertaking activity by which he might endanger the lives and health of other people, or cause substantial damage to property,

- (a) even though he was sentenced for a similar act in the preceding two years, or released from serving a prison term for a similar act;
- (b) even though he was sentenced for a similar act committed under the influence of an addictive substance in the preceding two years;
- (c) if such act is committed during performance of his job or an activity when the influence of the addictive substance is especially dangerous, in particular when driving a public transport vehicle; or
- (d) if he causes by such act, even through negligence, injury to health or significant damage to another's property or some other considerable consequence,

shall be punished by a term of imprisonment of up to one year, or prohibition of an activity or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54, 89(10) and (11);*

**Commentary on provision 201:**

*Misdemeanours relating to alcoholism and narcotics are subject to provision 30(1)(f)(g) and (h) of the Misdemeanours Act.*

**Provision 201a**  
**Drunkenness**

- (1) A person who, by consumption or use of an addictive substance or otherwise, induces himself, even through negligence, in a state of insanity during which he commits an act otherwise having the characteristics of a crime, shall be sentenced to a term of imprisonment of from three to eight years; if he commits an act for which the law stipulates a lesser punishment, such lesser punishment shall be imposed on him.
- (2) The provisions of sub-provision (1), as well as of provision 12, shall not be applied if an offender induces his state of insanity with intent to commit a criminal act, or commits a criminal act through negligence, consisting in inducing in himself a state of insanity.

**Relating provisions of the Criminal Code:**

- *provisions 12, 39 et seq;*

**Commentary on provision 201a:**

*Provision 201a was introduced into the Criminal Code in 1991.*

**Provision 202**  
**Rowdyism**

- (1) A person who, in a public or publicly-accessible place, behaves improperly or creates a disturbance, particularly by attacking another person, dishonouring a historical or cultural monument, grave or another place of reverence or disrupting an assembly of citizens or ceremony in a gross manner, shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of up to three years if he commits an act under sub-provision (1) as a member of an organised group.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 89(4);*

**Commentary on provision 202:**

*Corresponding misdemeanours are subject to provision 47 and 48 of the Misdemeanours Act.*

**Provision 203**  
**Torture of Animals**

- (1) A person who tortures an animal, even though he was punished either for a similar misdemeanour in the previous year or sentenced for such crime in the preceding two years, shall be punished by a term of imprisonment of up to one year, prohibition of a specific activity or by a pecuniary penalty.
- (2) A person who tortures an animal to death shall be punished by a term of imprisonment of up to one year or prohibition of an activity or by a pecuniary penalty.
- (3) An offender shall be sentenced to a term of imprisonment of up to two years if he commits an act under sub-provision (1) or (2) publicly or at a publicly-accessible place.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53, 54, 89(4);*

**Some relating provisions of other Acts:**

- *Act on Veterinary Care;*
- *Act on Protection of Animals against Torture;*

**Commentary on provision 203:**

*Provision 204 relates to the Act on Protection of Animals against Torture.*

**Provision 204**  
**Pandering**

- (1) A person who procures, or seduces another for the purpose of involving that person in prostitution, or who exploits prostitution operated by another person, shall be sentenced to a term of imprisonment of up to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if he commits an act under sub-provision (1) by using violence, the threat of violence or the threat of serious harm or by abusing another's distress or dependence.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he acquires substantial benefit by an act under sub-provision (1) or (2);

- (b) he commits such act as a member of an organised group; or
- (c) he commits such act against a person under the age of eighteen years.
- (4) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he commits an act under sub-provision (2) against a person under the age of fifteen years.

***Relating provisions of the Criminal Code:***

- *provisions 39 et seq, 89(11);*

***Commentary on provision 204:***

*The Misdemeanours Act provides for punishment in the form of a pecuniary penalty of up to CZK 1,000 for creating a public nuisance under provision 47(1)(c).*

**Provision 205**

## **Kapitel 2 Endangering Public Morals**

- (1) A person who puts into circulation, makes publicly accessible, makes or imports written, audio, video or pictorial pornographic works, or other things endangering public morals by showing disrespect for humankind and violence or sexual intercourse with a child or an animal, or other pathological sexual practices, shall be punished by a term of imprisonment of up to one year, by a pecuniary penalty or forfeiture of a thing.
- (2) A person who:
  - (a) offers, lends or makes available written, audio, video, or pictorial pornographic works to someone else under the age of eighteen years; of
  - (b) displays written, audio, video, or pictorial pornographic works at a place which is publicly accessible to persons under the age of eighteen years,

shall be punished by a term of imprisonment of up to one year, by a pecuniary penalty or forfeiture of a thing.

### **Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56;*

### **Commentary on provision 205:**

*The title of provision 205 has a wider meaning than the conduct described in it, since proper morals can be endangered otherwise than by pornographic works.*

## **Provision 206 Slander**

- (1) A person who communicates false information which can seriously endanger another person's respect among his fellow citizens, in particular damaging his position in employment, and relations with his family, or causing him some other serious detriment, shall be sentenced to a term of imprisonment of up to one year.
- (2) An offender shall be punished by a term of imprisonment of up to two years or prohibition of a specific activity, if he commits an act under sub-provision (1) by using the press, film, radio or TV broadcasting or some other similarly effective method.

### **Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50;*

### **Some other relating provisions:**

- *Article 10 of the Charter of Fundamental Rights and Freedoms;*

### **Commentary on provision 206:**

*Provision 49 of the Misdemeanours Act provides for the imposition of a pecuniary penalty of up to CZK 1,000 on a person who offends another or exposes another to ridicule.*

## **Failure to Provide Assistance Provision 207**

- (1) A person who fails to provide necessary assistance to another in danger of death or showing signs of a serious breakdown in his health, even though he can do so without danger to himself or another person, shall be sentenced to a term of imprisonment of up to one year.

- (2) A person who fails to provide necessary assistance to another in danger of death or showing signs of a serious breakdown in his health, even though he is duty-bound to provide such assistance by the nature of his profession (employment), shall be punished by a term of imprisonment of up to two years or prohibition of a specific activity.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50;

**Commentary on provision 207:**

*There is a universal duty to provide assistance in circumstances under sub-provision (1) and a professional duty to do so under sub-provision (2).*

**Provision 208**

A driver of a vehicle who, after a traffic accident in which he was involved, fails to provide assistance to a person injured in the accident, even though he could do so without danger to himself or another, shall be punished by a term of imprisonment of up to three years or prohibition of a specific activity.

**Relating provisions of the Criminal Code:**

- provision 39 et seq, 49, 50;

**Commentary on provision 208:**

*Provision 29(1)(a) of the Misdemeanours Act includes provisions on "intentional frustration, obstruction or endangerment of the provision of medical treatment". A pecuniary penalty of up to CZK 3,000 can be imposed for such a misdemeanour.*

**Provision 209**

**Violating Another Person's Rights**

- (1) A person who causes serious detriment to another person's rights by:

- (a) misleading another person; or  
 (b) exploiting another person's mistake,

shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.

- (2) An offender shall be sentenced to a term of imprisonment of up to three years if, while committing an act under sub-provision (1), he pretends to be a public official.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(9), 250;

**Commentary on provision 209:**

*Misdemeanours relating to provision 209 of the Criminal Code are subject to provisions 21, 42(1)(b) and 43(1)(d) of the Misdemeanours Act.*

**CHAPTER VI  
 CRIMES AGAINST THE FAMILY AND YOUNG PEOPLE**

**Provision 210**

**Bigamy**



- (1) A person who concludes another marriage while already married shall be sentenced to a term of imprisonment of up to two years.
- (2) A person who concludes a marriage with a person who is already married shall be subject to the punishment under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Some other relating provisions:**

- *Family Act;*

**Commentary on provision 210:**

*It should be noted that a marriage is only dissolved when a judicial decision granting a divorce comes into legal effect.*

**Provision 211  
Repealed**

**Provision 212  
Abandonment of a Child**

- (1) A person, who abandons a child which is unable to help itself, while such person is duty-bound to care for the child, and who by his act exposes the child to the danger of death or injury to health, shall be sentenced to a term of imprisonment of from six months to three years.
- (2) An offender who by an act under sub-provision (1) causes severe injury to (the child's) health, or death, shall be sentenced to a term of imprisonment of from one to six years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Some relating provisions of other Acts:**

- *Family Act;*
- *Foster Care Act;*

**Commentary on provision 212:**

*Provision 212 is intended to protect the due upbringing and maintenance of children by persons duty-bound to take care of them.*

**Provision 213  
Evasion of Alimony Payments**

- (1) Whoever does not, even through negligence, fulfil his statutory duty to maintain or provide subsistence for another person shall be sentenced to a term of imprisonment of up to one year.
- (2) Whoever intentionally evades his legal duty to maintain or provide subsistence for another person shall be sentenced to a term of imprisonment of up to two years.
- (3) An offender who by an act under sub-provision (1) or (2) exposes an entitled person to the danger of want shall be sentenced to a term of imprisonment of from six months to three years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 214;*

**Some other relating provisions:**

- *Family Act;*

**Commentary on provision 213:**

*The provisions of section 213 concern non-fulfilment of maintenance duty under the Family Act.*

**Provision 214  
Special Provision on Effective Repentance**

Liability to punishment for neglecting the duty of maintenance (provision 213) shall be voided if the crime had no permanently unfavourable consequences, and the offender concerned subsequently fulfilled his duty before a court of first instance began pronouncing its judgement (sentence).

**Relating provisions of the Criminal Code:**

- *provision 213;*

**Commentary on provision 214:**

*Liability to punishment for non-fulfilment of statutory maintenance is not voided if an offender subsequently only fulfils his duty in part.*

**Provision 215  
Cruelty to a Charge**

- (1) Whoever maltreats a person in his care or upbringing shall be sentenced to a term of imprisonment of from six months to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he commits an act under sub-provision (1) in an especially cruel manner, or if he commits such act against two or more persons; or
  - (b) he continues to commit such act for a prolonged period.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 215:**

*The provisions of section 215 apply to maltreatment of a child or an adult by the person duty-bound to take care of the child or adult.*

**Provision 216  
Abduction**

- (1) Whoever takes away a child or a person suffering from a mental breakdown or being mentally retarded from the care of the person who under the law or an official decision is bound to take care of such child or person shall be punished by a term of imprisonment of up to three years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he commits an act under sub-provision (1) with intent to obtain material benefit for himself or someone else; or

- (b) by such act he endangers the moral development of the abducted person.
- (3) An offender shall be sentenced to a term of imprisonment of from three to eight years if he causes severe injury, death or some other especially serious consequence by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provision 39 et seq, 53, 54, 89(7);

**Some other relating provisions:**

- Family Act;

**Commentary on provision 216:**

*It is irrelevant for an abductor's liability to punishment under provision 216 whether the abducted child or a person went with the abductor voluntarily or not.*

**Provision 216a  
Trade in Children**

- (1) Whoever entrusts a child, for remuneration, to another person for the purpose of adoption, child labour or for some other purpose shall be punished by a term of imprisonment of up to three years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group; or
  - (b) he acquires substantial benefit by such act.
- (3) An offender shall be sentenced to a term of imprisonment of from three to ten years if he causes severe injury to health, death or some other especially serious consequence by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(7) and (11);

**Some relating provisions of other Acts:**

- Family Act;
- Labour Code;

**Commentary on provision 216a:**

*On 20 November 1989 the Convention on the Rights of the Child was adopted in New York. It came into effect in 1990, and as a result the Czech Republic subsequently included provisions 216a a 216b in the Criminal Code.*

**Provision 216b  
Joint Provision**

For the purposes of provisions 216 and 216a, a child means a person under the age of eighteen years, unless such person attained maturity earlier.

