Übersetzung durch Kathleen Müller-Rostin. Laufende Aktualisierung der Übersetzung durch Eileen Flügel.
Translation provided by Kathleen Müller-Rostin. Translation regularly updated by Eileen Flügel.
Stand: Die Übersetzung berücksichtigt die Änderung(en) des Gesetzes durch Artikel 10 Absatz 6 des Gesetzes vom 30. Oktober 2017 (BGBl. I S. 3618)
Version information: The translation includes the amendment(s) to the Act by Article 10 paragraph 6 of the Act of 30 October 2017 (Federal Law Gazette Part I p. 3618)

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Courts Constitution Act

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Courts Constitution Act in the version published on 9 May 1975 (Federal Law Gazette [Bundesgesetzblatt] Part I p. 1077), last amended by Article 10 paragraph 6 of the Act of 30 October 2017 (Federal Law Gazette Part I p. 3618)

First Title
Jurisdiction

Section 1

Judicial power shall be exercised by independent courts that are subject only to the law.

Sections 2 to 9
(repealed)

Section 10

Under the supervision of a judge, trainee jurists (*Referendare*) may handle requests for mutual judicial assistance and, except in criminal matters, hear participants in the proceedings, take evidence and conduct the oral hearing. Trainee jurists shall not be authorised to order administration of an oath or to administer an oath.

Section 11
(repealed)

Section 12

Ordinary jurisdiction shall be exercised by Local Courts (*Amtsgerichte*), Regional Courts (*Landgerichte*), Higher Regional Courts (*Oberlandesgerichte*) and by the Federal Court of Justice (*Bundesgerichtshof*, the highest federal court for the area of ordinary jurisdiction).

Section 13

The ordinary courts shall have jurisdiction over the civil disputes, family matters and non-contentious matters (civil matters) as well as criminal matters for which neither the competence of administrative authorities nor the jurisdiction of the Administrative Courts (*Verwaltungsgerichte*) has been established and for which no special courts have been created or permitted by provisions of federal law.

Section 13a

Land law may provide that matters of all kinds be assigned either entirely or partially to a single court for the districts of several courts and that external adjudicating bodies of courts be established.

Section 14

Inland Waterways Courts (*Schifffahrtsgerichte*) shall be permitted as special courts for the matters designated in international treaties.

Section 15
(repealed)

Section 16

Extraordinary courts shall not be allowed. No one may be removed from the jurisdiction of his lawful judge.

Section 17

(1) Once an action has been brought before a court, the admissibility of such recourse shall not be affected by any subsequent change in the circumstances upon which it is founded. The matter may not be brought before another court by any party while it is pending.
(2) The court of admissible recourse shall decide the dispute in the light of all relevant legal aspects. Article 14 paragraph (3), fourth sentence, and Article 34, third sentence, of the Basic Law (*Grundgesetz*) shall remain unaffected.

Section 17a

(1) If a court has declared with final and binding effect that the recourse taken to it is admissible, other courts shall be bound by this decision.
(2) If the recourse taken is inadmissible, the court shall declare this *proprio motu* after hearing the parties and shall at the same time refer the legal dispute to the competent court of admissible recourse. If several courts are competent, the dispute shall be referred to the court to be selected by the plaintiff or applicant or, if no selection is made, to the court designated by the referring court. The decision shall be binding upon the court to which the dispute has been referred in respect of the admissibility of the recourse.
(3) If the recourse taken is admissible, the court may give a preliminary decision to this effect. It must give a preliminary decision if a party challenges the admissibility of the recourse.
(4) The decision pursuant to subsections (2) and (3) may be given without an oral hearing. Reasons must be given therefor. The immediate complaint (*sofortige Beschwerde*) shall be available against the decision pursuant to the provisions of the respective applicable code of procedure. The participants shall only be entitled to lodge a complaint against a decision of a higher regional court at the highest federal court if this has been admitted in the decision. The complaint must be admitted if the legal issue concerned is of fundamental importance or if the court deviates from a decision of one of the highest federal courts or from a decision of the Joint Panel of the Highest Federal Courts (*Gemeinsamer Senat der obersten Gerichtshöfe des Bundes*). The highest federal court shall be bound by the admission of the complaint.
(5) The court that rules on an appellate remedy against a decision by the court seized of the case shall not review whether the recourse taken was admissible.
(6) Subsections (1) to (5) shall apply *mutatis mutandis* to adjudicating bodies with jurisdiction over civil disputes, family matters and non-contentious matters in relation to each other.

Section 17b

(1) After the decision on referral has become final and absolute, the legal dispute shall be pending at the court designated in the decision upon receipt of the file by that court. The effects of pendency shall continue to exist.

(2) If a dispute is referred to another court, the costs of the proceedings before the first court shall be treated as part of the costs incurred at the court to which the dispute was referred. The plaintiff shall bear the additional costs incurred even if he prevails on the main issue.
(3) Subsection (2), second sentence, shall not apply to family matters and non-contentious matters.

Section 17c

(1) In such case as concentrations of jurisdiction or changes in judicial districts are undertaken on account of this Act, on account of provisions of other Federal legislation or on account of *Land* legislation, provisions of Federal law which do not affect the legal jurisdiction in pending or sub judice proceedings do not preclude allocation of these proceedings to the new competent court under *Land* legislation.
(2) If at the time of the allocation, the main hearing has begun, but has not been concluded, in a criminal or administrative fine case, it can only be continued before the court competent after the entry into force of the change in competence if the persons appointed to adjudicate are the same persons as those adjudicating at the beginning of the main hearing. If they are not the same persons, the court that began the main hearing shall remain competent.

Section 18

The members of the diplomatic missions established in the territory of application of this Act, the members of their families and their private servants shall be exempt from German jurisdiction under the Vienna Convention on Diplomatic Relations of 18 April 1961 (Federal Law Gazette 1964, Part II, pages 957 et seq.). This shall also apply if their sending state is not a party to this Convention; in such case Article 2 of the Act of 6 August 1964 relating to the Vienna Convention on Diplomatic Relations of 18 April 1961 (Federal Law Gazette 1964, Part II, page 957) shall apply *mutatis mutandis*.

Section 19

(1) The members of the consular posts established in the territory of application of this Act, including the honorary consular officers, shall be exempt from German jurisdiction under the Vienna Convention on Consular Relations of 24 April 1963 (Federal Law Gazette 1969, Part II, pages 1585 et seq.). This shall also apply if their sending state is not a party to this Convention; in such case Article 2 of the Act of 26 August 1969 relating to the Vienna Convention on Consular Relations of 24 April 1963 (Federal Law Gazette 1969, Part II, page 1585) shall apply *mutatis mutandis*.
(2) Special international agreements concerning the exemption of the persons designated in subsection (1) from German jurisdiction shall remain unaffected.

Section 20

(1) German jurisdiction also shall not apply to representatives of other states and persons accompanying them who are staying in the territory of application of this Act at the official invitation of the Federal Republic of Germany.
(2) Moreover, German jurisdiction also shall not apply to persons other than those designated in subsection (1) and in sections 18 and 19 insofar as they are exempt therefrom pursuant to the general rules of international law or on the basis of international agreements or other legislation.

Section 21

Sections 18 to 20 shall not stand in the way of execution of a request for transfer of a person in custody and for mutual judicial assistance communicated by an international criminal court established by a legal instrument that is binding on the Federal Republic of Germany.

Second Title
General provisions concerning the presidium and the allocation of court business

Section 21a

(1) A presidium shall be established at each court.

(2) The presidium shall be composed of the president or supervising judge acting as chairman and,

1. at courts with at least eighty permanent judicial posts, ten elected judges,
2. at courts with at least forty permanent judicial posts, eight elected judges,
3. at courts with at least twenty permanent judicial posts, six elected judges,
4. at courts with at least eight permanent judicial posts, four elected judges,
5. at the other courts, the judges eligible to stand for election pursuant to section 21b subsection (1).

Section 21b

(1) Eligible to vote in elections to the presidium are the judges appointed for life and the judges appointed for a specified term upon whom a judicial office has been conferred at the court as well as the judges on probation who are working at the court, the judges by commission and the judges on secondment for a term of at least three months who are performing judicial duties at the court. Eligible to stand for election to the presidium are the judges appointed for life and the judges appointed for a specified term upon whom a judicial office has been conferred at the court. Neither eligible to vote in elections nor eligible to stand for election are judges who have been seconded to another court for more than three months, who have been on leave for more than three months or who have been seconded to an administrative authority.
(2) Each eligible voter may vote for no more than the prescribed number of judges.
(3) The election shall be direct and secret. The persons receiving the most votes shall be deemed elected. Provision for other election procedures for the election to the presidium may be made by *Land* law. In such case the *Land* government shall lay down the necessary rules governing the election procedure in a statutory instrument; it may transfer the authorisation herefor to the *Land* agency for the administration of justice. In the case of a tie, a decision shall be taken by drawing lots.
(4) Members shall be elected for four years. Half of the members shall resign every two years. The first members to resign shall be determined by drawing lots.
(5) The election procedure shall be regulated in a statutory instrument that shall be issued by the Federal Government with the approval of the Bundesrat.
(6) In the event that a law is infringed in the course of the election, the election may be challenged by the judges designated in subsection (1), first sentence. Such challenge shall be decided by a division of the competent Higher Regional Court, in the case of the Federal Court of Justice by a panel of that court. If the challenge is declared to be well founded, an appellate remedy lodged against a court decision may not be based on the assertion that the presidium consequently was not properly composed. Otherwise, the provisions of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction shall be applicable to the procedure *mutatis mutandis*.

