

## **Question 14.b.**

### **Section 368 – Non-reporting of Criminal Offense**

(1) Whoever gains credible knowledge that another person committed a criminal act of Murder (Section 140), Grievous bodily harm (Section 145), Torture and other cruel and inhumane treatment (Section 149), Trafficking in human beings (Section 168), Illegal confinement (Section 170), Hostage taking (Section 174), Abuse of a child for production of pornography (Section 193), Maltreatment of entrusted person (Section 198), Forgery and alteration of money (Section 233), Unauthorized obtaining, forgery and alteration of means of payment (Section 234), Unauthorized production of money (Section 237), Breach of regulations on control of export of goods and technologies of dual use (Section 262), Breach of duty in export of goods and technologies of dual use (Section 263), Conducting foreign business with military material without license or permit (Section 265), Breach of duty related to issuing permits and licenses for foreign trade with military material (Section 266), Public menace (Section 272), Development, manufacture and possession of prohibited means of combat (Section 280), Unauthorized production and possession of radioactive substances and highly dangerous substances (Section 281), Unauthorized production and possession of nuclear material and special fission material (Section 282), Gaining control over aircraft, civil vessel and fixed platform (Section 290), Hijacking of aircraft to abroad (Section 292), Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Participation on a terrorist group (Section 312e), Terrorism financing (Section 312d), Support and promotion of terrorism (Section 312e), Threat by terrorist criminal act (Section 312f), Sabotage (Section 314), Espionage (Section 316), Endangering classified information (Section 317), Military treason (Section 320), Accepting bribes (Section 331), Bribery (Section 332), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Aggression (Section 405a), Preparation of offensive war (Section 406), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of the population (Section 413), Pillage in the area of military operations (Section 414) or Abuse of internationally and state recognized symbols under Section 415 (3), and fails to immediately report such a criminal act to the public prosecutor or police authority, or if a soldier is concerned, to their superior, will be sentenced to imprisonment for up to three years; if this Act stipulates a lighter punishment for any of these criminal offenses, he will be sentenced to such a lighter punishment.

(2) Whoever commits an act referred to in sub-section (1) will not be criminally liable, if he could not report the criminal act without exposing himself or a close person to danger of death, bodily harm, other serious detriment or criminal prosecution.

(3) The report duty according to sub-section (1) does not apply to an attorney or his employee, who learns about commission of a criminal act in relation to performance of his legal profession or practice. The report duty also does not apply to clergymen of a registered church or religious society authorized to exercise special rights when they learn about a criminal offense in relation to performing a confession, or in connection with practice of similar confessional secrets. The duty to report a criminal offense of Trafficking in human beings according to Section 168 (2)

and Illegal confinement (Section 170) does not apply also to persons providing assistance to victims of crimes.