**Commentary on provision 216b:**

*The definition of a child in provision 216b corresponds to that included in the New York Convention on the Rights of the Child.*

**Provision 217**

### **Endangering the Morale of Juveniles**

- (1) Whoever, even through negligence, exposes a person under eighteen years of age to the danger of depravity by:
  - (a) enabling such person to lead an idle or immoral life; or
  - (b) luring such person into leading an idle or immoral life, shall be sentenced to a term of imprisonment of up to two years.
- (2) An offender who, even through negligence, enables a person under eighteen years of age to gamble on gaming machines equipped with a technical device which influences the result of the game and offers pecuniary winnings, shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Commentary on provision 217:**

*The Misdemeanours Act includes provisions under which a person who does not ensure that a child in his care attends school in compliance with the law can be punished by a pecuniary penalty of up to CZK 3,000.*

### **Provision 218 Supplying Alcoholic Beverages to Juveniles**

Whoever consistently or to a greater extent serves persons under eighteen years of age with alcoholic beverages shall be sentenced to a term of imprisonment of up to one year.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Some relating provisions of other Acts:**

- *Act on the Prevention of Alcoholism and other Forms of Toxic Addiction;*
- *Decree implementing the Act on the Prevention of Alcoholism and other Forms of Toxic Addiction;*

**Commentary on provision 218:**

*Misdemeanours relating to the serving of alcoholic beverages to juveniles are subject to provision 30(1)(a) and (e) of the Misdemeanours Act.*

### **Supplying Anabolic Substances to Juveniles Provision 218a**

Whoever repeatedly or to a greater extent supplies anabolic substances or other substances with an anabolic effect to a person under the age of eighteen years for other than therapeutic purposes shall be sentenced to a term of imprisonment of up to one year.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 218b;*

**Some other relating provisions:**

- *Government Order determining anabolics and other preparations (substances) having an anabolic effect for the purposes of the Criminal Code;*

**Commentary on provision 218a:**

*In recent decades the use of anabolics by sportsmen, even those under the age of 18, has increased.*

### **Provision 218b**

The Government shall identify in a Decree (Order) what constitutes anabolic substances and substances with an anabolic effect in the meaning of provision 218a.

#### **Relating provisions of the Criminal Code:**

- *provision 218a;*

#### **Some other relating provisions:**

- *Government Order determining anabolics and other preparations (substances) having an anabolic effect for the purposes of the Criminal Code;*

#### **Commentary on provision 218b:**

*Government Order (Decree) No. 72/1997 Coll. lists anabolics and substances which have an anabolic effect.*

## **CHAPTER VII CRIMES AGAINST LIFE AND HEALTH**

### **Provision 219 Murder**

- (1) Whoever intentionally kills another person shall be sentenced to a term of imprisonment of from ten to fifteen years.
- (2) An offender shall be sentenced to a term of imprisonment of from twelve to fifteen years or to an exceptional punishment (an exceptional term of imprisonment) if he commits an act under sub-provision (1):
  - (a) against two or more persons;
  - (b) in an especially brutal or harrowing manner;
  - (c) repeatedly;
  - (d) against a pregnant woman;
  - (e) against a person under the age of fifteen years;
  - (f) against a public official performing his duties or as a result of his performance of his duties;
  - (g) against a person because of his race, nationality, political conviction, religion or lack of religious faith; or
  - (h) with intent to acquire material benefit or to facilitate some other crime, or for some other especially despicable reason.

#### **Relating provisions of the Criminal Code:**

- *provisions 29, 39 et seq, 89(9);*

#### **Some other relating provisions:**

- *Article 6 of the Charter of Fundamental Rights and Freedoms;*

**Commentary on provision 219:**

*Provision 219 was amended in 1990 and 1995. It should be noted that there is no capital punishment under Czech law.*

**Provision 220**  
**Murder of a New-Born Infant by its Mother**

A mother who in a state of post-natal disturbance intentionally kills her infant (baby) at birth or immediately after birth shall be sentenced to a term of imprisonment of from three to eight years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 90(1);*

**Some other relating provisions:**

- *Article 6 of the Charter of Fundamental Rights and Freedoms;*

**Commentary on provision 220:**

*For the purposes of provision 220, the mental state of a mother immediately after giving birth to a child is assessed by a medical expert.*

**Injury to Health**  
**Provision 221**

- (1) Whoever intentionally injures another person's health shall be sentenced to a term of imprisonment of up to two years.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (1) against a witness, an expert or an interpreter because of his performance of his duty;
  - (b) he commits such act against another person because of that person's race, nationality, political conviction, religion or lack of religious faith; or
  - (c) by such act he causes severe injury to another person's health.
- (3) An offender shall be sentenced to a term of imprisonment of from three to eight years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Commentary on provision 221:**

*Injury or harm to health under provision 221 means effects on the victim's health which last for a prolonged period and make it more difficult for him to lead his life in the same way as before and/or to earn a living in the same way and/or perform his activities.*

**Provision 222**

- (1) Whoever intentionally causes severe injury to another person's health shall be sentenced to a term of imprisonment of from two to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from three to ten years if:

- (a) he commits an act under sub-provision (1) against a witness, an expert or an interpreter because of his performance of his duty;
- (b) he commits such act against another person because of that person's political conviction, nationality, race, religion or lack of religious faith.
- (3) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he causes death by any act under sub-provision (1) or (2).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Commentary on provision 222:**

*The term "severe injury to health" is defined in provision 89(7) of the Criminal Code.*

**Provision 223**

A person who injures another's health through negligence, by breaching an important duty arising from his employment, profession, position or office or a duty imposed by law, shall be punished by a term imprisonment of up to one year or prohibition of a (specific) activity.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50;*

**Some relating provisions of the Criminal Code:**

- *Act on Technical Requirements for Operating Road Motor Vehicles;*
- *Road Transport Act;*
- *Decree on Road Traffic Rules;*
- *Road Traffic Safety and Movement Act;*
- *Decree on Road Traffic;*
- *Decree on Roadworthiness of Motor Vehicles;*

**Commentary on provision 223:**

*Provision 223 applies to persons whose health is harmed as a result of someone else's negligence. It does not apply where there is only a threat of harm to someone's health.*

**Provision 224**

- (1) A person who through negligence injures another person's health shall be punished by a term of imprisonment of up to two years or prohibition from a specific activity.
- (2) An offender shall be punished by a term of imprisonment of from six months to five years or by a pecuniary penalty if he commits an act under sub-provision (1) by breaching an important duty arising from his employment, profession, position or office or imposed on him by law.
- (3) An offender who through negligence causes severe injury to health of two or more persons, because he has grossly violated regulations on industrial or transport (traffic) safety or sanitary regulations, shall be sentenced to a term of imprisonment of from three to ten years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 89(7);*

**Some relating provisions of the Criminal Code:**

- *Act on Technical Requirements for Operation of Road Motor Vehicles;*

- *Road Transport Act;*
- *Decree on Road Traffic Rules;*
- *Road Traffic Safety and Movement Act;*
- *Decree on Road Traffic;*
- *Decree on Roadworthiness of Motor Vehicles;*

**Commentary on provision 224:**

*The term "severe injury to health" is explained in provision 89(7).*

**Provision 225**

**Brawling**

- (1) A person who intentionally endangers someone else's life or health by taking part in a brawl (fight) shall be sentenced to a term of imprisonment of up to six months.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if he causes severe injury or death when committing an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Commentary on provision 225:**

*An offender who causes a minor injury to someone's health is punished under provision 49 of the Misdemeanours Act by a pecuniary penalty of up to CZK 3,000.*

**Provision 226**

**Exposing Another to the Danger of Venereal Disease**

A person who, even through negligence, exposes another person to the danger of venereal infection, shall be sentenced to a term of imprisonment of up to six months.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 226:**

*Under provision 226, exposing someone else to the immediate danger of a venereal disease is punishable. It is not required that a venereal disease be transmitted.*

**Unauthorised Abortion**

**Provision 227**

- (1) A person who assists a pregnant woman or induces her to:
  - (a) interrupt her pregnancy by herself; or
  - (b) to ask or allow someone else to interrupt her pregnancy in a manner other than that admissible under the statutory provisions on abortion,

shall be sentenced to a term of imprisonment of up to one year.

- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if he causes severe injury or death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*



**Some relating provisions of other Acts:**

- *Abortion Act;*
- *Decree implementing the Abortion Act;*

**Commentary on provision 227:**

*The admissible manner of terminating a pregnancy (abortion) is dealt with in the Abortion Act, No. 66/1986 Coll. and Decree No. 75/1986 Coll.*

**Provision 228**

- (1) A person who, acting with the consent of a pregnant women, terminates her pregnancy in a manner other than that admissible under the statutory provisions on abortion shall be sentenced to a term of imprisonment of from one to five years.
- (2) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he acquires substantial benefit by an act under sub-provision (1);
  - (b) he regularly commits an act under sub-provision (1); or
  - (c) he causes severe injury to health or death by an act under sub-provision (1).
- (3) The same punishment (sentence) as that under sub-provision (2) shall be imposed on any person who terminates a woman's pregnancy without he consent.
- (4) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he causes death by an act under sub-provision (3).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Some relating provisions of other Acts:**

- *Abortion Act;*
- *Decree implementing the Abortion Act;*

**Commentary on provision 228:**

*The Abortion Act and the implementing Decree regulate the admissible manner of abortion.*

**Provision 229**

A pregnant women who terminates her pregnancy herself, or who asks another person or allows another person to terminate it, shall not be liable to punishment for such act, not even under the provisions on instigators and assistants.