Section 21c

(1) In the event that the president or supervising judge is unable to be present, he shall be represented by his deputy (section 21h). If the president or supervising judge is present, his deputy, if he has not himself been elected to the presidium, may attend the meetings of the presidium in an advisory capacity. The elected members of the presidium shall not have deputies.
(2) If an elected member of the presidium leaves the court, is seconded to another court for more than three months, is granted leave for more than three months, is seconded to an administrative authority or becomes a member of the presidium by statute, he shall be replaced by the person who is next in line on the basis of the last election.

Section 21d

(1) The size of the presidium shall be governed by the number of permanent judicial posts at the end of the day six months preceding the day on which the business year begins.
(2) If the number of permanent judicial posts at a court with a presidium pursuant to section 21a subsection (2), numbers 1 to 3, has fallen below the respective specified minimum number, the following number of judges shall be elected at the next election held pursuant to section 21b subsection (4):

1. four judges at a court with a presidium pursuant to section 21a subsection (2), number 1,

2. three judges at a court with a presidium pursuant to section 21a subsection (2), number 2,

3. two judges at a court with a presidium pursuant to section 21a subsection (2), number 3.

In addition to the members resigning from the presidium pursuant to section 21b subsection (4), a further member shall resign who shall be selected by drawing lots.
(3) If the number of permanent judicial posts at a court with a presidium pursuant to section 21a subsection (2), numbers 2 to 4, has risen above the maximum number specified for the previous size of the presidium, the following number of judges shall be elected at the next election held pursuant to section 21b subsection (4):

1. six judges at a court with a presidium pursuant to section 21a subsection (2), number 2,

2. five judges at a court with a presidium pursuant to section 21a subsection (2), number 3,

3. four judges at a court with a presidium pursuant to section 21a subsection (2), number 4.

One of these members, who shall be selected by drawing lots, shall resign from the given presidium at the end of two years.

Section 21e

(1) The presidium shall determine the composition of the adjudicating bodies, appoint the investigating judges, regulate representation and allocate court business. It shall make these arrangements prior to the beginning of the business year for the latter's duration. The president shall determine which judicial duties he shall perform. Each judge may belong to several adjudicating bodies.
(2) The judges who are not members of the presidium shall be given an opportunity to be heard prior to the allocation of court business.
(3) The arrangements pursuant to subsection (1) may only be changed in the course of the business year if this becomes necessary due to the excessive or insufficient workload of a judge or adjudicating body or as a result of the transfer or prolonged absence of individual judges. The presiding judges of the adjudicating bodies affected by the change in the allocation of court business shall be given an opportunity to be heard prior to such change.
(4) The presidium may order that a judge or adjudicating body that has been handling a case continue to be responsible for that case following a change in the allocation of court business.
(5) If a judge is to be assigned to another adjudicating body or if his sphere of competence is to be changed, he shall, except in urgent cases, be given an opportunity to be heard beforehand.
(6) If a judge is to be released, either entirely or partially, in order to perform judicial administration functions, the presidium shall be heard beforehand.
(7) The presidium shall decide by a majority vote. Section 21i subsection (2) shall apply *mutatis mutandis*.

(8) The presidium may rule that judges of the court may be present during the deliberations and votes of the presidium, either for the entire duration or for a part thereof. Section 171b shall apply *mutatis mutandis*.
(9) The roster allocating court business shall be open for inspection at the registry of the court designated by the president or supervising judge; it need not be published.

Section 21f

(1) The adjudicating bodies at the Regional Courts, at the Higher Regional Courts and at the Federal Court of Justice shall be presided over by the president and the presiding judges.
(2) In the event that the presiding judge is unable to be present, the member of the adjudicating body designated by the presidium shall preside. In the event that this deputy is also unable to be present, the most senior member or, in a case of equal seniority, the oldest member of the adjudicating body shall preside.

Section 21g

(1) Within an adjudicating body composed of several judges, court business shall be allocated among the members by a ruling of all the professional judges belonging to the adjudicating body. In the case of a tie, the presidium shall decide.
(2) The ruling shall specify, prior to the beginning of the business year and for the latter's duration, the principles governing the participation of the members in the proceedings; it may only be amended if this becomes necessary due to the excessive or insufficient workload, transfer or prolonged absence of individual members of the adjudicating body.
(3) If, pursuant to the provisions of procedural law, proceedings may be assigned by the adjudicating body to one of its members for decision as a judge sitting alone, subsection (2) shall apply *mutatis mutandis*.
(4) Where a professional judge is unable to be present at the time of the ruling, his place shall be taken by the deputy designated in the roster allocating court business.
(5) Section 21i subsection (2) shall apply *mutatis mutandis*, provided that the arrangements are made by the presiding judge.
(6) The professional judges affected by the ruling shall be given an opportunity to be heard before it is given.
(7) Section 21e subsection (9) shall apply *mutatis mutandis*.

Section 21h

The president or supervising judge shall, in respect of the court business assigned to him under this Act that is not to be allocated by the presidium, be represented by his permanent deputy; where there are several permanent deputies, he shall be represented by the most senior deputy or, in a case of equal seniority, by the oldest deputy. Where a permanent deputy has not been designated or is unable to be present, the president or supervising judge shall be represented by the most senior judge or, in a case of equal seniority, by the oldest judge.

Section 21i

(1) A quorum of the presidium shall exist if at least half of its elected members are present.
(2) If a timely decision of the presidium cannot be given, the arrangements specified in section 21e shall be made by the president or by the supervising judge. The reasons for the arrangements shall be stated in writing. The arrangements shall be submitted to the presidium for approval without delay. They shall remain in force as long as the presidium does not rule otherwise.

Section 21j

(1) If a court is established, and if the presidium is to be established pursuant to section 21a subsection (2), numbers 1 to 4, the arrangements specified in section 21e shall be made by the president or by the supervising judge until the presidium is established. Section 21i subsection (2), second to fourth sentences, shall apply *mutatis mutandis*.

(2) A presidium pursuant to section 21a subsection (2), numbers 1 to 4, shall be established within three months after the establishment of the court. The term specified in section 21b subsection (4), first sentence, shall start at the beginning of the business year following the business year in which the presidium is established if the presidium is not established at the beginning of a business year.
(3) The day on which the court is established shall take the place of the time specified in section 21d subsection (1).
(4) When the electoral board is appointed for the first time, the functions pursuant to section 1 subsection (2), second and third sentences, and section 1 subsection (3) of the Election Regulations for the Presidiums of the Courts of 19 September 1972 (Federal Law Gazette, Part I, page 1821) shall be discharged by the president or by the supervising judge. The end of the time period specified in subsection (2), first sentence, shall be taken as the end of the business year specified in section 1 subsection (2), second sentence, and section 3, first sentence, of the Election Regulations for the Presidiums of the Courts.

Third Title
Local Courts

Section 22
(1) The Local Courts (*Amtsgerichte*) shall be presided over by judges sitting alone.
(2) A judge at a Local Court may at the same time be conferred an additional judicial office at another Local Court or at a Regional Court.
(3) Responsibility for general supervision of service may be transferred by the *Land* agency for the administration of justice to the president of the superior Regional Court. If this is not done, and if the Local Court is staffed with several judges, the *Land* agency for the administration of justice shall transfer responsibility for general supervision of service to one of them.
(4) Each Local Court judge shall perform the duties incumbent upon him as a judge sitting alone unless otherwise provided under this Act.
(5) Judges by commission may also be employed. Judges on probation may be employed except as otherwise provided under subsection (6), section 23b subsection (3), second sentence, section 23c subsection (2), or section 29 subsection (1), second sentence.
(6) A judge on probation may not handle insolvency matters during the first year after his appointment. Judges in insolvency matters should have documentable knowledge of the areas of insolvency law, commercial law and company and partnership law as well as a basic knowledge of the aspects of labour law, social law, tax law and accounting that are required for insolvency proceedings. A judge whose knowledge of these areas is not documented may only be assigned the duties of an insolvency judge if his acquisition of such knowledge can be expected soon.

Section 22a
At Local Courts with a presidium consisting of all the judges eligible to stand for election (section 21a subsection (2), number 5), the president of the superior Regional Court or, if the president of another Local Court is vested with responsibility for supervision of service, that president shall belong to the presidium as chairman.

