

# Germany

## German Criminal Code

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Translation of the German Criminal Code provided by Prof. Dr. Michael Bohlander  
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### Section 232

#### Human trafficking for the purpose of sexual exploitation

(1) Whosoever exploits another persons predicament or helplessness arising from being in a foreign country in order to induce them to engage in or continue to engage in prostitution, to engage in exploitative sexual activity with or in the presence of the offender or a third person or to suffer sexual acts on his own person by the offender or a third person shall be liable to imprisonment from six months to ten years. Whosoever induces a person under twenty-one years of age to engage in or continue to engage in prostitution or any of the sexual activity mentioned in the 1st sentence above shall incur the same penalty.

(2) The attempt shall be punishable.

(3) The penalty shall be imprisonment from one to ten years if

1. the victim is a child (section 176 (1));
2. the offender through the act seriously physically abuses the victim or places the victim in danger of death; or
3. the offender commits the offence on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

(4) The penalty under subsection (3) above shall be imposed on any person who

1. induces another person by force, threat of serious harm or by deception to engage in or continue to engage in prostitution or any of the sexual activity mentioned in subsection (1) 1st sentence above or
2. gains physical control of another person by force, threat of serious harm or deception to induce them to engage in or continue to engage in prostitution or any of the sexual activity mentioned in subsection (1) 1<sup>st</sup> sentence above.

(5) In less serious cases under subsection (1) above the penalty shall be imprisonment from three months to five years, in less serious cases under subsections (3) and (4) above imprisonment from six months to five years.

### Section 233

## **Human trafficking for the purpose of work exploitation**

(1) Whosoever exploits another persons predicament or helplessness arising from being in a foreign country to subject them to slavery, servitude or bonded labour, or makes him work for him or a third person under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity, shall be liable to imprisonment from six months to ten years. Whosoever subjects a person under twenty-one years of age to slavery, servitude or bonded labour or makes him work as mentioned in the 1st sentence above shall incur the same penalty.

(2) The attempt shall be punishable.

(3) Section 232 (3) to (5) shall apply mutatis mutandis.

## **Section 233a**

### **Assisting in human trafficking**

(1) Whosoever assists in human trafficking under section 232 or section 233 by recruiting, transporting, referring, harbouring or sheltering another person shall be liable to imprisonment from three months to five years.

(2) The penalty shall be imprisonment from six months to ten years if

1. the victim is a child (section 176 (1));
2. the offender through the act seriously physically abuses the victim or places the victim in danger of death; or
3. the offender commits the offence on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

(3) The attempt shall be punishable.

## **Section 233b**

### **Supervision order, extended confiscation**

(1) In cases under sections 232 to 233a the court may make a supervision order (section 68 (1)).

(2) Section 73d shall apply in cases under sections 232 to 233a if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

## **Section 236**

### **Child trafficking**

(1) Whosoever in gross neglect of his duties of care and education leaves his child, ward or foster child under eighteen years of age with another for an indefinite period for material gain or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than five years or a fine. Whosoever in cases under the 1st sentence above takes the child, ward or

foster child into his home for an indefinite period and awards compensation for it shall incur the same penalty.

(2) Whosoever unlawfully

1. procures the adoption of a person under eighteen years of age; or
2. engages in procurement activity with the aim of a third person taking a person under eighteen years of age into his home for an indefinite period,

and acts for consideration or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than three years or a fine. Whosoever, as an agent for the adoption of a person under eighteen years of age, grants a financial reward to a person in exchange for the required consent to the adoption shall incur the same penalty. If the offender in cases under the 1st sentence above causes the procured person to be brought into Germany or abroad the penalty shall be imprisonment of not more than five years or a fine.

(3) The attempt shall be punishable.

(4) The penalty shall be imprisonment from six months to ten years if the offender

1. seeks profit or acts on a commercial basis or as a member of a gang whose purpose is the continued commission of child trafficking or
2. by the act places the child or the procured person in danger of a substantial impairment of his physical or mental development.

(5) The court may in its discretion mitigate the sentence (section 49 (2)) for accomplices in cases under subsections (1) and (3) above and for secondary participants in cases under subsections (2) and (3) above, or order a discharge under subsections (1) to (3), if their guilt, taking into consideration the physical or mental welfare of the child or the procured person, is of a minor nature.