**Relating provisions of the Criminal Code:**

- *provisions 227, 228;*

**Commentary on provision 229:**

*Abortion under provision 229 means a manner of terminating pregnancy which is not admissible under the law.*

**Provision 230  
Assisting Suicide**

- (1) A person who induces or helps someone else to commit suicide shall be sentenced to a term of imprisonment of from six months to three years provided that the suicide was at least attempted.
- (2) An offender shall be sentenced to a term of imprisonment of from two to eight years if he commits an act under sub-provision (1) against a person under the age of eighteen years, a pregnant woman, a person suffering from a mental disorder or a mentally retarded person.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 230:**

*The provisions of section 230 are to protect human life against a person encouraging or causing someone else to commit suicide.*

## CHAPTER VIII CRIMES AGAINST FREEDOM AND HUMAN DIGNITY

### Division 1 Crimes against Freedom

#### Provision 231 Restriction of Personal Freedom

- (1) A person who without authorisation prevents another from enjoying personal liberty (freedom) shall be sentenced to a term of imprisonment of up to two years.
- (2) An offender shall be sentenced to a term of imprisonment of up to three years if he commits an act under sub-provision (1) with intent to facilitate another crime.
- (3) An offender shall be sentenced to a term of imprisonment of from three to eight years if he commits an act under sub-provision (1) as a member of an organised group.
- (4) An offender shall be sentenced to a term of imprisonment of from three to ten years if he causes severe injury to health, death or some other especially serious consequence by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 89(7);*

**Some other relating provisions:**

- *Article 8 of the Charter of Fundamental Rights and Freedoms;*

**Commentary on provision 231:**

*Where justified, an individual's freedom can be restricted in accordance with the law.*

#### Provision 232 Deprivation of Personal Freedom

- (1) A person who deprives another of personal freedom shall be sentenced to a term of imprisonment of from three to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he causes severe injury to health, death or some other especially serious consequence by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(7);

**Some other relating provisions:**

- Article 8 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 232:**

*Deprivation of personal freedom under provision 232 refers to prolonged or permanent restriction of an individual's freedom. In this meaning it resembles detention.*

**Provision 233  
Abduction Abroad**

- (1) A person who takes another abroad (abducts him) shall be sentenced to a term of imprisonment of from three to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to twelve years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group;
  - (b) he commits such act against a person under the age of fifteen years, or a person suffering from mental disorder or a mentally retarded person; or
  - (c) if by such act he causes severe injury to health, death or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(7);

**Some other relating provisions:**

- Article 8 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 233:**

*The offender's crime consists in taking someone else abroad against that person's will.*

**Provision 234  
Robbery**

- (1) A person who uses violence or the threat of immediate violence against another with intent to take possession of another person's thing shall be sentenced to a term of imprisonment of from two to ten years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to twelve years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group; or
  - (b) by such act he causes severe injury to health or substantial damage.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years if he causes large-scale damage by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(7) and (11);

**Some other relating provisions:**

- Articles 7, 8, 11 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 234:**

*An offender who is sentenced to a term of imprisonment under provision 234(2) or (3) can be conditionally released from prison only after having served two-thirds of his sentence.*

**Provision 234a  
Hostage-Taking**

- (1) A person who seizes another as a hostage and threatens to kill him or cause injury to his health or some other serious detriment, with the aim of forcing a third party to do something, desist from doing something or tolerate something, shall be sentenced to a term of imprisonment of from two to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from three to ten years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group;
  - (b) he seizes a person under the age of eighteen years as a hostage;
  - (c) he takes two or more persons as hostages; or
  - (d) he causes severe injury to health by such act.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 66, 89(7);

**Some other relating provisions:**

- Articles 7, 8, 14 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provisions 234a:**

*Provisions 234a was introduced into the Criminal Code in connection with implementing the International Convention on Hostage-Taking.*

**Provision 235  
Extortion**

- (1) A person who forces another by violence, the threat of violence or the threat of another serious detriment to do something, to desist from doing something or to tolerate something, shall be sentenced to a term of imprisonment of up to three years.
- (2) An offender shall be sentenced to a term of imprisonment of two to eight years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group;
  - (b) he commits such act with at least two other persons;
  - (c) he commits such act with a weapon;
  - (d) by such act he causes severe harm to health or substantial damage;
  - (e) he commits such act against a witness, expert or interpreter in connection with performance of his duties; or

- (f) he commits such act against another person because of such person's race, nationality, political conviction, religion or lack of religious faith.
- (3) An offender shall be sentenced to a term of imprisonment of from five to twelve years if by an act under sub-provision (1) he causes death or large-scale damage.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(5), (7) and (11);

**Some other relating provisions:**

- Articles 7, 8 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 235:**

*An offender commits extortion when he forces someone else by violence or the threat of violence or another serious detriment to do something, to desist from doing something or to tolerate something, irrespective of whether the offender attained his objective or not.*

**Provision 236  
Restriction of the Freedom of Religious Worship**

A person who by using violence, the threat of violence or the threat of some other serious detriment:

- (a) forces another to take part in a religious service;
- (b) prevents another (by detaining him), without authorisation, from taking part in a religious service; or
- (c) prevents another from enjoying freedom of religious worship, shall be sentenced to a term of imprisonment of up to one year.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Some relating provisions of other Acts:**

- Articles 15, 16 of the Charter of Fundamental Rights and Freedoms;
- Act on Religious Freedom, Churches and Religious Societies;

**Commentary on provision 236:**

*Articles 15 and 16 of the Charter of Fundamental Rights and Freedoms guarantee the freedom of worship and attendance of religious services.*

**Provision 237  
Oppression (Harrassment)**

Whoever forces another person, by exploiting such person's distress or dependence, to do something, desist from doing something or tolerate something, shall be sentenced to a term of imprisonment of up to six months.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Some other relating provisions:**

- Articles 7, 8, 14 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 237:**

*Provision 237 of the Criminal Code protects persons against oppression committed, for example, by a landlord who removes doors and windows from flats in order to force the tenants to move out.*

**Provision 238**  
**Violation of Domestic Freedom**

- (1) A person who, contrary to the law, either enters someone else's house or household or stays there shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of six months to three years if, when committing an act under sub-provision (1), he uses violence or the threat of immediate violence or if he overcomes some hindrance to illegal entry (breaks in).
- (3) An offender shall be sentenced to a term of imprisonment of from one to five years if he uses, while committing an act under sub-provision (1), violence or threat of immediate violence and commits such act using weapon or with at least two other persons.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54, 89(5);*

**Some other relating provisions:**

- *Article 12 of the Charter of Fundamental Rights and Freedoms;*

**Commentary on provision 238:**

*Provision 238 protects the freedom of both an owner and a user (tenant) of a flat or house.*

**Provision 238a**  
**Violation of the Freedom of Association and Assembly**

- (1) A person who restricts another's right of association or assembly by using violence, the threat of violence or the threat of serious detriment shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) A person who, in connection with an assembly which is subject to notification to the appropriate authority, uses violence or the threat of immediate violence to resist disciplinary measures taken by the organiser of the assembly, or by the designated marshals of such assembly, shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Some relating provisions of other Acts:**

- *Articles 19, 20 of the Charter of Fundamental Rights and Freedoms;*
- *Act on the Assembly of Citizens;*
- *Act on the Right of Assembly;*
- *Act on Local Authority Powers when Implementing Certain Provisions of the Act on the Right of Assembly and the Civilian Service Act;*
- *Political Parties and Movements Act;*

**Commentary on provision 238a:**

*The right of assembly and association is guaranteed in several international and Czech legal documents, including the Charter of Fundamental Rights and Freedoms.*

**Violation of the Privacy of Transmitted Messages**

### Provision 239

- (1) A person who intentionally violates the privacy of:
- (a) a sealed letter or another written communication forwarded by post or a means of transport; or
  - (b) a message transmitted by telephone, telegraph or any other public facility,

shall be sentenced to a term of imprisonment of up to six months.

- (2) Any employee of the postal or telephone services, who:
- (a) commits an act under sub-provision (1);
  - (b) intentionally enables another person to commit such act; or
  - (c) alters or suppresses a written communication forwarded by post or other means of transport, or a message transmitted by telephone, telegraph or other similar method;

shall be punished by a term of imprisonment of up to one year or by prohibition of a specific activity.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50;

**Some relating provisions of other Acts:**

- Article 13 of the Charter of Fundamental Rights and Freedoms;
- Postal Act;
- Telecommunications Act;
- Decree implementing the Telecommunications Act;

**Commentary on provision 239:**

*The provisions of sections 239 and 240 protect the privacy of conveyed messages in accordance with Article 13 of the Charter of Fundamental Rights and Freedoms.*

### Provision 240

- (1) Any person who, with intent to cause damage to another, or to provide unjust benefit for himself or another:
- (a) reveals a secret which he learned from a written document, telegram or telephone conversation addressed to him; or
  - (b) exploits such secret,

shall be sentenced to a term of imprisonment of up to one year.

- (2) Any employee of the postal or telecommunication services who:
- (a) commits an act under sub-provision (1); or
  - (b) intentionally enables someone else to commit such act;

shall be punished by a term of imprisonment of up to two years or prohibition of a (specific) activity.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50;

**Some relating provisions of other Acts:**

- Article 13 of the Charter of Fundamental Rights and Freedoms;
- Postal Act;
- Telecommunications Act;
- Decree implementing the Telecommunications Act;

**Commentary on provision 240:**

*Violation of the privacy of the mail and similarly conveyed messages is only exceptionally permitted under the law – for example, under provisions 86 to 88 of the Criminal Procedure Code.*

**Division 2  
Crimes against Human Dignity**

**Provision 241  
Rape**

- (1) A person who forces a woman by violence or the threat of immediate violence to take part in sexual intercourse, or who abuses her defencelessness for such purpose, shall be sentenced to a term of imprisonment of from two to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to twelve years if:
  - (a) he causes severe harm to health by an act under sub-provision (1);
  - (b) he commits such act against a woman under the age of fifteen years.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(7);

**Commentary on provision 241:**

*The term "woman" in provision 241 refers to any female, including girls.*

**Sexual Abuse  
Provision 242**

- (1) Anyone who has sexual intercourse with a person under the age of fifteen years, or who sexually abuses such person in any other manner, shall be sentenced to a term of imprisonment of from one to eight years.
- (2) An offender shall be sentenced to a term of imprisonment of from two to ten years if he commits an act under sub-provision (1) against a person in his charge (a person entrusted to him), thereby exploiting such person's dependence.
- (3) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he causes severe injury to health by an act under sub-provision (1).
- (4) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**



- *provisions 39 et seq, 89(7);*

**Commentary on provision 242:**

*Provision 242 recognises two forms of sexual offence against persons under the age of 15: sexual intercourse and sexual abuse.*

**Provision 243**

Anyone who abuses the dependence of a person under the age of eighteen years or a person entrusted to his charge by inducing such person to take part in extra-marital intercourse, or

who otherwise sexually abuses such person by exploiting his or her dependence, shall be sentenced to a term of imprisonment of up to two years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 243:**

*Provision 243 is designed to protect persons who are in the charge of another person against sexual abuse by that person.*

**Provision 244  
Repealed**

**Provision 245  
Incest**

A person who has sexual intercourse with a relative in direct line of descent, or with a brother or sister, shall be sentenced to a term of imprisonment of up to two years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 245:**

*Provision 245 imposes punishment on those involved in incest, on grounds of the degeneration suffered by the progeny of close relatives.*

**Provision 246  
Trade in Women**

- (1) A person who entices, hires or transports a woman abroad with intent to have her used there for sexual relations with another shall be sentenced to a term of imprisonment of from one to five years.
- (2) An offender shall be sentenced to a term of from three to eight years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group;
  - (b) he commits such act on a woman under the age of eighteen years;
  - (c) he commits such act with intent to have the women used for prostitution.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 246:**

*Provision 246 relates to the International Convention on Suppression and Abolition of the Trade in People and Exploitation of Prostitution.*

**CHAPTER IX  
CRIMES AGAINST PROPERTY**

**Provision 247  
Larceny**

- (1) A person who appropriates a thing by taking it into his possession, and:
- (a) thereby causes damage which is not negligible;
  - (b) commits his act by breaking-in;
  - (c) attempts, immediately after such act, to keep the thing by using violence or the threat of immediate violence;
  - (d) commits such act in respect of a thing which another is wearing or has with him; or
  - (e) was convicted and punished of such act in the previous three years;

shall be punished by a term of imprisonment of up to two years or forfeiture of a (specific) thing.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53 to 56, 89(11) and (13);

**Some other relating provisions:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 247:**

*Larceny may only be committed in respect of someone else's thing i. e. one cannot commit larceny with regard to a thing being in such person's entire ownership.*

**Provision 248  
Embezzlement**

- (1) A person who appropriates a thing what was entrusted to him, and thus causes damage to another's property which is not negligible, shall be punished by a term of imprisonment of up to two years, a pecuniary penalty or forfeiture of a (specific) thing.
- (2) An offender shall be punished by a term of imprisonment of from six months to three years, prohibition of a (specific) activity or by a pecuniary penalty if, by his act under sub-provision (1), he causes damage, which is not minor.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he/she commits an act under sub-provision (1) as a person specifically instructed to protect the interests of the party who has suffered damage by this act;
  - (b) he/she commits such act as a member of an organised group; or
  - (c) by such act he causes substantial damage or some other especially serious consequence.