Section 22b
(1) If a Local Court is staffed with only one judge, the presidium of the Regional Court shall designate a judge in its district to serve as the permanent representative of the Local Court judge.
(2) If it is necessary for a judge at a Local Court to be temporarily represented by a judge at another court, the presidium of the Regional Court shall designate a judge in its district to represent the Local Court judge for no longer than two months.
(3) In urgent cases the president of the Regional Court may appoint a provisional representative. The grounds for the order must be specified in writing.

(4) In the case of Local Courts where the president of another Local Court is responsible for general supervision of service, the presidium of the other Local Court shall be competent in the cases of subsections (1) and (2) and its president shall be competent in the case of subsection (3).

Section 22c

(1) The *Land* governments shall be authorised to issue statutory instruments providing that a joint standby duty schedule be compiled for several Local Courts in the district of one Regional Court or that a single Local Court handle standby duty business, either entirely or partially, if this is advisable in order to ensure a more equitable distribution of standby duty assignments among the judges. The judges of the Local Courts designated in the first sentence shall be scheduled for standby duty. The statutory instrument issued pursuant to the first sentence may stipulate that the judges of the Regional Court also be scheduled for standby duty. Standby duty business shall, pursuant to section 21e, be allocated by the presidium of the Regional Court in agreement with the presidiums of the Local Courts concerned. If no agreement can be reached, such allocation shall be made by the presidium of the Higher Regional Court to the district of which the Regional Court belongs.
(2) The *Land* governments may transfer the authorisation pursuant to subsection (1) to the *Land* agencies for the administration of justice.

Section 22d

The validity of an act performed by a judge at a Local Court shall not be affected by the fact that the act should have been performed by another judge according to the roster allocating court business.

Section 23

The jurisdiction of the Local Courts in civil disputes shall encompass the following, insofar as they have not been assigned to the Regional Courts irrespective of the value of the matter in dispute:

1. disputes concerning claims involving an amount or with a monetary value not exceeding the sum of five thousand euros;

2. irrespective of the value of the matter in dispute:

   a) disputes concerning claims arising out of a lease of living accommodation or concerning the existence of such a lease; this jurisdiction shall be exclusive;

   b) disputes between travellers and providers of food or lodging, carriers, shippers or passage brokers at ports of embarkation concerning bills for food or lodging, carriage charges, passage monies, carriage of travellers and their belongings and loss of or damage to the latter, as well as disputes between travellers and artisans arising on the occasion of travel;

   c) disputes pursuant to section 43, numbers 1 to 4 and 6 of the Condominium Act; this jurisdiction shall be exclusive;

   d) disputes concerning damage caused by game;

   e) (repealed)

   f) (repealed)

   g) claims arising out of a contract for a life annuity, life endowment or life interest or for vacation of premises that is connected with the transfer of possession of a piece of land.

Section 23a

(1) The Local Courts shall furthermore have jurisdiction over

1. family matters;

2. non-contentious matters, insofar as no other jurisdiction has been established by statutory provisions.

The jurisdiction pursuant to the first sentence, number 1, shall be exclusive.
(2) Non-contentious matters shall be

1. adult guardianship matters, placement matters and matters relating to adult guardianship appointments;

2. matters relating to probate and estate division;

3. register matters;

4. proceedings under company law pursuant to section 375 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction;

5. the further non-contentious matters pursuant to section 410 of the Act on Proceeding in Family Matters and in Matters of Non-contentious Jurisdiction;

6 proceedings in imprisonment matters pursuant to section 415 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction;

7. proceedings by public notice process;

8. land register matters;

9. proceedings under section 1, numbers 1 and 2 to 6, of the Act on Court Procedure in Agricultural Matters;

10. shipping register matters as well as

11. other non-contentious matters, insofar as they have been assigned to the courts by federal law.

(3) In derogation from subsection (1), first sentence, number 2, competence for the tasks incumbent upon the Local Courts in matters relating to property division within the meaning of section 342 subsection (2), number 1, of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction shall lie with the notaries instead of the Local Courts.

Section 23b

(1) Divisions for family matters (Family Courts) shall be established at the Local Courts.
(2) If several divisions for family matters are established, then all the family matters relating to the same group of persons should be assigned to the same division. If a matrimonial matter becomes pending at one division while another family matter relating to the same group of persons or a common child of both spouses is pending at first instance at another division, the latter matter shall be transferred *proprio motu* to the division handling the matrimonial matter. If an application in proceedings under sections 10 to 12 of the Act to Implement Certain Legal Instruments in the Field of International Family Law of 26 January 2005 (Federal Law Gazette, Part I, page 162) becomes pending at one division while a family matter relating to the same child is pending at first instance at another division, the latter matter shall be transferred *proprio motu* to the first-mentioned division; this shall not apply if the application is manifestly inadmissible. Upon concurring application of both parents, the arrangement specified in the third sentence shall also be applied to other family matters in which the parents are involved.
(3) The divisions for family matters shall be composed of Family Court judges. A judge on probation may not perform the duties of a Family Court judge during the first year after his appointment.

Section 23c

(1) Divisions for adult guardianship matters, placement matters and matters relating to adult guardianship appointments (Adult Guardianship Courts) shall be established at the Local Courts.
(2) The Adult Guardianship Courts (*Betreuungsgerichte*) shall be composed of Adult Guardianship Court judges. A judge on probation may not perform the duties of an Adult Guardianship Court judge during the first year after his appointment.

Section 23d

The *Land* governments shall be authorised to issue statutory instruments assigning to one Local Court the family matters and, either entirely or partially, the commercial matters and non-contentious matters for the districts of several Local Courts, insofar as such concentration serves the purpose of material furtherance of the proceedings or appears advisable in order to ensure uniform administration of justice. The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.

Section 24

(1) In criminal matters, the Local Courts shall have jurisdiction unless

1. the jurisdiction of the Regional Court is established under section 74 subsection (2) or section 74a or the jurisdiction of the Higher Regional Court is established under section 120 or section 120b,

2. in an individual case a sentence of imprisonment exceeding four years or placement of the accused in a psychiatric hospital in lieu of or in addition to a penalty or placement of the accused in preventive detention (sections 66 to 66b of the Criminal Code) is to be expected, or

3. the public prosecution office prefers charges before the Regional Court due to the particular need for protection of persons aggrieved by the criminal offence who might be considered witnesses or due to the particular scale or the special significance of the case.

A particular need for protection pursuant to the first sentence, number 3, shall in particular be deemed to exist if it is to be expected that the examination will constitute a particular burden for the aggrieved person and multiple examinations should therefore be avoided.
(2) The Local Court may not impose a sentence of imprisonment exceeding four years and may neither order placement in a psychiatric hospital in lieu of or in addition to a penalty nor order placement in preventive detention.

Section 25

A Local Court judge shall give a decision as a Criminal Court judge on less serious criminal offences

1. if they are prosecuted by way of a private prosecution or

2. if a penalty more severe than a two-year sentence of imprisonment is not to be expected.

Section 26

(1) In the case of criminal offences committed by adults through which a child or a juvenile is injured or directly endangered, and in the case of violations by adults of legal provisions serving the protection or education of young people, the Juvenile Courts shall also have jurisdiction in addition to the courts with jurisdiction over general criminal matters. Sections 24 and 25 shall apply *mutatis mutandis*.
(2) In matters relating to the protection of children and juveniles, the public prosecution office should prefer charges before the Juvenile Courts if the interests meriting protection of children or juveniles who are required as witnesses in the proceedings can thus be better

protected. Otherwise the public prosecution office should only prefer charges before the Juvenile Courts if a hearing before the Juvenile Court appears expedient for other reasons.
(3) Subsections (1) and (2) shall apply *mutatis mutandis* to the application for court investigatory acts in investigation proceedings.

Section 26a
(repealed)

Section 27
The jurisdiction and scope of duties of the Local Courts shall otherwise be determined by the provisions of this Act and the provisions of the procedural codes.

Fourth Title
Courts with lay judges

Section 28
Courts with lay judges (*Schöffengerichte*) shall be established at the Local Courts to hear and decide criminal matters falling under the jurisdiction of the Local Courts, insofar as such matters are not decided by a Criminal Court judge.

Section 29
(1) The bench shall consist of a Local Court judge as presiding judge and two lay judges. A judge on probation may not serve as presiding judge during the first year after his appointment.
(2) Upon application by the public prosecution office, it may be decided at the opening of the main proceedings that a second Local Court judge be added to the bench (extended bench) if his participation appears necessary in the light of the scale of the matter. An application by the public prosecution office shall not be required if a court of higher rank opens the main proceedings before a court with lay judges.

