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Swiss Criminal Code

of 21 December 1937 (Status as of 1 January 2022)

The Federal Assembly the Swiss Confederation,

based on Article 123 paragraphs 1 and 3 of the Federal Constitution^{1,2}
and having considered a Federal Council Dispatch dated 23 July 1918³,
decrees:

Book One:⁴ General Provisions

Part One: Felonies and Misdemeanour^{2743s}

Title One: Scope of Application

Art. 1

1. No penalty
without a law

A penalty or measure may only be imposed for an act that has been expressly declared to be an offence by law.

Art. 2

2. Commence-
ment of applica-
bility of the
Code

¹ This Code applies to any person who commits a felony or misdemeanour following the date on which it comes into force.

² Any person who commits a felony or misdemeanour prior to this Code coming into force is only subject to its terms in the event that the penalty hereunder is less than the penalty that would otherwise apply.

Art. 3

3. Territorial
scope of
application
Felonies or
misdemeanours
in Switzerland

¹ Any person who commits a felony or misdemeanour in Switzerland is subject to this Code.

AS **54 757**, **57 1328** and BS **3 203**

¹ [BS **1 3**]. The said provision now corresponds to Art. 123 of the Federal Constitution of 18 April 1999 (SR **101**).

² Amended by No I of the FA of 30 Sept. 2011 in force since 1 July 2012 (AS **2012 2575**; BBl **2010 5651 5677**).

³ BBl **1918 IV 1**

⁴ Amended by No I of the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006 3459 3535**; BBl **1999 1979**).

² If the person concerned has served a sentence in full or in part for the offence in another country, the Swiss court must take the sentence served into account in determining the sentence to be imposed.

³ If the person concerned has been prosecuted in a foreign country at the request of the Swiss authorities, then unless the offence involves a gross violation of the principles of the Federal Constitution or the Convention from 4 November 1950⁵ for the protection of Human Rights and Fundamental Freedoms (ECHR), he is not prosecuted in Switzerland for the same offence if:

- a. the foreign court has acquitted him and the judgment has taken full legal effect;
- b. the penalty to which he had been sentenced in the foreign country has been served, remitted or become time-barred.

⁴ If the person prosecuted abroad at the request of the Swiss authorities has not served the sentence or has only served it in part, the whole sentence or the remainder shall be served in Switzerland. The court decides whether a measure that has not been executed abroad or has only been served in part must be executed or continued in Switzerland.

Art. 4

Felonies or misdemeanours against the state committed abroad

¹ This Code also applies to any person who commits a felony or misdemeanour against the state or its national security (Art. 265–278).

² If the person concerned has been convicted of the offence and has served the sentence in full or in part in another country, the court shall take the sentence served into account in determining the sentence to be imposed.

Art. 5

Offences against minors abroad⁶

¹ This Code also applies to any person who is in Switzerland, is not being extradited and has committed any of the following offences abroad:

- a.⁷ trafficking in human beings (Art. 182), indecent assault (Art. 189), rape (Art. 190), sexual acts with a person incapable of proper judgment or resistance (Art. 191) or encouraging prostitution (Art. 195) if the victim was less than 18 years of age;

⁵ SR 0.101

⁶ Expression amended by Annex No 14 of the FA of 19 Dec. 2008 (Adult Protection, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001). This amendment has been made throughout the text.

⁷ Amended by Art. 2 No 1 of the Federal Decree of 24 March 2006 on the Approval and Implementation of the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, in force since 1 Dec. 2006 (AS 2006 5437 5440; BBl 2005 2807).

- abis.⁸ sexual acts with dependent persons (Art. 188) and sexual acts with minors against payment (Art. 196);
- b. sexual acts with children (Art. 187) if the victim was less than 14 years of age;
- c.⁹ aggravated pornography (Art. 197 para. 3 and 4) if the items or performances depict sexual acts with minors.

² Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR¹⁰, the person concerned is not liable to further prosecution in Switzerland for the offence if:

- a. he has been acquitted of the offence abroad in a legally binding judgment;
- b. the sentence that was imposed abroad has been served, remitted, or become time-barred.

³ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 6

Offences committed abroad prosecuted in terms of an international obligation

¹ Any person who commits a felony or misdemeanour abroad that Switzerland is obliged to prosecute in terms of an international convention is subject to this Code provided:

- a. the act is also liable to prosecution at the place of commission or no criminal law jurisdiction applies at the place of commission; and
- b. the person concerned remains in Switzerland and is not extradited to the foreign country.

² The court determines the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

³ Unless the offence involves a gross violation of the principles of the Federal Constitution and of the ECHR¹¹, the person concerned is not liable to further prosecution in Switzerland if:

⁸ Inserted by Annex No 1 of the Federal Decree of 27 Sept. 2013 (Lanzarote Convention), in force since 1 July 2014 (AS 2014 1159; BBl 2012 7571).

⁹ Amended by Annex No 1 of the Federal Decree of 27 Sept. 2013 (Lanzarote Convention), in force since 1 July 2014 (AS 2014 1159; BBl 2012 7571).

¹⁰ SR 0.101

¹¹ SR 0.101

- a. he has been acquitted of the offence abroad in a legally binding judgment;
- b. the sentence that was imposed abroad has been served, remitted, or become time-barred.

⁴ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 7

Other offences
committed
abroad

¹ Any person who commits a felony or misdemeanour abroad where the requirements of Articles 4, 5 or 6 are not fulfilled is subject to this Code if:

- a. the offence is also liable to prosecution at the place of commission or the place of commission is not subject to criminal law jurisdiction;
- b. the person concerned is in Switzerland or is extradited to Switzerland due to the offence; and
- c. under Swiss law extradition is permitted for the offence, but the person concerned is not being extradited.

² If the person concerned is not Swiss and if the felony or misdemeanour was not committed against a Swiss person, paragraph 1 is applicable only if:

- a. the request for extradition was refused for a reason unrelated to the nature of the offence; or
- b. the offender has committed a particularly serious felony that is proscribed by the international community.

³ The court shall determine the sentence so that overall the person concerned is not treated more severely than would have been the case under the law at the place of commission.

⁴ Unless the offence involves a gross violation of the principles of the Federal Constitution and the ECHR¹², the person concerned is not liable to further prosecution in Switzerland for the offence if:

- a. he has been acquitted of the offence abroad in a legally binding judgment;
- b. the sentence that was imposed abroad has been served, remitted, or become time-barred.

⁵ If the person concerned has been convicted of the offence abroad and if the sentence imposed abroad has been partly served, the court shall take the part served into account in the sentence to be imposed. The court decides whether a measure ordered abroad but only partly executed there must be continued or taken into account in the sentence imposed in Switzerland.

Art. 8

Place of
commission

¹ A felony or misdemeanour is considered to be committed at the place where the person concerned commits it or unlawfully omits to act, and at the place where the offence has taken effect

² An attempted offence is considered to be committed at the place where the person concerned attempted it and at the place where he intended the offence to take effect.

Art. 9

4. Personal scope
of application

¹ This Code does not apply to persons whose offences are subject to military criminal law.

² For persons who have not attained the age of 18 at the time of the offence, the provisions of the Juvenile Criminal Law Act of 20 June 2003¹³ (JCLA) are reserved. Where an offence committed before and after attaining the age of 18 must be judged, Article 3 paragraph 2 JCLA applies.¹⁴

Title Two: Criminal Liability

Art. 10

1. Felonies and
misdemeanours
Definition

¹ In this Code, felonies are distinguished from misdemeanours according to the severity of the penalties that the offence carries.

² Felonies are offences that carry a custodial sentence of more than three years.

³ Misdemeanours are offences that carry a custodial sentence not exceeding three years or a monetary penalty.

Art. 11

Commission by
omission

¹ A felony or misdemeanour may also be committed by a failure to comply with a duty to act.

¹³ SR 311.1

¹⁴ Amended by Art. 44 No 1 of the Juvenile Criminal Law Act of 20 June 2003, in force since 1 Jan. 2007 (AS 2006 3545; BBl 1999 1979).