- (4) An offender shall be sentenced to a term of imprisonment of from five to twelve years is, by an act under sub-provision (1), he causes large-scale damage.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53 to 56, 89(11) and (13);

**Some other relating provisions:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 248:**

*Embezzlement occurs when a person who has been entrusted with the administration, management or care of someone else's thing appropriates it. If the damage caused by embezzlement is less than CZK 2,000, it is dealt with under provision 50(1)(a) of the Misdemeanours Act.*

**Provision 249**  
**Unauthorised Use of Another Person's Thing**

- (1) A person who appropriates another's thing which is not small in value, or a motor vehicle, with intent to use it temporarily, or who causes damage which is not small to another's property through unauthorised use of things which are entrusted to him, and which he temporarily uses without authorisation, shall be punished by a term of imprisonment of up to two years, by a pecuniary penalty or prohibition of a (specific) activity.
- (2) An offender shall be punished by a term of imprisonment of from six months to three years or prohibition of a specific activity if, by an act under sub-provision (1), he causes substantial damage or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 89(11) and (13);

**Some other relating provisions:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;

**Commentary on provision 249:**

*Provision 249 applies when an offender appropriates someone else's thing with a value of at least CZK 12,000, or someone else's motor vehicle in order to use it without permission.*

**Provision 249a**  
**Unauthorised Violation of Another's Right to a House, Flat or Non-Residential Premises**

- (1) A person who, contrary to the law, occupies or uses another's house, flat or non-residential premises, shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) Such punishment shall also be imposed on an offender who prevents an entitled person from using a house, flat or non-residential premises.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54;

**Some relating provisions of other Acts:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Act on Lease and Sublease of Non-residential Premises;

**Commentary on provision 249a:**

*Provision 249a protects the right of a person who is authorised to use a certain house, flat or non-residential premises against its unlawful use by someone else.*

**Provision 249b**  
**Unauthorised Possession of a Payment Card**

A person who illegally obtains another's non-transferable payment card, identified by name or number, or another thing which can serve as a payment card, shall be punished by a term of imprisonment of up to two years, by a pecuniary penalty or forfeiture of a (specific) thing.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53 to 56;*

**Some relating provisions of other Acts:**

- *Article 11 of the Charter of Fundamental Rights and Freedoms;*
- *Banking Act;*

**Commentary on provision 249b:**

*Protection is granted to non-transferable payment cards issued by banks and credit institutions, including foreign payment cards, such as VISA and American Express.*

**Provision 250**  
**Fraud**

- (1) Whoever enriches himself or another to the detriment of another person's property by misleading another person, or by taking advantage of another person's mistake or by withholding substantial facts, and thereby causing damage to another person's property which is not negligible, shall be punished by a term of imprisonment of up to two years, prohibition of a (specific) activity, a pecuniary penalty or forfeiture of a (specific) thing.
- (2) An offender shall be punished by a term of imprisonment of from six months to three years or by a pecuniary penalty if, by an act under sub-provision (1), he causes damage what is not small.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he/she commits an act under sub-provision (1) as a member of an organised group; or
  - (b) by such act he causes substantial damage or some other especially serious consequence.
- (4) An offender shall be sentenced to a term of imprisonment of from five to twelve years if, by an act under sub-provision (1), he causes large-scale damage.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 49, 50, 53 to 56, 89(11);*

**Some relating provisions:**

- *Article 11 of the Charter of Fundamental Rights and Freedoms*

**Commentary on provision 250:**

*Protection of ownership rights against fraud is granted irrespective of the legal form of ownership. See commentary on provision 248 as well.*

**Provision 250a**  
**Insurance Fraud**

- (1) A person who provides false or grossly distorted data, or who conceals substantial data, when concluding an insurance contract or when making a claim on the basis of such contract, shall be punished by a term of imprisonment of up to two years, prohibition of a (specific) activity, a pecuniary penalty or forfeiture of a (specific) thing.
- (2) such punishment shall also be imposed on an offender who intentionally causes an insured event, or who maintains the condition brought about by an insured event, with intent to increase the amount of damage being claimed.
- (3) An offender shall be punished by a term of imprisonment of from six months to three years or by a pecuniary penalty if, by an act under sub-provision (1) or (2), he causes damage to another person's property which is not small.
- (4) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he commits an act under sub-provision (1) or (2) as a member of an organised group;
  - (b) by such act he causes substantial damage or some other especially serious consequence to another person's property.
- (5) An offender shall be sentenced to a term of imprisonment of from five to twelve years if, by an act under sub-provision (1) or (2), he causes large-scale damage to another person's property.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53 to 56, 89(11), 250, 250b;

**Some relating provisions of other Acts:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Commercial Code;
- Insurance Act;

**Commentary on provision 250a:**

*Insurance contracts are subject to provisions 788 to 828 of the Civil Code, while insurance companies which are engaged in insurance as their business activity must comply with the provisions of the Insurance Act (No. 185/1991 Coll., as subsequently amended).*

**Provision 250b  
Credit Fraud**

- (1) A person who provides false or grossly distorted data, or who conceals substantial data, when concluding a credit (loan) contract or when applying for a grant, shall be punished by a term of imprisonment of up to two years, prohibition of a (specific) activity or by a pecuniary penalty.
- (2) Such punishment shall also be imposed on a person who, without the knowledge of the creditor or another authorised (entitled) person, uses a credit or grant or other than the specified purpose.
- (3) An offender shall be punished by a term of imprisonment of from six months to three years or by a pecuniary penalty if, by an act under sub- provision (1) or (2), he causes damage what is not small.
- (4) An offender shall be sentenced to a term of imprisonment of from two to eight years if:

- (a) he commits an act under sub-provision (1) or (2) as a member of an organised group; or
  - (b) by such act he causes substantial damage or some other especially serious consequence.
- (5) An offender shall be sentenced to a term of imprisonment of from five to twelve years if he causes large-scale damage by an act under sub-provision (1) or (2).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 49, 50, 53, 54, 89(11), 250, 250a;

**Some relating provisions of other Acts:**

- Article 11 of the Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Commercial Code;
- Banking Act;
- Czech National Bank Act;

**Commentary on provision 250b:**

*Credit contracts are subject to the provisions 497 to 507 of the Commercial Code.*

**Provision 250c**  
**Operation of Fraudulent Games and Wagers**

- (1) A person who operates a pecuniary game or some other similar game or wager whose rules do not guarantee an equal chance of winning to all players (participants) shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if he acquires substantial benefit by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Commentary on provision 250c:**

*Pecuniary and similar games of chance are to be fairly operated, giving equal chances to the players.*

**Participation**  
**Provision 251**

- (1) A person who conceals, or transfers to himself or another, or uses:
  - (a) a thing acquired by a criminal act committed by another person; or
  - (b) what was acquired for such thing,

shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.

- (2) An offender shall be punished by a term of imprisonment of from one to five years if he acquires substantial benefit by an act under sub-provision (1).
- (3) An offender shall be punished by a term or imprisonment of from two to eight years or forfeiture of property if he obtains large-scale benefit by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 51 to 54, 89(11);*

**Commentary on provision 251:**

*Provision 251 applies to someone else's thing acquired through a criminal act committed by a person other than the person concealing, transferring, or using it. T*

**Provision 251a**

- (1) A person who enables another to conceal the origin or determination of the origin of a thing obtained through criminal activity shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group; or
  - (b) he obtains large-scale benefit by such act.
- (3) An offender shall be punished by a term of imprisonment of from two to eight year or forfeiture of property if:
  - (a) he commits an act under sub-provision (1) related to things connected with the trade in narcotic or psychotropic substances or some other especially serious crime; or
  - (b) he obtains large-scale benefit by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 51 to 54, 89(11);*

**Commentary on provision 251a:**

*Provision 251a relates particularly to money laundering.*

**Provision 252**

A person who, through negligence, conceals or transfers to himself or another a thing of significant value acquired through a crime committed by another person shall be punished by a term of imprisonment of up to six months or by a pecuniary penalty.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 53, 54;*

**Commentary on provision 252:**

*"A thing of significant value" ("víc větší hodnoty") means a thing with a value of at least CZK 40,000.*

**Provision 253**

**Usury**

- (1) A person who, exploiting another's distress, inexperience, irrationality or agitation, causes such person to render or promise to himself or someone else a fulfilment (performance) whose value is grossly disproportionate to the value of counter-fulfilment (counter-performance), or

who asserts such claim, or transfers it to himself, with intent to assert it,

shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.

- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if he acquires large-scale benefit by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54, 89(11);

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Commercial Code;

**Commentary on provision 253:**

The term "substantial benefit" ("*znaèný prospìch*") means a benefit of at least CZK 200,000.

**Provision 254  
Concealment of a Thing**

- (1) A person who appropriates a thing of not negligible value which has come into his possession as a find, by mistake or in some other manner, without the consent of the entitled person, shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if he acquires substantial benefit by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 to 44, 53, 54, 89(11) and (13);

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;

**Commentary on provision 254:**

"A thing of not negligible value" ("*vic nikoli nepatrné hodnoty*") means a thing whose value is at least CZK 2,000 (the amount of the minimum monthly wage for the purposes of the Criminal Code).