Section 30
(1) Except where the law provides for exceptions, during the main hearing the lay judges shall exercise judicial office in full and with the same voting rights as the Local Court judges and shall also participate in the decisions to be made in the course of a main hearing that are entirely unrelated to the delivery of the judgment and may be made without an oral hearing.
(2) The necessary decisions to be made outside the main hearing shall be made by the Local Court judge.

Section 31
The office of lay judge is an honorary position. It may only be held by Germans.

Section 32
The following persons shall be ineligible for the office of lay judge:

1. persons who as a result of a judicial decision do not have the capacity to hold public office or who have been sentenced to imprisonment exceeding six months for an intentional act;

2. persons against whom investigation proceedings are pending for an offence that can result in loss of capacity to hold public office.

3. (repealed)

Section 33
The following persons should not be appointed to the office of lay judge:

1. persons who would not yet have attained the age of twenty-five by the beginning of the term of office;

2. persons who have attained the age of seventy or would have attained the age of seventy by the beginning of the term of office;

3. persons who are not residing in the municipality at the time the list of nominees is compiled;

4. persons who are unsuitable candidates for health reasons;

5. persons who are unsuitable candidates due to lack of a sufficient command of the German language;

6. persons who are no longer able to freely dispose over their assets.

Section 34

(1) The following also should not be appointed to the office of lay judge:

1. the Federal President;

2. the members of the Federal Government or of a *Land* government;

3. civil servants who could be suspended or provisionally retired at any time;

4. judges, officials of the public prosecution office, notaries and attorneys-at-law;

5. court bailiffs, police officers and prison staff as well as full-time probation officers and staff of the court assistance agency;

6. ministers of religion and members of religious associations that by their rules are committed to the common life;

(2) In addition to the officials designated hereinbefore, *Land* legislation may designate higher administrative officials who should not be appointed to the office of lay judge.

Section 35

The following may decline appointment to the office of lay judge:

1. members of the Bundestag, the Bundesrat, the European Parliament, a *Land* parliament or a second chamber;

2. persons who

a) acted as honorary judges in two consecutive terms of office in the criminal justice system, insofar as the last term of office is still continuing at the time of compilation of the list of nominations;

b) during the previous term of office discharged the obligation to serve as an honorary judge in the criminal justice system on at least forty days or

c) are already serving as honorary judges;

3. doctors, dentists, nurses, paediatric nurses, orderlies and midwives;

4. heads of pharmacies that do not employ any other pharmacists;

5. persons who can credibly demonstrate that their immediate obligation to personally care for their families would make it particularly difficult for them to perform the duties of the office;

6. persons who have attained the age of sixty-five or would have attained the age of sixty-five by the end of the term of office;

7. persons who can credibly demonstrate that performing the duties of the office would constitute a particular hardship either for them or for a third party because it would jeopardise or considerably impair an adequate livelihood.

Section 36

(1) The municipality shall compile a list of prospective lay judges every five years. Inclusion in the list shall require the approval of two thirds of the members of the municipal assembly who are present, but at least, however, half of the statutory number of members of the municipal assembly. The respective rules for the adoption of resolutions by the municipal assembly shall remain unaffected.
(2) The list of nominees should adequately reflect all groups within the population in terms of sex, age, occupation and social status. It must contain the names at birth, surnames, first names, date and place of birth, residential address and occupation of the persons nominated.
(3) The list of nominees shall be open to public inspection in the municipality for one week. The time at which it will be laid out for inspection shall be publicly announced in advance.
(4) The lists of nominees for the district of the Local Court shall contain at least twice as many names as the required number of principal lay judges and alternate lay judges specified in section 43. Their allocation among the municipalities of the district shall be undertaken by the president of the Regional Court (president of the Local Court) in keeping with the populations of the municipalities.

Section 37

Objections to the list of nominees may be lodged within one week, calculated from the end of the period of public inspection, either in writing or for the record on the grounds that persons have been included in the list of nominees who are ineligible for inclusion pursuant to section 32 or should not have been included pursuant to sections 33 and 34.

Section 38

(1) The chairman of the municipal council shall send the list of nominees and the objections to the judge at the Local Court of the district.
(2) If corrections to the list of nominees become necessary after it has been sent, the chairman of the municipal council must notify the judge at the Local Court accordingly.

Section 39

The judge at the Local Court shall consolidate the municipalities' lists of nominees into a district list and shall prepare the ruling on the objections. He must verify that the provisions of section 36 subsection (3) have been observed and ensure that any defects are remedied.

Section 40

(1) A committee shall convene at the Local Court every five years.
(2) The committee shall be composed of the judge at the Local Court as chairman and an administrative official to be designated by the *Land* government as well as seven upstanding individuals as associate members. The *Land* governments shall be authorised to issue statutory instruments regulating the competence for designation of the administrative official in derogation from the first sentence. They may issue statutory instruments transferring this authorisation to the highest *Land* authorities.
(3) The associate members shall be elected from among the inhabitants of the district of the Local Court by the representative body of the corresponding administrative subdivision by a two-thirds majority of the members present, but at least, however, by half of the statutory number of members. The respective rules for the adoption of resolutions by this representative body shall remain unaffected. If the district of the Local Court encompasses several administrative districts or parts of several administrative districts, the competent highest *Land* authority shall determine the number of associate members to be elected by the representative bodies of these administrative districts.

(4) A quorum of the committee shall exist if at least the chairman, the administrative official and three associate members are present.

Section 41

The committee shall rule on the objections to the list of nominees by a simple majority vote. In the case of a tie, the chairman shall have the casting vote. The decisions shall be placed on record. They shall not be contestable.

Section 42

(1) From the corrected list of nominees, the committee shall, by a two-thirds majority vote, select the following for the next five business years:

1. the necessary number of lay judges;

2. the necessary number of persons to take the place of any lay judges who become unavailable or to serve as lay judges in the cases of sections 46 and 47 (alternate lay judges). Persons should be selected who reside at the seat of the Local Court or in the immediate vicinity.

(2) Care should be taken at the time of selection to ensure that all groups within the population are adequately represented in terms of sex, age, occupation and social status.

Section 43

(1) The number of principal lay judges and alternate lay judges required for each Local Court shall be determined by the president of the Regional Court (president of the Local Court).
(2) The number of principal lay judges should be calculated in such a way that each one is likely to be called to serve on no more than twelve ordinary sitting days per year.

Section 44

The names of the selected principal lay judges and alternate lay judges shall be entered in separate lists (*Schöffenlisten*) at each Local Court.

Section 45

(1) The dates of the ordinary sittings of a court with lay judges shall be set in advance for the entire year.
(2) The order in which the principal lay judges are to participate in the year's individual ordinary sittings shall be decided by drawing lots in a public sitting of the Local Court. If several benches with lay judges have been established at a Local Court, lots may be drawn in such a way that each principal lay judge only participates in the sittings of one bench. Lots are to be drawn in such a way that each principal lay judge selected is called to serve on twelve sitting days if possible. The first sentence shall apply *mutatis mutandis* to the order in which the alternate lay judges shall take the place of lay judges who become unavailable (list of alternate lay judges); the second sentence shall not apply to alternate lay judges.
(3) Lots shall be drawn by the judge at the Local Court.
(4) The lists of lay judges shall be maintained by a designated registry clerk of the court registry (*Schöffengeschäftsstelle*). He shall record the drawing of lots. The judge at the Local Court shall inform the lay judges of the results of the drawing. At the same time, the principal lay judges shall be informed of the sitting days on which they must serve and advised of the legal consequences of failure to appear. A lay judge who is not called to serve on a sitting day until after the commencement of the business year shall be informed and advised in the same manner once he is called.

Section 46

If an additional bench with lay judges is established at a Local Court during the business year, the number of principal lay judges required for its ordinary sittings shall be drawn by lots from the list of alternate lay judges (*Hilfsschöffenliste*) pursuant to section 45 subsection (1), subsection (2), first sentence, and subsections (3) and (4). The lay judges selected in this manner shall be deleted from the list of alternate lay judges.

Section 47

If court business necessitates the scheduling of extraordinary sittings or if it becomes necessary for lay judges other than the ones initially appointed or for additional lay judges to be called to serve at individual sittings, they shall be selected from the list of alternate lay judges.

Section 48

(1) Additional lay judges (section 192 subsections (2) and (3)) shall be assigned from the list of alternate lay judges.
(2) In the event that a principal lay judge is unable to be present, the additional lay judge initially assigned from the list shall even then take his place if the unavailability of the principal lay judge becomes known prior to the beginning of the sitting.