**Provision 255  
Breaches of the Duty to Administer Another's Property**

- (1) A person who causes damage which is not small by breaching a duty, imposed by law or undertaken contractually, to take care of and administer (manage) another's property shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if:
- (a) he commits an act under sub-provision (1) as a person who is specifically charged with a duty to defend the interests of the person to whom he caused damage; or
  - (b) by such act he causes substantial damage.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if he causes large-scale damage by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**



- provisions 39 to 44, 53, 54, 89(11) and (13), 90(1) and (2);

**Some relating provisions of other Acts:**

- Civil Code;
- Family Act;
- Foster Care Act;
- Bankruptcy and Composition Act;
- Commercial Code;
- Civil Procedure Code;
- Labour Code;
- Notarial Act;
- Investment Companies and Investment Funds Act;
- Banking Act;
- Securities Act;
- Act on Advocates;
- Act on Joint Administration of Copyrights;
- State Enterprise Act;
- Large-scale Privatisation Act;

**Commentary on provision 255:**

*A criminal act under provision 255 consists in conduct (including negligence), which gives rise to damage of at least CZK 12,000 to someone else's property, which was entrusted to the offender's care, administration or management.*

**Provision 256  
Fraud on a Creditor**

- (1) A person who frustrates, even partially, satisfaction of his creditor by:
- (a) destroying, damaging, concealing, alienating, or making unusable part of his property;
  - (b) fabricating or recognising a non-existing right or claim;
  - (c) representing his property as diminishing; or
  - (d) refusing, in proceedings before a court, to fulfil his legal duty to make a statement on his property, or on property of a legal entity for which he is authorised to act, or by providing false or grossly distorted facts in such a statement;

shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.

- (2) Such punishment shall also be imposed on any person who, even partially, frustrates satisfaction of another person's creditor by:
- (a) destroying, damaging, concealing, alienating or removing part of a certain debtor's property; or
  - (b) asserting a non-existing right or claim to a certain debtor's property.
- (3) An offender shall be sentenced to a term of imprisonment of from six months to three years if he causes substantial damage by an act under sub-provision (1) or (2).
- (4) An offender shall be sentenced to a term of imprisonment of from two to eight years if he causes large-scale damage by an act under sub-provision (1) or (2).

**Relating provisions of the Criminal Code:**

- provisions 39 to 44, 53, 54, 89(11) and (13), 90(1) and (2), 126, 256a;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Commercial Code;
- Labour Code;
- Administration of Taxes Act;
- Securities Act;
- Bonds Act;
- Bills of Exchange and Cheques Act;
- Civil Procedure Code;
- Bankruptcy and Composition Act;

**Commentary on provision 256:**

*Provision 488 of the Civil Code states that a legal relationship of obligation is a legal relationship through which a creditor acquires the right to obtain performance (a receivable) from a debtor and the debtor becomes bound to fulfil the obligation (debt).*

**Provision 256a  
Advantaging to a Particular Creditor**

- (1) A person who, as a debtor, is unable to meet his due obligations and who frustrates, even partially, satisfaction of his creditor by granting advantages to another creditor shall be punished by a term of imprisonment of up to one year or a pecuniary penalty.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to three years if he causes substantial damage by an act under sub-provision (1).
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if he causes large-scale damage by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 to 44, 53, 54, 89(11), 90(1) and (2), 126, 256, 256b;

**Some relating provisions of other Acts:**

- Charter of Fundamental Rights and Freedoms;
- Civil Code;
- Commercial Code;
- Bankruptcy and Composition Act;
- Labour Code;

**Commentary on provision 256a:**

*A criminal act under provision 256a can be committed only by a debtor who is unable to meet his due debts.*

**Provision 256b  
Machinations in Bankruptcy and Composition Proceedings**

- (1) A person who, as a bankruptcy creditor, accepts or allows another to promise him property or another benefit in connection with his voting at a meeting of creditors, or his voting on forced composition or his voting during composition proceedings, shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.

- (2) The same punishment shall also be imposed on a person who offers or promises property or another benefit in return for the agreement of a creditor to composition (settlement) in voting at a meeting of creditors or on enforced composition.
- (3) A person who, acting as a composition trustee, bankruptcy trustee or a member of a creditors' committee, accepts or allows another to promise him property or another benefit, to which he is not entitled and by which he damages the other creditors' interests, shall be punished to a term of imprisonment of up to two years or by a pecuniary penalty.
- (4) An offender shall be sentenced to a term of imprisonment of from six months to three years if he causes substantial damage by an act under sub-provision (1), (2) or (3).
- (5) An offender shall be sentenced to a term of imprisonment of from two to eight years if he causes large-scale damage by an act under sub-provision (1), (2) or (3).

**Relating provisions of the Criminal Code:**

- provisions 39 to 44, 53, 54, 89(11), 90(1) and (2), 126, 256, 256a;

**Some relating provisions of other Acts:**

- *Bankruptcy and Composition Act;*
- *Decree implementing certain provisions of the Bankruptcy and Composition Act;*
- *Decree or Rules of Procedure for District and Regional Courts;*

**Commentary on provision 256b:**

*Provision 256b is intended to protect the interests of a bankrupt's creditors in accordance with the Bankruptcy and Composition Act.*

**Provision 257  
Damaging Another's Property**

- (1) A person, who destroys, damages or renders useless another's thing, and thereby causes damage to that person's property which is not negligible, shall be punished by a term of imprisonment of up to one year, prohibition of a (specific) activity or forfeiture of a (specific) thing.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to three years if:
  - (a) he causes an act under sub-provision (1) affecting the property of a witness, an expert or an interpreter because of his performance of his duty;
  - (b) he causes such act affecting another's property because of the person's race, nationality, political conviction, religion or lack on religious faith;
  - (c) by such act he causes substantial damage;
  - (d) he commits such act against a thing enjoying protection under special provisions.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if he causes large-scale damage by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39 to 44, 49, 50, 53 to 56, 89(11) and (13);*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*

- *Civil Code;*

**Commentary on provision 257:**

*Provision 257 protects the interests of the owner or user of a thing against damage or destruction by others.*

**Provision 257a  
Damaging or Misusing Data Carrier Record**

- (1) A person who, with intent to cause damage or some other detriment to another or obtain unjust benefit for himself or another person, gains access to a data carrier and:
  - (a) uses such data without authorisation;
  - (b) destroys, damages or renders useless the data on such carrier; or
  - (c) interferes with the hardware or software of a particular computer, shall be punished by a term of imprisonment of up to one year, by prohibition of a (specific) activity, by a pecuniary penalty or forfeiture of a (specific) thing.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to three year if:
  - (a) he commits an act under sub-provision (1) as a member of an organised group, or
  - (b) by such act he causes substantial damage or acquires substantial benefit for himself or another person.
- (3) An offender shall be sentenced to a term of imprisonment of from one to five years if, by an act under sub-provision (1), he causes large-scale damage or acquires a large-scale benefit for himself or another person.

**Relating provisions of the Criminal Code:**

- *provisions 39 to 44, 49, 50, 53 to 56, 89(11);*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Civil Code;*
- *Commercial Code;*
- *Copyright Act;*
- *Act on Protection of Personal Data in Information Systems;*

**Commentary on provision 257a:**

*Provision 257a was introduced into the Criminal Code by Act No. 557/1991 Coll.*

**Provision 258  
Abuse of Ownership**

A person who damages an important cultural or other important public interest by destroying, damaging, rendering useless or selling a thing of his own, which enjoys protection under special provisions, shall be punished by a term of imprisonment of up to two years, by a pecuniary penalty or forfeiture of a (specific) thing.

**Relating provisions of the Criminal Code:**

- *provisions 39 to 44, 53 to 56;*

**Some relating provisions of other Acts:**

- *Charter of Fundamental Rights and Freedoms;*
- *Civil Code;*
- *Act on State Care of Monuments;*
- *Nature and Landscape Protection Act;*

**Commentary on provision 258:**

*Provision 258 relates to the provisions on things of cultural or other special value which enjoy special protection – for example, the ban on the export of particular cultural items, unless a special permit has been obtained.*

## CHAPTER X CRIMES AGAINST HUMANITY

### Provision 259 Genocide

- (1) Whoever, with intent to annihilate, fully or partially, a national, racial or religious group,
  - (a) causes the members of such group to live in conditions which will lead to their complete or partial physical extinction;
  - (b) carries out measures designed to prevent the birth of children in such group;
  - (c) forcibly transfers children from one such group to another;
  - (d) causes severe injury to health, or death, to a member of such group,

shall be sentenced to a term of imprisonment of from twelve to fifteen years or an exceptional term of imprisonment.

- (2) The same punishment shall be imposed on any person participating in an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 7, 19, 29, 39 et seq, 41, 62, 66, 67a, 68a, 166 to 168;*

**Commentary on provision 259:**

*In 1946 the United Nations Organisation declared genocide to be a crime under international law. Provision 259 of the Criminal Code is based on the provisions of an international convention on genocide adopted in 1948.*

### Provision 259a Torture and Other Inhuman and Cruel Treatment

- (1) A person who, in connection with the exercise of the powers of a state organ, a local authority or a court, causes another bodily or mental suffering by means of torture of some other inhuman or cruel treatment shall be sentenced to a term of imprisonment of from six months to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (1) as a public official;
  - (b) he commits such act with at least two other persons; or

- (c) he commits such act (activity) for a prolonged period.
- (3) An offender shall be sentenced to a term of imprisonment of from five to ten years if he causes serious harm (injury) to health by an act under sub-provision (1).
- (4) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 67a, 68a, 158;

**Commentary on provision 259a:**

*The United Nations Organisation adopted a declaration on protection against torture in 1975. In 1984 an international convention on the same subject was approved, and this is binding on the Czech Republic.*

**Support and Propagation of Movements Aimed at Suppressing Citizens' Rights and Freedoms  
Provision 260**

- (1) A person who supports or propagates a movement which aims at suppressing the rights and freedoms of citizens, or which promotes national, racial, class or religious hatred, shall be sentenced to a term of imprisonment of from one to five years.
- (2) An offender shall be sentenced to a term of from three to eight years if:
  - (a) he commits an act under sub-provision (1) by using the press (print), film, radio or TV broadcasting, or some other similarly effective means; or
  - (b) he commits such act as a member of an organised group; or
  - (c) he commits such act during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 67a, 68a, 261;

**Commentary on provision 260:**

*Liability to punishment under provision 260 does not become statute-barred (see provisions 67a and 68a).*

**Provision 261**

A person who publicly expresses his support for fascism or a similar movement stipulated in provision 260 shall be sentenced to a term of imprisonment of from six to three years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 260;

**Commentary on provision 261:**

*Provision 261 is subsidiary to provision 260.*

**Provision 262  
Use of a Forbidden Weapon or an Unpermitted Form of Combat**

- (1) Whoever in time of war or in combat:

- (a) orders the use of a forbidden means of combat or materiel, or who uses such means or materiel; or
- (b) orders combat to be conducted in a forbidden manner, or who himself leads combat conducted in a forbidden manner,

shall be sentenced to a term of imprisonment of from two to seven years.

- (2) The same sentence shall be imposed on a commander who, contrary to the provisions of international law on means and methods or warfare, intentionally:
  - (a) causes harm by a military operation to civil inhabitants or to their life, health or property, or leads an attack against them in order to repress them;
  - (b) leads an attack against a defenceless place or a demilitarised zone;
  - (c) destroys or damages a water dam, a nuclear power plant or a similar facility containing dangerous forces; or
  - (d) destroys or damages premises serving humanitarian purposes, a monument internationally-recognised as being of cultural importance or a place internationally-recognised with regard to the protection of nature.
- (3) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if, by an act under sub-provision (1) or (2) he causes an especially serious consequence.