Section 49

(1) If it becomes necessary for alternate lay judges to be called to serve at individual sittings (section 47 and section 48 subsection (1)), they shall be assigned from the list of alternate lay judges in the order in which they appear on the list.
(2) If a principal lay judge is deleted from the list of lay judges, he shall be replaced by the alternate lay judge who is next in line on the list of alternate lay judges; the name of the replacement shall then be deleted from the list of alternate lay judges. The designated registry clerk of the court registry shall thereupon inform and advise the new principal lay judge in accordance with section 45 subsection (4), third and fourth sentences.
(3) The order in which alternate lay judges are called shall be determined by the date of receipt by the designated registry clerk of the order or ruling indicating the necessity of calling alternate lay judges. The designated registry clerk shall make a note of the date and time of receipt on the order or ruling. Proceeding in the order of receipt, he shall assign the alternate lay judges to the various sittings in accordance with subsection (1) or transfer them to the list of principal lay judges in accordance with subsection (2). In the event that several orders or rulings are received simultaneously, he shall first transfer names from the list of alternate lay judges to the list of principal lay judges in accordance with subsection (2) in alphabetical order of the surnames of the principal lay judges deleted from the list of lay judges; in all other cases the alphabetical order of the surnames of the primary defendants shall be decisive.
(4) If an alternate lay judge is assigned to a sitting day, he shall not be called again until all the other alternate lay judges have likewise been assigned or released from their service commitment or deemed unreachable (section 54). This shall also be the case even if he himself has been released from his service commitment or deemed unreachable.

Section 50

If a sitting extends beyond the time for which the lay judge was initially called, he must continue to serve until the end of the sitting.

Section 51

(1) A lay judge shall be removed from office if he is guilty of a gross breach of his official duties.
(2) The decision shall be given by a criminal division of the Higher Regional Court upon application of the Local Court judge in a ruling after hearing the public prosecution office and the lay judge concerned. The decision shall not be contestable.
(3) The division competent pursuant to subsection (2), first sentence, may order that the lay judge not be called to serve at sittings until the decision on his removal from office has been given. The order shall not be contestable.

Section 52

(1) A lay judge shall be deleted from the list of lay judges if

1. he becomes ineligible for the office of lay judge or if such ineligibility becomes known, or

2. circumstances arise or become known that are such that he should not be appointed to the office of lay judge.

In the cases of section 33, number 3, however, this shall only apply if the lay judge gives up his residence in the district of the Regional Court.
(2) Upon his application, a lay judge shall be deleted from the list of lay judges if he

1. gives up his residence in the district of the Local Court in which he is serving, or

2. has participated in sittings on more than 24 sitting days during one business year.

In the case of principal lay judges, such deletion shall only become effective for the sittings that begin more than two weeks after the day on which the application is received by the designated registry clerk of the court registry. If an alternate lay judge has already been notified that he has been called to serve on a specific sitting day, his deletion from the list shall not become effective until after the conclusion of the main hearing begun on that sitting day.
(3) If the lay judge has died or moved out of the district of the Regional Court, the judge at the Local Court shall order his deletion from the list. He shall otherwise rule on the application after hearing the public prosecution office and the lay judge concerned.
(4) The decision shall not be contestable.
(5) If an alternate lay judge is transferred to the list of principal lay judges, he shall first fulfil the service commitments for which he was previously called as an alternate lay judge.
(6) If the number of alternate lay judges on the list of alternate lay judges has declined to half the original number, additional lay judges shall be selected from the existing lists of nominees by the committee that was responsible for selecting the original lay judges. The judge at the Local Court may dispense with selecting additional lay judges if such selection would have to take place during the last six months of the period for which the lay judges have been selected. The order of succession of the new alternate lay judges shall be determined by section 45 *mutatis mutandis* with the proviso that the places on the list of lay judges to be filled by drawing lots shall follow the last name on the list of lay judges at the time of the drawing.

Section 53

(1) Grounds for refusing service shall only be considered if they are put forward by the lay judge concerned within one week of the time he was informed of his assignment. If such grounds arise or become known at a later date, the time limit shall be calculated from that point onward.
(2) The judge at the Local Court shall rule on the request after hearing the public prosecution office. The decision shall not be contestable.

Section 54

(1) The judge at the Local Court may release a lay judge from his service commitment on specific sitting days upon the latter's application due to obstacles that have arisen. An obstacle shall be deemed to have arisen if the lay judge is prevented from serving by circumstances that are beyond his control or if it would be unreasonable to expect him to serve.
(2) For the purposes of calling alternate lay judges, it shall be deemed equivalent to being prevented from serving if a lay judge cannot be reached. A lay judge who does not appear at a sitting and whose appearance probably cannot be effected without considerably delaying commencement of the sitting shall be deemed unreachable. An alternate lay judge shall also then be considered unreachable if calling him would necessitate a postponement of the hearing or a considerable delay in its commencement. The decision as to whether a lay

judge is unreachable shall be made by the judge at the Local Court. Section 56 shall remain unaffected.
(3) The decision shall not be contestable. The application pursuant to subsection (1) and the decision shall be recorded in the files.

Section 55

The lay judges and the associate members of the committee shall receive remuneration pursuant to the Judicial Remuneration and Compensation Act.

Section 56

(1) A coercive fine shall be imposed on lay judges and associate members of the committee who fail to appear at the sittings on time without a sufficient excuse or otherwise shirk their obligations. At the same time they shall be charged with the costs incurred.
(2) The decision shall be made by the judge at the Local Court after hearing the public prosecution office. If a sufficient excuse is subsequently provided, the decision may be either entirely or partially revoked. A complaint (*Beschwerde*) by the person concerned against the decision shall be admissible pursuant to the provisions of the Code of Criminal Procedure.

Section 57

The *Land* agency for the administration of justice shall specify the date by which the lists of nominees are to be compiled and submitted to the judge at the Local Court as well as the date on which the committee is to be convened and lots are be drawn to select the lay judges.

Section 58

(1) The *Land* governments shall be authorised to issue statutory instruments providing that criminal matters, either entirely or partially, as well as certain kinds of decisions in criminal matters and requests for mutual assistance in criminal matters from offices outside the territorial scope of this Act be assigned to a single Local Court for the districts of several Local Courts insofar as such concentration serves the purpose of material furtherance or swifter disposal of the proceedings. The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.
(2) If a joint court with lay judges is established for the districts of several Local Courts, the president of the Regional Court (president of the Local Court) shall determine the necessary number of principal and alternate lay judges and allocate the number of principal lay judges among the individual Local Court districts. If the seat of the Local Court at which a joint court with lay judges is established is a city that encompasses districts of the other Local Courts or parts thereof, the president of the Regional Court (president of the Local Court) shall allocate the number of alternate lay judges among these Local Courts; the *Land* agency for the administration of justice may exempt certain Local Courts herefrom. The president of the Local Court shall only then take the place of the president of the Regional Court if all the Local Courts concerned are subject to his supervision of service.
(3) All the other provisions of this Title shall apply *mutatis mutandis*.

Fifth Title
Regional Courts

Section 59

(1) The Regional Courts (*Landgerichte*) shall be composed of a president, presiding judges and additional judges.
(2) The judges at a Regional Court may at the same time be conferred an additional judicial office at a Local Court.
(3) Judges on probation and judges by commission may be employed.

Section 60

Civil and criminal divisions shall be established at the Regional Courts.

Sections 61 to 69
(repealed)

Section 70

(1) Insofar as the representation of a member by a member of the same court is not possible, it shall, upon application of the presidium, be arranged by the *Land* agency for the administration of justice.
(2) The assignment of a judge on probation or a judge by commission shall be limited to a specific period of time and may not be revoked prior to the expiration of this period.
(3) The provisions of *Land* law pursuant to which judicial functions may only be exercised by judges appointed for life and the provisions of *Land* law governing representation by judges appointed for life shall remain unaffected.

Section 71

(1) The civil divisions, including the commercial divisions, shall have jurisdiction over all civil disputes that are not assigned to the Local Courts.
(2) The Regional Courts shall have exclusive jurisdiction over the following, irrespective of the value of the matter in dispute:

1. claims brought against the fiscal authorities on the basis of civil service law;

2. claims against judges and civil servants for overstepping their official powers or for failing to perform official duties;

3. claims based on false, misleading or omitted public capital market information, on the use of false or misleading public capital market information or on the omission of the necessary disclosure that public capital market information is false or misleading;

4. proceedings under

   a) (repealed)

   b) sections 98, 99, 132, 142, 145, 258, 260, 293c and 315 of th199 Stock Corporation Act,

   c) section 26 of the SE Implementation Act,

   d) section 10 of the Company Transformation Act,

   e) the Award Proceedings Act,

   f) sections 39a and 39b of the Securities Acquisition and Takeover Act;

5. disputes

   a) concerning a customer's order rights under section 650b of the Civil Code,

   b) concerning the amount of a claim to remuneration resulting from an orderer's order (section 650c of the Civil Code).

(3) It shall be left to *Land* legislation to assign claims against the state or against a corporation established under public law arising out of dispositions of administrative authorities as well as claims arising out of public charges exclusively to the Regional Courts, irrespective of the value of the matter in dispute.
(4) The *Land* governments shall be authorised to issue statutory instruments assigning the decisions in proceedings pursuant to subsection (2), number 4, letters a to e and number 5 for the districts of several Regional Courts to one Regional Court. In proceedings pursuant to subsection (2) number 4 letters a to e, such assignment may only take place if it serves to ensure uniform administration of justice. The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.

Section 72

(1) The civil divisions, including the commercial divisions and the divisions specified in section 72a, shall be the courts hearing appeals on fact and law and hearing complaints in the civil disputes heard by the Local Courts, insofar as the Higher Regional Courts do not have jurisdiction. The Regional Courts shall furthermore be the courts hearing complaints in imprisonment matters and in the matters decided by the Adult Guardianship Courts.
(2) In disputes pursuant to section 43, numbers 1 to 4 and 6 of the Condominium Act, the Regional Court with jurisdiction for the seat of the Higher Regional Court shall be the joint court hearing appeals on fact and law and hearing complaints for the district of the Higher Regional Court in which the Local Court has its seat. The *Land* governments shall be authorised to issue statutory instruments designating another Regional Court in the district of the Higher Regional Court instead of this court. The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.

Section 72a

A civil division or a number of civil divisions for the following subject areas shall be constituted at the Regional Courts:

1. disputes deriving from banking and financial transactions,
2. disputes deriving from building and architectural contracts as well as from engineering contracts, insofar as they are connected with building services,
3. disputes on claims deriving from medical treatment and
4. disputes deriving from insurance policy relationships.

As well as disputes in the subject areas specified in the first sentence numbers 1 to 4, disputes under sections 71 and 72 may also be assigned to the civil divisions under the first sentence.

Section 73

(1) The criminal divisions shall rule on complaints against directions of a Local Court judge as well as against decisions of a Local Court judge and decisions of benches with lay judges.
(2) The criminal divisions shall furthermore handle the matters assigned to the Regional Courts under the Code of Criminal Procedure.

Section 73a
(repealed)

Section 74

(1) The criminal divisions, as adjudicating courts of first instance, shall have jurisdiction over all serious criminal offences that do not fall under the jurisdiction of the Local Court or the Higher Regional Court. They shall also have jurisdiction over all criminal offences where a sentence of imprisonment exceeding four years or placement of the accused in a psychiatric hospital in lieu of or in addition to a penalty or placement of the accused in preventive detention is to be expected or where the public prosecution office prefers charges before the Regional Court in the cases of section 24 subsection (1), number 3.
(2) In the case of the serious criminal offences of

1. sexual abuse of children resulting in death (section 176b of the Criminal Code),
2. sexual assault, coercion and rape resulting in death (section 178 of the Criminal Code),
3. murder (section 211 of the Criminal Code),
4. manslaughter (section 212 of the Criminal Code),
5. (repealed)

6. abandonment resulting in death (section 221 subsection (3) of the Criminal Code),

7. bodily injury resulting in death (section 227 of the Criminal Code),

8. child stealing resulting in death (section 235 subsection (5) of the Criminal Code),

8a. stalking resulting in death (section 238 subsection (3) of the Criminal Code),

9. deprivation of liberty resulting in death (section 239 subsection (4) of the Criminal Code),

10. extortionate kidnapping resulting in death (section 239a subsection (3) of the Criminal Code),

11. hostage taking resulting in death (section 239b subsection (2) in conjunction with section 239a subsection (3) of the Criminal Code),

12. robbery resulting in death (section 251 of the Criminal Code),

13. robbery-like theft resulting in death (section 252 in conjunction with section 251 of the Criminal Code),

14. robbery-like extortion resulting in death (section 255 in conjunction with section 251 of the Criminal Code),

15. arson resulting in death (section 306c of the Criminal Code),

16. causing an explosion by nuclear power (section 307 subsections (1) to (3) of the Criminal Code),

17. causing an explosion by use of explosives resulting in death (section 308 subsection (3) of the Criminal Code),

18. misuse of ionizing radiation exposing a vast number of human beings to such radiation (section 309 subsections (2) and (4) of the Criminal Code),

19. defective construction of a nuclear facility resulting in death (section 312 subsection (4) of the Criminal Code),

20. causing a flood resulting in death (section 313 in conjunction with section 308 subsection (3) of the Criminal Code),

21. poisoning dangerous to the public resulting in death (section 314 in conjunction with section 308 subsection (3) of the Criminal Code),

22. robbery-like assault on the driver of a motor vehicle resulting in death (section 316a subsection (3) of the Criminal Code),

23. assaults on air and sea traffic resulting in death (section 316c subsection (3) of the Criminal Code),

24. damaging important facilities resulting in death (section 318 subsection (4) of the Criminal Code),

25. an intentional environmental crime resulting in death (section 330 subsection (2), number 2, of the Criminal Code),

26. causing a severe danger by releasing poison resulting in death (section 330a subsection (2) of the Criminal Code),

27. causing bodily harm while exercising a public office resulting in death (section 340 subsection (3) in conjunction with section 227 of the Criminal Code),

28. supplying, administering or making available narcotics for direct use resulting in death (section 30 subsection (1), number 3, of the Narcotics Act),

29. smuggling of foreigners into the Federal territory resulting in death (section 97 subsection (1) of the Residence Act)

a criminal division with lay judges (*Schwurgericht*) shall have jurisdiction. Section 120 shall remain unaffected.
(3) The criminal divisions shall furthermore have jurisdiction for hearing and ruling on the legal remedy of appeal on fact and law (*Berufung*) against decisions of a Criminal Court judge or a court with lay judges.

Section 74a

(1) At the Regional Courts in the district of which a Higher Regional Court has its seat, a criminal division for the district of this Higher Regional Court shall be the adjudicating court of first instance with jurisdiction over the criminal offences of

1. crimes against peace in the cases of section 80a of the Criminal Code,

2. endangering the democratic state based on the rule of law in the cases of sections 84 to 86, sections 87 to 90, section 90a subsection (3) and section 90b of the Criminal Code,

3. endangering the national defence in the cases of sections 109d to 109g of the Criminal Code,

4. violation of a ban of an organisation in the cases of section 129, also in conjunction with section 129b subsection (1), of the Criminal Code and section 20 subsection (1), first sentence, numbers 1 to 4, of the Associations Act; this shall not apply if the same act constitutes a criminal offence under the Narcotics Act,

5. abduction (section 234a of the Criminal Code) and

6. casting political suspicion (section 241a of the Criminal Code).

(2) The Regional Court shall not have jurisdiction if the Federal Prosecutor General takes over the prosecution prior to the opening of the main proceedings due to the special significance of the case, unless jurisdiction has been vested in the Regional Court through referral pursuant to section 142a subsection (4) or referral pursuant to section 120 subsection (2), third sentence.
(3) In the cases over which a criminal division has jurisdiction pursuant to subsection (1), it shall also give the decisions designated in section 73 subsection (1).
(4) At the Regional Courts in the district of which a Higher Regional Court has its seat, a division that is not seized of main proceedings in criminal matters shall have jurisdiction for the district of this Higher Regional Court to order measures pursuant to sections 100b and 100c of the Code of Criminal Procedure.
(5) Within the scope of subsections (1), (3) and (4), the district of the Regional Court shall encompass the district of the Higher Regional Court.

Section 74b

In matters relating to the protection of children and juveniles (section 26 subsection (1), first sentence), the juvenile division as adjudicating court of first instance shall have jurisdiction along with the criminal division with jurisdiction over general criminal matters. Section 26 subsection (2) and sections 73 and 74 shall apply *mutatis mutandis*.

Section 74c

(1) For criminal offences

1. pursuant to the Patent Act, the Utility Model Act, the Semiconductor Protection Act, the Plant Variety Protection Act, the Trade Mark Act, the Act on the Legal Protection of Designs, the Copyright Act, the Act against Unfair Competition, the Insolvency Statute, the Stock Corporation Act, the Act on the Financial Statements of Certain Enterprises and Groups, the Act on Limited Liability Companies, the Commercial Code, the SE Implementation Act, the Act to Implement Council Regulation (EEC) on the European Economic Interest Grouping (EEIG), the Cooperatives Act, the SCE Implementation Act and the Company Transformation Act,

2. pursuant to the laws governing the banking industry, the custody and acquisition of securities, the stock exchanges and the credit system as well as the Act on the Supervision of Insurance Companies, the Payment Services Oversight Act and the Securities Trading Act,

3. pursuant to the Economic Offences Act of 1954, the Foreign Trade and Payments Act and foreign exchange control legislation as well as fiscal monopoly, tax and customs laws, including cases where their criminal provisions are applicable pursuant to other laws; this shall not apply if the same act constitutes a criminal offence under the Narcotics Act and shall not apply to fiscal offences involving the motor vehicle tax,

4. pursuant to the Wine Act and food products legislation,

5. involving subsidy fraud, capital investment fraud, credit fraud, bankruptcy offences, violation of book-keeping duties, preferential treatment for a creditor and preferential treatment for a debtor,

5a. involving agreements in restriction of competition upon invitations to tender, the taking and offering of a bribe in business transactions and the taking and offering of a bribe in the health sector,

6.

a) involving fraud, computer fraud, breach of trust, the withholding and embezzlement of wages or salaries, usury, the acceptance of a benefit, the taking of a bribe, the granting of a benefit, the offering of a bribe,

b) pursuant to the Labour Leasing Act and the Act to Combat Clandestine Employment,

to the extent that special knowledge of business operations and practices is required in order to judge the case,

insofar as the Regional Court has jurisdiction as court of first instance pursuant to section 74 subsection (1) and jurisdiction for hearing and ruling on the legal remedy of appeal on fact and law against judgments of a court with lay judges pursuant to section 74 subsection (3), jurisdiction shall be vested in a criminal division as an economic offences division. Sections 120 and 120b shall remain unaffected.