***Relating provisions of the Criminal Code:***

- *provisions 19, 29, 39 et seq, 66, 67a, 68a, 167, 168;*

***Commentary on provision 262:***

*The provisions of international military law, as contained in various international conventions and protocols, must be adhered to in wartime.*

**Provision 263  
Wartime Cruelty**

- (1) A person who violates the provisions (rules) of international law by inhumanly maltreating a defenceless civilian population, refugees, the wounded, members of the enemy's armed forces who have laid down their weapons, or prisoners of war shall be sentenced to a term of imprisonment of from three to ten years.
- (2) The same sentence shall also be imposed on a person who in wartime violates the rules of international law by:
  - (a) not taking effective measures to protect persons who need assistance, particularly children, women, the wounded, or by obstructing such measures; or
  - (b) preventing or obstructing civil defence organisations of the enemy, a neutral country or another country in the performance of humanitarian work.
- (3) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years or an exceptional term of imprisonment if, by an act under sub-provision (1) or (2) he causes severe injury to health or death.

***Relating provisions of the Criminal Code:***

- provisions 7, 19, 29, 39 et seq, 41, 67a, 68a, 167;

**Commentary on provision 263:**

*Cruel conduct in time of war, especially towards the given groups of citizens and prisoners of war, is prohibited under several international documents, particularly the Geneva Conventions of 1929 and 1949 and the supplementary protocols of 1977.*

**Provision 263a  
Persecution of a Population**

- (1) Whoever in wartime practises apartheid or commits inhuman acts arising from racial discrimination, or terrorises defenceless civilians with violence or the threat of violence, shall be sentenced to a term of imprisonment of from three to ten years.
- (2) The same sentence shall also be imposed on a person who in wartime:
  - (a) destroys or seriously disrupts a source of the necessities of life for civilians in an occupied area or contact zone, or who wilfully fails to provide the necessary assistance for their survival;
  - (b) delays, without grounds, the return of civilians or prisoners of war;
  - (c) resettles the civilians of an occupied territory without grounds;
  - (d) settles an occupied territory with population from his own country; or
  - (e) wilfully makes it impossible for the guilt of civilians or prisoners of war to be decided in impartial judicial proceedings.
- (3) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years or an exceptional term of imprisonment if, by an act under sub-provision (1) or (2) he causes severe injury to health or death, or some other especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 62, 67a, 68a;

**Commentary on provision 263a:**

*This provision implements the Geneva Conventions and the International Convention on Oppression and Punishment of Apartheid.*

**Provision 264  
Plunder in a Theatre of War**

Whoever in a theatre of war, on battlefield or in places affected by military operations:

- (a) seizes another person's thing, taking advantage of such person's distress;
- (b) arbitrarily destroys another person's property or takes it on a pretext of military necessity; or
- (c) robs the fallen,

shall be sentenced to a term of imprisonment of from three to fifteen years or an exceptional term of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 7, 19, 29, 39 et seq, 67a, 68a, 167;



**Commentary on provision 264:**

*Plunder (looting) in a theatre of war is prohibited under international conventions.*

**Provision 265****Misuse of Internationally-Recognised Insignia and State Insignia**

- (1) A person, who under a state defence emergency, misuses the insignia of the Red Cross, or other signs or colours recognised in international law as designating medical institutions or vehicles used for medical assistance or evacuation, shall be sentenced to a term of imprisonment of from six months to three years.
- (2) The same punishment shall be imposed on a person who, in a time of war, misuses the flag of the United Nations Organisation or the flag of state or military emblem, or the insignia or uniform of a neutral country or another country (state) which is not a party to the conflict.
- (3) An offender shall be sentenced to a term of imprisonment of from three to fifteen years or an exceptional term of imprisonment if, by a treacherous act under sub-provision (1) or (2), he causes an especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 19, 29, 39 et seq, 67a, 68a;

**Commentary on provision 265:**

*International conventions, including the Geneva Conventions, stipulate how and under what conditions the insignia of the Red Cross can be used.*

**CHAPTER XI****CRIMES AGAINST CONSCRIPTION AND CIVILIAN SERVICE****Division 1****Crimes against Conscription****Provision 266****Causing Unfitness for Service**

- (1) A person who makes himself or another permanently or temporarily unfit, or less fit, for performing his duty as a conscript or other tasks in defence of the country shall be sentenced to imprisonment for a term of from six months to five years.
- (2) An offender shall be sentenced to imprisonment for a term of from three to ten years if he commits an act under sub-provision (1) at the time a state defence emergency.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Commentary on provision 266:**

*A defence emergency involves a mobilisation of the country's armed forces, a declaration of a state of war or a declaration of a war.*

**Provision 267****Non-Presentation for Conscription**

- (1) A person who fails to present himself for conscription, tests or hospital or selection examination, with intent to evade or postpone his duty to enlist, shall be sentenced to imprisonment for a term of up to one year.

- (2) An offender shall be sentenced to imprisonment from a term of from six months to three years if he commits an act under sub-provision (1) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Commentary on provision 267:**

*Legitimate reasons why a citizen cannot comply with a conscription order include illness, permanent residence abroad, detention, imprisonment and other impediments, which must be confirmed by the appropriate authority.*

**Provision 268  
Evasion of Military Duty**

- (1) A person, who deliberately contrives by machinations to be excused from military service shall be sentenced to imprisonment for a term of up to one year.
- (2) A person guilty of such machinations, with intent to:
- (a) evade completely or partly his military service; or
- (b) to exclude another person completely or partly from performance of his military service,
- shall be sentenced to imprisonment for a term of from six months to two years.
- (3) An offender shall be sentenced to imprisonment for a term of from one to five years if he commits an act under sub-provision (1) or (2) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provision 39 et seq;

**Commentary on provision 268:**

*"Machinations" ("pletichy") in sub-provision (1) refer to fraudulent conduct aimed at misleading the authorities. An offender invents non-existing facts or distorts facts, or attempts to influence the authorities in an unlawful manner.*

**Non-Compliance with Conscription for Military Service  
Provision 269**

- (1) A person who, acting with intent permanently to evade active military service or special service, fails to present himself for service in the armed forces within twenty-four hours of expiry of the term set in the call-up order shall be sentenced to imprisonment for a term of from one to five years.
- (2) An offender shall be sentenced to imprisonment for a term of from two to ten years if he commits an act under sub-provision (1) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 270, 271;

**Commentary on provision 269:**

*If there is no intent on the part of an offender to evade military service permanently, his failure to comply with a call-up order can be considered under provision 270.*

**Provision 270**

- (1) A person who fails, even through negligence, to present himself for service in the armed forces within twenty-four hours of expiry of the term set in the call-up order shall be sentenced to imprisonment for a term of up to two years.
- (2) An offender shall be sentenced to imprisonment for a term of from six months to three years if he commits an act under sub-provision (1) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 269, 271, 294;

**Commentary on provision 270:**

*An act under provision 270 is committed either intentionally or through negligence, and a verdict must specify which applies in a particular case.*

**Provision 271**

A person who, after a mobilisation has been declared and even acting through negligence:

- (a) fails to return without delay from abroad in order to present himself for active military service; or
- (b) fails to obey a summons issued in accordance with the provisions of the Military Service Act and calling him up for service in the armed forces of an allied state (country),

shall be sentenced to imprisonment for a term of from one to five years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 269, 270;

**Commentary on provision 271:**

*When a mobilisation is declared, all soldiers who are abroad are required to return to the Czech Republic, without any special call-up order. The President of the Republic may ask soldiers who are abroad and unable to return to the Czech Republic, for reasons beyond their control, to join the armed forces of an allied country.*

**Provision 272**

**Non-Fulfilment of Personal and Material Duties**

- (1) A person who fails to fulfil, even through negligence, his personal or material duties in the country's defence,
  - a person who intentionally evades fulfilment of such duties, or
  - a person who frustrates or obstructs, even through negligence, fulfilment of such duties by another person,

shall be punished by imprisonment for a term of from six months to three years or by a pecuniary penalty.

- (2) An offender shall be sentenced to imprisonment for a term of from two to eight years, if he considerably endangers, by an act under sub-provision (1), the country's defence interests.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 53, 54;

**Commentary on provision 272:**

*A crime under provision 272 can only be committed during a state defence emergency.*

**Division 2  
Crimes against Civilian Service**

**Non-Compliance with a Call-up for Civilian Service  
Provision 272a**

A person who, acting with intent permanently to evade civilian service, fails to present himself for such service within twenty-four hours of expiry of the term set in the call-up order shall be sentenced to imprisonment for a term of from six months to three years.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 272b;*

**Commentary on provision 272a:**

*Civilian service was introduced in recognition of the fact that some citizens (men) feel that they are unable to perform compulsory military service (training) because of their conscientious objection to such service.*

**Provision 272b**

A person who fails to present himself, through negligence, for civilian service within twenty-four hours of expiry of the term set in the call-up order shall be sentenced to imprisonment for a term of up to one year.

**Relating provisions of the Criminal Code:**

- *provisions 39 et seq, 272a;*

**Commentary on provision 272b:**

*An offender under provision 272b may only be a male person duty-bound to perform civilian service, instead of military service.*

**Evading Civilian Service  
Provision 272c**

- (1) A person who, with intent to evade performance of civilian service or related duties, harms his health or pretends to suffer from a disease, forges documents, misuses an addictive substance or resorts to other subterfuges, or

who refuses to perform his civilian service,

shall be sentenced to imprisonment for a term of from six months to three years.

- (2) A person who on a contemptible ground, refuses to carry out instructions (orders) when performing civilian service, or

who systematically fails to carry out such instructions,

shall be sentenced to imprisonment for a term of up to eighteen months.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 272c:**

*As under provision 272b, a criminal act under provision 272c can only be committed by a male person duty-bound to perform civilian service.*

**Provision 272d**

- (1) A person who, without permission and for a period of longer than two days, leaves the place where he is performing civilian service, or who for this period stays outside such place without permission, shall be sentenced to imprisonment for a term of up to six months.
- (2) A person who leaves a place of performance of civilian service for a period of longer than a fortnight, or who for this period stays outside such place without permission, shall be sentenced to imprisonment for a term of from six months to three years.
- (3) A person who, with intent to evade civilian service, leaves the place where he is performing such service, or who remains outside such place without permission, shall be sentenced to imprisonment for a term of from six months to three years.