(2) In the cases over which an economic offences division has jurisdiction pursuant to subsection (1), it shall also give the decisions designated in section 73 subsection (1).

(3) The *Land* governments shall be authorised, for the purpose of material furtherance or swifter disposal of the proceedings, to issue statutory instruments assigning to one Regional Court, either entirely or partially, the criminal matters for the districts of several Regional Courts that involve the criminal offences designated in subsection (1). The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.

(4) Within the scope of subsection (3), the district of the subsequently designated Regional Court shall encompass the districts of the other Regional Courts.

Section 74d

(1) The *Land* governments shall be authorised to issue statutory instruments assigning to one Regional Court the criminal matters designated in section 74 subsection (2) for the districts of several Regional Courts, insofar as this serves the purpose of material furtherance of the proceedings. The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.
(2) (repealed)

Section 74e

Among the various criminal divisions with jurisdiction pursuant to the provisions of sections 74 to 74d, precedence shall be accorded

1. firstly, to the criminal division with lay judges (section 74 subsection (2) and section 74d),

2. secondly, to the economic offences division (section 74c),

3. thirdly, to the criminal division pursuant to section 74a.

Section 74f

(1) If at first instance a criminal division has reserved the order of preventive detention or, in the case of section 66b of the Criminal Code, has ruled as the trial court, this criminal division shall have jurisdiction at first instance for hearing and ruling on the order of preventive detention reserved in the judgment or on the subsequent order of preventive detention.
(2) If in the case of section 66b of the Criminal Code the Local Court exclusively has ruled as the trial court at first instance, a criminal division of the superior Regional Court shall have jurisdiction at first instance for hearing and ruling on the subsequent order of preventive detention.
(3) In the case of section 66b of the Criminal Code, section 462a subsection (3), second and third sentences, of the Code of Criminal Procedure shall apply *mutatis mutandis*.
(4) In proceedings in which a decision is to be given on the order of preventive detention reserved in the judgment or on the subsequent order of preventive detention, the grand criminal division shall be composed of three judges, including the presiding judge, and two lay judges. The lay judges shall not participate in decisions made outside the main hearing.

Section 75

The civil divisions shall, insofar as the provisions of procedural law do not provide for a decision to be given by a judge sitting alone in the place of a full bench, be composed of three members including the presiding judge.

Section 76

(1) The criminal divisions shall be composed of three judges, including the presiding judge, and two lay judges (grand criminal divisions); in proceedings involving appeals on fact and law against a judgment of a criminal court judge or of a court with lay judges, they shall be composed of the presiding judge and two lay judges (small criminal divisions). The lay judges shall not participate in decisions made outside the main hearing.
(2) At the opening of the main proceedings, the grand criminal division shall rule on its composition during the main hearing. If the main proceedings have already been opened, it shall rule on its composition at the scheduling of the main hearing. It shall rule that it will be composed of three judges, including the presiding judge, and two lay judges if

1. it has jurisdiction as a criminal division with lay judges (*Schwurgericht*),

2. the order of placement in preventive detention, its reservation or the order of placement in a psychiatric hospital is to be expected, or

3. the participation of a third judge appears necessary due to the scale or complexity of the case.

In all other cases the grand criminal division shall rule that it will be composed of two judges, including the presiding judge, and two lay judges.
(3)The participation of a third judge pursuant to subsection (2), third sentence, number 3, shall as a rule be necessary if the main hearing is expected to last longer than ten days or if the grand criminal division has jurisdiction as an economic offences division.
(4) If the criminal division has ruled that it will be composed of two judges, including the presiding judge, and two lay judges, and if new circumstances arise prior to the commencement of the main hearing that pursuant to subsections (2) and (3) necessitate a composition of three judges, including the presiding judge, and two lay judges, it shall rule on such composition.
(5) If a case has been referred back by a court hearing an appeal on law, or if the main hearing has been suspended, the respective competent criminal division may once again rule on its composition pursuant to subsections (2) and (3).
(6) In cases of an appeal on fact and law against a judgment by an extended bench (section 29 subsection (2)), a second judge must be brought in. Decisions outside the main hearing shall be made by the presiding judge alone.

Section 77

(1) The provisions concerning the lay judges serving on the benches of the Local Courts shall apply *mutatis mutandis* to the lay judges serving in the criminal divisions of the Regional Courts with the following proviso:
(2) The president of the Regional Court shall allocate the number of principal lay judges required for the criminal divisions among the Local Court districts belonging to the district of the Regional Court. The alternate lay judges shall be selected by the committee at the Local Court in the district of which the Regional Court has its seat. If the Regional Court has its seat outside its district, the *Land* agency for the administration of justice shall determine which one of the committees of the Local Courts belonging to the district of the Regional Court shall select the alternate lay judges. If the seat of the Regional Court is a city encompassing two or more of the Local Court districts, or parts thereof, belonging to the district of the Regional Court, the first sentence shall apply *mutatis mutandis* to the selection of the alternate lay judges by the committees established at these Local Courts; the *Land* agency for the administration of justice may exempt certain Local Courts from this arrangement. The names of the selected principal lay judges and alternate lay judges shall be communicated by the judge at the Local Court to the president of the Regional Court. The president of the Regional Court shall consolidate the names of the principal lay judges into the Regional Court's list of lay judges.
(3) The president of the Regional Court shall take the place of the Local Court judge at the drawing of lots to determine the order in which the principal lay judges are to participate in the individual ordinary sittings and the order in which the alternate lay judges are to take the place of lay judges who become unavailable; section 45 subsection (4), third and fourth sentences, shall apply *mutatis mutandis*. If the lay judge has died or moved out of the district of the Regional Court, the presiding judge of the criminal division shall order his deletion from the list; in other cases the decision as to whether a lay judge should be deleted from the list of lay judges and the ruling on the grounds for refusal of service put forward by a lay judge shall be given by a criminal division. In all other respects the presiding judge of the criminal division shall take the place of the judge at the Local Court.
(4) An honorary judge may only be designated either lay judge for a bench of a Local Court or lay judge for a criminal division of a Regional Court for one and the same business year. If a person has been appointed to more than one such office in a single district, or to such an office in more than one district, for one and the same business year, the appointee must assume the office to which he was first appointed.
(5) Section 52 subsection (2), first sentence, number 1, shall not apply.

Section 78

(1) Where the distance to the seat of a Regional Court is great, the *Land* governments shall be authorised to issue statutory instruments providing that a criminal division be established at one Local Court for the district of one or more Local Courts and that the workload of the criminal division of the Regional Court involving that district be assigned, either entirely or partially, to that division. The serious criminal offences designated in section 74 subsection (2) may not be assigned to a criminal division established pursuant to the first sentence. The *Land* governments may transfer this authorisation to the *Land* agencies for the administration of justice.
(2) The division shall be composed of members of the Regional Court or judges at the Local Court of the district for which it is established. The presiding judge and the other members shall be designated by the presidium of the Regional Court.
(3) The president of the Regional Court shall allocate the required number of principal lay judges among the Local Court districts belonging to the district of the criminal division. The alternate lay judges shall be selected by the committee at the Local Court where the external criminal division has been established. The other functions assigned in section 77 to the president of the Regional Court shall be exercised by the presiding judge of the criminal division.

Title 5a
Criminal divisions with jurisdiction over execution of sentences

Section 78a

(1) Criminal divisions with jurisdiction over execution of sentences (*Strafvollstreckungskammern*) shall be established at the Regional Courts if institutions for adults are maintained in their district in which sentences of imprisonment or custodial measures of reform and prevention are executed or if other prison authorities have their seat there. These shall be competent to give the decisions

1. pursuant to sections 462a and 463 of the Code of Criminal Procedure, except as otherwise provided by the Code of Criminal Procedure,

2. pursuant to section 50 subsection (5), section 109 and section 138 subsection (3) of the Prison Act,

3. pursuant to section 50, section 58 subsection (2), section 84g subsection (1), section 84j, section 90h subsection (1), section 90j subsections (1) and (2) and section 90k subsections (1) and (2) of the Law on International Judicial Assistance in Criminal Matters.