**Relating provisions of the Criminal Code:**

- *provision 39 et seq;*

**Commentary on provision 272d:**

*Sub-provision (3) refers to a situation in which an offender wants to evade performance of his civilian service permanently.*

**CHAPTER XII  
MILITARY CRIMES**

**Division 1  
Crimes against Military Subordination and Military Honour**

**Disobedience  
Provision 273**

- (1) A person who refuses to, or intentionally does not, carry out an order shall be sentenced to a term of imprisonment of up to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from two to seven years if:
  - (a) he commits an act under sub-provision (1) with a group of soldiers;
  - (b) he commits such act with a weapon;
  - (c) he commits such act in circumstances where he could frustrate or substantially obstruct fulfilment of an important service task;
  - (d) by such act he causes severe injury to health, or death; or
  - (e) by such act he endangers the combat readiness of his unit or causes another especially serious consequence.
- (3) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment, if he commits an act under sub-provision (1) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 167(1), 274, 294;

**Provisions of other Acts relating to CHAPTER XII:**

- Constitution of the Czech Republic;
- Military Service Act;
- Act on Certain Service Relationships of Soldiers;
- Act on Defence of the Czech Republic;
- Act on the Service Relationships of Members of the Czech Republic's Police;
- Act on the Czech Republic's Police;
- Act on the Prison Service;
- Act on the Security Intelligence Service;
- Act on the Czech Intelligence Services;
- Act on the Military Intelligence Service;
- Military Police Act;

**Commentary on provision 273:**

*A superior officer is authorised to give military orders on the basis of the law.*

**Provision 274**

- (1) A person who fails to carry out an order through negligence, and thus frustrates or substantially obstructs fulfilment of a service tasks, shall be sentenced to a term of imprisonment of up to one year.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if:
  - (a) he causes severe injury to health or death by an act under sub-provision (1); or
  - (b) by such act he seriously endangers the combat readiness of his unit or causes some other especially serious consequence.
- (3) An offender shall be sentenced to a term of imprisonment of from three to ten years if he commits an act under sub-provision (1) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 273, 294;

**Commentary on provision 274:**

*A criminal act under provision 274 can only be committed through negligence.*

**Provision 275****Resistance and Breach of a Military Duty under Duress**

- (1) A person who resists a soldier performing his military duties, or who forces such soldier to breach his military duty, shall be sentenced to a term of imprisonment of up to three years.
- (2) An offender, shall be sentenced to a term of imprisonment of from two to seven years if:
  - (a) he commits an act under sub-provision (1) with a group of persons;
  - (b) he commits such act with a weapon;
  - (c) he causes by such act severe injury to health or some other especially serious consequence; or

- (d) he commits such act in a combat situation.
- (3) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if:
  - (a) by an act under sub-provision (1) he causes death; or
  - (b) he commits an act under sub-provision (2)(a) or (c) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 167(1), 294;

**Commentary on provision 275:**

*A crime under provision 275 consists either in an offender's resistance to a soldier performing his military duties or in an intention on the part of the offender to make such soldier breach his military duty.*

**Insults between Soldiers  
Provision 276**

Whoever insults:

- (a) his superior or a person of higher rank;
- (b) his subordinate or a person of lower rank;
- (c) a soldier of the same rank at a time when he himself or the insulted person is on duty;

shall be sentenced to a term of imprisonment of up to one year.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 277, 278, 294;

**Commentary on provision 276:**

*An offender may only be a soldier in the meaning of provision 90(1) and (4).*

**Provision 277**

(1) Whoever insults by violence or the threat of violence:

- (a) his superior officer or a person of higher rank; or
- (b) his subordinate or a person of lower rank;

shall be sentenced to a term of imprisonment of up to two years.

(2) An offender shall be sentenced to a term of imprisonment of from six months to five years if:

- (a) he commits an act under sub-provision (1) at a time when he or the insulted person is on duty;
- (b) he commits such act against a military guard;
- (c) he commits such act with a weapon, or at least with two other persons;
- (d) by such act he causes injury to health.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 276, 278, 294;

**Commentary on provision 277:**

*An act which shows features of the conduct under provision 277, but which represents only a small degree of danger (to society) is not regarded as a crime.*

**Provision 278**

- (1) Whoever insults a soldier of the same rank by violence or the threat of immediate violence, at a time when he himself or the insulted soldier is on duty shall be sentenced to a term of imprisonment of up to two years.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to five years if:
  - (a) he commits an act under sub-provision (1) against a military guard;
  - (b) he commits such act with a weapon or at least with two other persons; or
  - (c) by such act he causes injury to health.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 276, 277, 294;

**Commentary on provision 278:**

*As is the case with provision 277, this provision does not apply where the degree of danger represented by an act under provision 278 is small.*

**Provision 279**  
**Violence against a Superior Officer**

- (1) Whoever uses violence against his superior officer:
  - (a) with intent to influence the performance of his duties; or
  - (b) because of the performance of his military duties,
 shall be sentenced to a term of imprisonment of from six months to five years.
- (2) An offender shall be sentenced to a term of imprisonment of from three to ten years if:
  - (a) he attempts to cause severe injury to health by an act under sub-provision (1);
  - (b) by such act he causes severe injury to health; or
  - (c) he commits such act with a weapon or with at least two other persons.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years or an exceptional term of imprisonment if:
  - (a) he causes death by an act under sub-provision (1); or
  - (b) he causes such act during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**



- *provisions 29, 39 et seq, 90, 276 to 278;*

**Commentary on provision 279:**

*Provision 279 protects superior officers performing their military duties against violent attacks by their subordinates.*

**Violation of Soldiers' Rights and Protected Interests  
Provision 279a**

- (1) Whoever forces a soldier of the same rank to undertake personal services, or restricts him in his rights, or wilfully makes performance of his service more difficult, shall be sentenced to a term of imprisonment of up to one year.
- (2) An offender shall be sentenced to a term of imprisonment of from six months to three years if:
  - (a) he commits an act under sub-provision (1) by violence or the threat of violence, or the threat of some other serious detriment;
  - (b) he commits such act with at least two other persons; or
  - (c) by such act he causes injury to health.
- (3) An offender shall be sentenced to a term of imprisonment of from two to eight years if:
  - (a) he commits an act under sub-provision (1) in an especially brutal manner or with a weapon;
  - (b) by such act he causes severe harm to health or some other especially serious consequence; or
  - (c) he commits such act during a state defence emergency or in a combat situation.
- (4) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- *provisions 39n et seq, 90, 167(1), 279b, 294;*

**Commentary on provision 279a:**

*The provisions of section 279 are intended to protect soldiers, particularly new soldiers, against bullying.*

**Provision 279b**

- (1) Whoever forces a subordinate or someone of a lower rank to provide him with personal services, or restricts him in his rights or wilfully makes performance of his service more difficult, shall be sentenced to a term of imprisonment of from six months to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (1) by violence or the threat of violence, or the threat of some other serious detriment;
  - (b) commits such act with at least two other persons; or
  - (c) by such act causes injury to health.

- (3) An offender shall be sentenced to a term of imprisonment of from three to ten years if:
- (a) he commits an act under sub-provision (1) in an especially brutal manner or with a weapon;
  - (b) by such act he causes severe injury to health or some other especially serious consequence; or
  - (c) he commits such act during a state defence emergency or in a combat situation.
- (4) An offender shall be sentenced to a term of imprisonment of from eight to fifteen years if he causes death by an act under sub-provision (1).

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 167(1), 279a, 294;

**Commentary on provision 279b:**

*Provision 279b is intended to protect subordinates against abuses of power by those of superior ranks.*

**Division 2  
Crimes against Military Duty**

**Evasion of Military Duty  
Provision 280**

- (1) Whoever injures his health, simulates a disease, forges a document, misuses an addictive substance or resorts to some other subterfuge, with intent to evade fulfilment of a service task, shall be sentenced to a term of imprisonment of up to one year.
- (2) Whoever injures his health, simulates a disease, forges a document, misuses an addictive drug or resorts to some other subterfuge with intent to evade performance of his military service or fulfilment of military duties, or who refuses to perform military service or fulfil military duties, shall be sentenced to a term of imprisonment of from six months to five years.
- (3) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if he commits an act under sub-provision (2) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 89(10), 90, 176, 195, 281, 282;

**Commentary on provision 280:**

*Evasion of fulfilment of a military task under sub-provision (1) and performance of military service under sub-provision (2) constitutes a crime.*

**Provision 281**

Whoever makes himself unfit in a combat situation, through negligence, by misusing an addictive substance shall be sentenced to a term of imprisonment of from one to five years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 89(10), 90, 195, 280;

**Commentary on provision 281:**

*A crime under provision 281 is committed through negligence.*

**Provision 282  
Desertion**

- (1) Whoever absents himself without leave, with intent to evade military service, shall be sentenced to a term of imprisonment of from six months to five years.
- (2) An offender shall be sentenced to a term of imprisonment of from three to ten years if he commits an act under sub-provision (1) with a weapon.
- (3) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if he commits an act under sub-provision (1) during a state defence emergency.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 167, 284, 295;

**Commentary on provision 282:**

*The term "desertion" relates to the term "absence without leave" ("absence without permission") when an offender deserts for a period not determined in advance in order to evade his military service, either temporarily or permanently.*

**Provision 283  
Repealed**

**Provision 284  
Absence without Leave**

- (1) Whoever absents himself without leave for a period of more than twenty-four hours shall be sentenced to a term of imprisonment of up to six months.
- (2) Whoever absents himself without leave consistently, or for a period of more than six days, or  
  
who absents himself without leave for a period of more than two days, at a time when especially important tasks are being fulfilled or when especially important exercises are being held,

shall be sentenced to a term of imprisonment of up to one year.

- (3) Whoever absents himself without leave for a period of more than fourteen days, or  
  
who absents himself without leave for a period of more than six days, at a time when especially important tasks are being fulfilled or when especially important exercises are being held,

shall be sentenced to a term of imprisonment of from six months to five years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 282, 294, 295;

**Commentary on provision 284:**

*The term "absence without leave" ("absence without permission") is defined in provision 295.*

**Division 3**

## **Crimes Relating to Guard and Supervisory Duty**

### **Provision 285 Breaches of Guard Duty**

- (1) Whoever, even through negligence, breaches the provisions on such service or rules of such service, or special instructions issued in connection with the former, shall be sentenced to a term of imprisonment of up to one year.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if:
  - (a) he commits an act under sub-provision (1) while doing guard duty which is of special importance for the state (country), or is of special military importance;
  - (b) he commits such act by an especially gross breach of his duty;
  - (c) by such act he causes a harmful consequence which should have been prevented by the guard or similar service; or
  - (d) he commits such act during a state defence emergency.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years or to an exceptional term of imprisonment if he intentionally commits an act under sub-provision (1) in a combat situation and if one of the circumstances under sub-provision (2)(a) and (c) applies.

***Relating provisions of the Criminal Code:***

- *provisions 29, 39 et seq, 90, 286, 287, 294;*

***Commentary n provision 285:***

*Guard duty is stipulated in the military regulations (rules).*

### **Provision 286 Breaches of Supervisory Duty**

- (1) Whoever is performing supervisory or another duty and seriously violates the relevant regulations and rules of such duty, even through negligence, shall be sentenced to a term of imprisonment of up to six months.
- (2) An offender shall be sentenced to a term of imprisonment of up to two years if, by an act under sub-provision (1), he causes an especially serious consequence which he was duty-bound to prevent.
- (3) An offender shall be sentenced to a term of imprisonment of from one to five years if he commits an act under sub-provision (1) in a combat situation.

***Relating provisions of the Criminal Code:***

- *provisions 39 et seq, 90, 285, 287, 294;*

***Commentary on provision 286:***

*Supervisory service is stipulated in the military regulations.*

### **Provision 287 Breaches of Duties in Air Defence**

- (1) Whoever, even through negligence, breaches the rules of service in radio-technical observation posts, in units on alert or in other facilities (installations) designed to ensure the security of air space shall be sentenced to a term of imprisonment of up to one year.
- (2) An offender shall be sentenced to a term of imprisonment of from one to five years if, by an act under sub-provision (1), he causes an especially serious consequence.
- (3) An offender shall be sentenced to a term of imprisonment of from ten to fifteen years or an exceptional term of imprisonment if he commits an act under sub-provision (1) during a state defence emergency and by such act causes an especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 285, 286, 294;

**Commentary on provision 287:**

*Provision 287 refers to those who operate airdefence facilities (installations).*

**Division 4  
Crimes Endangering Combat Capability**

**Provision 288  
Endangering the Morale of a Military Unit**

- (1) Whoever incites soldiers against military service or against their superior officer, whoever spreads demoralisation, or whoever otherwise systematically undermines discipline, shall be sentenced to a term of imprisonment of from six months to three years.
- (2) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if he commits an act under sub-provision (1) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 294;

**Commentary on provision 288:**

*An act under provision 288 refers to intentional conduct. If the degree of danger it represents is small it is regarded as a misdemeanour.*

**Provision 288a  
Breaches of Service Duties**

- (1) Whoever substantially reduces the capability of facilities, armaments or other defence equipment, which is determined for a part of the armed forces or an armed corps, by non-fulfilment of imposed service duties, even through negligence, shall be punished by a term of imprisonment of up to one year or by a pecuniary penalty.
- (2) Whoever, without authorisation, uses a facility, armaments or defence equipment of a significant value for a purpose for which it has not been determined, or approves such use,  
or

whoever misuses or enables its misuses by subordinates for non-service activity,

shall be punished by a term of imprisonment of up to two years or by a pecuniary penalty.

- (3) An offender shall be sentenced to a term of imprisonment of from one to five years if:

- (a) he obtains substantial benefit for himself or someone else by an act under sub-provision (2);
- (b) b an intentionally committed act under sub-provision (1) or (2) he causes reduced combat capability, substantial damage or some other especially serious consequence.
- (4) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if he intentionally commits an act under sub-provision (1) or (2) during a state defence emergency or in a combat situation.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 53, 54, 90, 294;

**Commentary on provision 288a:**

*Duties under provision 288a can be breached either through negligence or intentionally.*

**Provision 289  
Cowardice in the Face of the Enemy**

Whoever, out of cowardice or demoralisation, surrenders to the enemy in a combat situation shall be sentenced to a term of imprisonment of from ten to fifteen years or an exceptional term of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90;

**Commentary on provision 289:**

*Soldiers are bound by their oath to defend the Czech Republic, even at the cost of their lives. Soldiers are therefore forbidden to surrender because of cowardice or demoralisation.*

**Provision 290  
Non-fulfilment of a Combat Assignment**

- (1) Whoever absents himself without leave in a combat situation shall be sentenced to a term of imprisonment of from three to fifteen years or an exceptional term of imprisonment.
- (2) Whoever in a combat situation evades his duty to carry out a combat assignment or refuses to use his weapon, shall be sentenced to a term of imprisonment of ten years or an exceptional term of imprisonment.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90, 295;

**Commentary on provision 290:**

*Absence without leave (absence without permission), as stipulated in provision 290, may refer to a situation in which a soldier leaves his post rather than his military unit. A soldier's refusal to use a weapon in a combat situation is regarded as non-fulfilment of a basic duty.*

**Provision 291  
Abandoning Combat Equipment**

- (1) Whoever throws away, abandons or renders useless a weapon or other military materiel in a combat situation shall be sentenced to a term of imprisonment of from two to seven years.

- (2) An offender shall be sentenced to a term of imprisonment of from five to fifteen years or an exceptional term of imprisonment if, by an act under sub-provision (1), he causes an especially serious consequence.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90;

**Commentary on provision 291:**

*A soldier is bound not to allow his weapon to be damaged, lost or destroyed or to abandon it, surrender it or render it useless in a combat situation.*

**Provision 292  
Surrendering Combat Equipment to the Enemy**

A commander who, even through negligence, surrenders military forces or abandons fortifications, weapons or other combat equipment to the enemy, without such act being militarily necessary, shall be sentenced to a term of imprisonment of from three to fifteen years or an exceptional term of imprisonment if he did not act with intent to support enemy.

**Relating provisions of the Criminal Code:**

- provisions 29, 39 et seq, 90;

**Commentary on provision 292:**

*Provision 292 applies to any commander, irrespective of his rank.*

**Provision 293  
Insulting Parliamentarians**

Whoever insults a parliamentarian or a member of his entourage, or unlawfully detains such persons, shall be sentenced to a term of imprisonment of up to two years.

**Relating provisions of the Criminal Code:**

- provisions 39 et seq, 90, 294;

**Commentary on provision 293:**

*The duty to protect parliamentarians and members of their entourages is stipulated in international law.*

**Division 5  
Joint Provisions**

**Provision 294  
Special Provisions on Liability to Punishment**

An act, which has the attributes of a crime of non-compliance with a call-up order under provision 270, or the attributes of another crime referred to in this Chapter, and for which the Code stipulates a maximum term of imprisonment of three years, shall not be regarded as a crime if the degree of danger represented by such act to society is small.

**Relating provisions of the Criminal Code:**

- provisions 3(1), (2) and (4), 39 et seq, 75;

**Commentary on provision 294:**

*Provision 294 allows certain military offences which pose only a small danger to society, and for which the maximum term of imprisonment is not more than three years, to be regarded as misdemeanours.*

**Provision 295**  
**Absence without Leave**

A person is regarded as absent without leave if he:

- (a) absents himself without leave from his unit or from the place to which he has been assigned for duty;
- (b) does not report to his unit or the place to which he has been assigned for duty, even though he was sent there, or the period of his warranted absence has elapsed, especially in the case of his appointment or transfer and official journeys or annual leave;
- (c) is separated in combat operations from his unit and does not rejoin his own or another military unit after the cause of separation has passed;
- (d) does not report to a military unit after his return or liberation from captivity.

**Relating provisions of the Criminal Code:**

- provisions 90, 282, 284, 290;

**Commentary on provision 295:**

*Provision 295 relates to provisions 282, 284 and 290.*

**PART THREE**  
**TRANSITORY AND CONCLUDING PROVISIONS**

**Provision 296**

- (1) A punishment imposed prior to the effective date of this Code for an act which is not regarded as a crime under this Code shall not be executed; the provisions of this Code on subsequent total punishment (sentence) shall not apply in this case.
- (2) The provisions of subsection (1) shall not apply to acts liable to punishment under Presidential Decree No. 16/1945 Coll. on punishment of Nazi criminals, traitors and their abettors, and on special People's Courts, and under Decree No. 33/1945 Coll., as subsequently amended, of the Slovak National Council on punishment of fascist criminals, invaders, traitors and collaborators, and the establishment of a people's judiciary.

**Commentary on provisions 296 to 301:**

*The provisions of sections 269 to 300 regulate the relationship between this Code and the previous Criminal Code (No. 86/1950 Coll.) while provision 301 stipulates the dates on which this Code and its individual amendments came into effect.*

**Provision 297**

- (1) If on the day this Code comes into effect, a non-served part of a term of imprisonment or its remainder, or the aggregate of such subsequently imposed sentences or their remainder, is more than fifteen years, the court shall proportionately shorten such sentence or subsequently-imposed sentences, so that the non-served term of imprisonment or its remainder is shortened to fifteen years as of the day this Code comes into effect.
- (2) If, on the day this Code comes into effect, a non-executed punishment consisting in a prohibition of a specific activity or its remainder is more than five years, the court shall shorten such punishment or its remainder, so that on the day when this Code takes effect it shall be five years.



- (3) If, prior to the effective date of this Code, a court imposed under its final verdict a punishment of:
- (a) loss of honorary civic rights or a similar punishment under the previous Code, loss of voting rights and the right to hold the office of professional or lay judge, such punishment shall be voided on the effective day of this Code;
  - (b) expulsion from the armed forces, such punishment shall be considered as not having been imposed;
  - (c) a pecuniary penalty, an alternative punishment consisting in a term of imprisonment shall not be served if the pecuniary penalty, or its remainder, is uncollectible;
  - (d) prohibition of stay (residence), this punishment shall not be executed after this Code comes into effect;
  - (e) publication of a verdict, such punishment will not be executed.

#### **Provision 298**

The provisions of this Code on conditional release (parole) and conditional release in respect of a prohibition of a specific activity shall be applied with the exception of the provisions of section 62 and also to punishments imposed before the effective date of this Code.

#### **Provision 299**

The maximum term of imprisonment stipulated in provision 1(2) of the Peace Protection Act (No. 165/1950 Coll.) shall be reduced to fifteen years.

#### **Provision 300**

The following are hereby repealed:

1. Criminal Code, No. 86/1950 Coll.;
2. Act No. 63/1956 Coll., implementing the Criminal Code, No. 86/1950 Coll.;
3. Provisions of sections 4 to 6 of the Abortion Act No. 68/1957 Coll.

#### **Provision 301**

This Act shall become effective on 1 January 1962.  
 (Act No. 120/1962 Coll. became effective on 27 December 1962;  
 Act No. 53/1963 Coll. became effective on 17 July 1963;  
 Act No. 56/1965 Coll. became effective on 1 August 1965;  
 Act No. 81/1966 Coll. became effective on 1 January 1967;  
 Act No. 148/1969 Coll. became effective on 1 January 1970;  
 Act No. 45/1973 Coll. became effective on 1 July 1973;  
 Act No. 43/1980 Coll. became effective on 24 April 1980;  
 Act No. 10/1989 Coll. became effective on 14 February 1989;  
 Act No. 159/1989 Coll. became effective on 1 February 1990;  
 Act No. 47/1990 Coll. became effective on 1 March 1990;  
 Act No. 84/1990 Coll. became effective on 29 March 1990;  
 Act No. 175/1990 Coll. became effective on 1 July 1990;  
 Act No. 457/1990 Coll. became effective on 30 October 1990;  
 Act No. 545/1990 Coll. became effective on 1 February 1991;  
 Act No. 490/1991 Coll. became effective on 3 December 1991;

Act No. 557/1991 Coll. became effective on 1 January 1992;  
Finding of the Constitutional Court published in the Collection of Laws Issue No. 93/1992 became effective on 15 October 1992;  
Act No. 290/1993 Coll. became effective on 1 January 1994;  
Act No. 38/1994 became effective on 1 April 1994;  
Finding of the Constitutional Court No. 91/1994 Coll. became effective on 20 May 1994;  
Act No. 152/1995 Coll. became effective on 1 September 1995, except for the provisions of Article 1, points 2 (regarding provision 27/b/) and 6 (regarding provisions 45, 45a, 10), which became effective on 1 January 1996;  
Act No. 19/1997 Coll. became effective on 26 February 1997;  
Finding of the Constitutional Court No. 103/1997 Coll. became effective on 7 May 1997;  
Act No. 253/1997 Coll. became effective on 1 January 1998;  
Act No. 92/1998 Coll. became effective on 1 October 1998;  
Act No. 112/1998 Coll. became effective on 1 July 1998, except for Article I, points 1 and 5 which became effective on 1 January 1999;  
Act No. 148/1998 Coll. became effective on 1 November 1998;  
Act No. 167/1998 Coll. became effective on 1 January 1999;  
Act No. 96/1999 Coll. became effective on 9 June 1999.)