If a decision on suspension of execution is to be given for more than one prison sentence at the same time pursuant to section 454b subsection (3) or subsection (4) of the Code of Criminal Procedure, one criminal division with jurisdiction over execution of sentences shall give a decision on suspension of execution of all of the sentences.
(2) The *Land* governments shall issue statutory instruments assigning the criminal matters pursuant to subsection (1), second sentence, number 3, to the Regional Courts designated in subsection (1), first sentence, for the districts of the Regional Courts at which no criminal divisions with jurisdiction over execution of sentences are to be established. The *Land* governments shall be authorised to issue statutory instruments assigning to one of the Regional Courts designated in subsection (1) for the districts of several Regional Courts the criminal matters falling within the competence of the criminal divisions with jurisdiction over execution of sentences and providing that criminal divisions with jurisdiction over execution of sentences also or exclusively have their seat in places within their district where the Regional Court does not have its seat, insofar as such provisions serve the purpose of material furtherance or swifter disposal of the proceedings. The *Land* governments may issue statutory instruments transferring the authorisations pursuant to the first and second sentences to the *Land* agencies for the administration of justice.

(3) If an institution in which sentences of imprisonment or custodial measures of reform and prevention are executed is maintained by one *Land* on the territory of another *Land*, the *Länder* concerned may agree that competence shall lie with the criminal division with jurisdiction over execution of sentences at that Regional Court in the district of which the supervisory authority responsible for the institution has its seat.

Section 78b

(1) The criminal divisions with jurisdiction over execution of sentences shall be composed of

1. three judges, including the presiding judge, in proceedings concerning suspension of execution of the remainder of a sentence of life imprisonment or concerning suspension of execution of placement in a psychiatric hospital or preventive detention; if a decision is to be taken on a number of prison sentences at the same time pursuant to section 454b subsection (4) of the Code of Criminal Procedure, criminal divisions composed of three judges with jurisdiction over execution of sentences shall decide on all the prison sentences if this composition is prescribed for decisions on one of the prison sentences,

2. one judge in all other cases.

(2) The members of the criminal divisions with jurisdiction over execution of sentences shall be appointed by the presidium of the Regional Court from among the members of the Regional Court and the judges in its district who are employed at the Local Court.

Sixth Title
Criminal divisions with lay judges

Sections 79 to 92
(repealed)

Seventh Title
Commercial divisions

Section 93

(1) The *Land* governments shall be authorised to issue statutory instruments providing that commercial divisions be established at the Regional Courts for their districts or for geographically limited parts thereof. Such divisions may also have their seat in places within the district of the Regional Court where the Court does not have its seat.
(2) The *Land* governments may transfer the authorisation pursuant to the first sentence to the *Land* agencies for the administration of justice.

Section 94

If a commercial division has been established at a Regional Court, commercial matters shall be handled by this division instead of by the civil divisions subject to the following provisions.

Section 95

(1) Commercial matters within the meaning of this Act shall be civil disputes in which an action is brought to assert a claim:

1. against a merchant within the meaning of the Commercial Code, insofar as he is registered in the commercial register or the cooperatives register or need not be registered therein pursuant to a special statutory arrangement governing corporate entities established under public law, arising out of transactions that are commercial transactions for both parties;

2. arising out of a bill of exchange within the meaning of the Bills of Exchange Act or arising out of one of the documents designated in section 363 of the Commercial Code;

3. on the basis of the Cheque Act;

4. arising out of one of the legal relationships designated hereinafter:

a) out of the legal relationship between the members of a commercial partnership or cooperative or between the partnership or cooperative and its members or between the silent partner and the owner of the commercial business, both during the existence of and after the dissolution of the partnership relationship, and out of the legal relationship between the managers or liquidators of a commercial partnership or cooperative and the partnership or cooperative or its members;

b) out of the legal relationship concerning the right to use the commercial firm name;

c) out of the legal relationships concerning the protection of trademarks, other identifying marks and registered designs;

d) out of the legal relationship originating in the acquisition of an existing commercial business “inter vivos” between the previous owner and the acquirer;

e) out of the legal relationship between a third party and the party liable on grounds of lack of proof of statutory authority or commercial power of attorney;

f) out of the legal relationships under maritime law, especially those concerning the shipping business, those concerning the rights and obligations of the manager or owner of a ship, the ship’s husband and the crew of the ship, and those concerning average, compensation for damages in the event of collisions between ships, salvage operations and claims of maritime lien holders;

5. on the basis of the Act against Unfair Competition,

6. arising out of sections 21, 22 and 24 of the Securities Prospectus Act or sections 20 to 22 of the Capital Investment Act.

(2) Commercial matters within the meaning of this Act shall furthermore be

1. the legal disputes over which the Regional Court has jurisdiction pursuant to section 246 subsection (3), first sentence, or section 396 subsection (1), second sentence, of the Stock Corporation Act, pursuant to section 51 subsection (3), third sentence, or section 81 subsection (1), second sentence, of the Cooperatives Act, pursuant to section 87 of the Act against Restraints on Competition, unless these concern claims for information or damages under cartel law, and section 13 subsection (4) of the Act implementing the EC Consumer Protection Cooperation Regulation,

2. the proceedings specified in section 71 subsection (2), number 4, letters b to f.

Section 96

(1) A legal dispute shall be heard by the commercial division if the plaintiff so requests in the statement of claim.
(2) If a legal dispute must be referred by the Local Court to the Regional Court pursuant to the provisions of sections 281 and 506 of the Code of Civil Procedure, the plaintiff must submit the application for a hearing before the commercial division to the Local Court.

Section 97

(1) If an action over which the commercial division has no jurisdiction is brought before the commercial division, the legal dispute shall upon application of the defendant be referred to the civil division.
(2) If the action or, in the case of section 506 of the Code of Civil Procedure, the cross-action is one over which the commercial division has no jurisdiction, the commercial division shall

also be entitled *proprio motu* to refer the dispute to the civil division as long as no hearing has been held on the main issue and no ruling has been pronounced thereon. The referral *proprio motu* may not be made on the grounds that the defendant is not a merchant.

Section 98

(1) If an action over which the commercial division has jurisdiction is brought before the civil division, the legal dispute shall upon application of the defendant be referred to the commercial division. A defendant who is not registered in the commercial register or the cooperatives register may not base his application on the assertion that he is a merchant.
(2) The application shall be rejected if the cross-action brought pursuant to section 506 of the Code of Civil Procedure would not be an action over which the commercial division has jurisdiction.
(3) The civil division shall not be entitled to make a referral *proprio motu*.
(4) The civil division shall even then be entitled to reject the application if the plaintiff has consented thereto.

Section 99

(1) If, in a legal dispute pending before the commercial division, the scope of the action is extended pursuant to section 256 subsection (2) of the Code of Civil Procedure through an application for determination of the existence or non-existence of a legal relationship or through a cross-action, and if the extended action or cross-action is not an action over which the commercial division has jurisdiction, the dispute shall upon application of the opponent be referred to the civil division.
(2) Subject to the restriction of section 97 subsection (2), the division shall also be entitled to make a referral *proprio motu*. This authority shall also then accrue if, as a result of amendment of an action, a claim is asserted over which the commercial division has no jurisdiction.

Section 100

Sections 96 to 99 shall apply *mutatis mutandis* to appellate proceedings before the commercial divisions.

Section 101

(1) An application for referral of a legal dispute to another division shall only be admissible prior to the hearing of the applicant on the matter itself. If the applicant has been set a time limit for responding to an action or an appeal prior to the oral hearing, he must file the application within that time limit. Section 296 subsection (3) of the Code of Civil Procedure shall apply *mutatis mutandis*; the excuse shall be substantiated if the court so requires.
(2) A preliminary decision shall be given on the application. The decision may be given without an oral hearing.

Section 102

The decision on referral of a legal dispute to the civil division or the commercial division shall not be contestable. If the dispute is referred to another division, this decision shall be binding on the division to which the dispute is referred. The date for another oral hearing shall be set *proprio motu* and announced to the parties.

Section 103

A claim pursuant to section 64 of the Code of Civil Procedure may only be asserted before the commercial division if the legal dispute is one over which the commercial division has jurisdiction pursuant to the provisions of sections 94 and 95.

Section 104

(1) Where the commercial division, sitting as the court hearing complaints, is seized of a complaint over which it has no jurisdiction, the complaint shall be referred *proprio motu* to the civil division. Likewise, where the civil division, sitting as the court hearing complaints, is seized of a complaint relating to a commercial matter, it shall refer the complaint *proprio*

motu to the commercial division. The provisions of section 102, first and second sentences, shall apply *mutatis mutandis*.
(2) A complaint may not be referred to another division if the case is pending at the division seized of the complaint or if that division has already given a decision on the main issue.

Section 105

(1) The commercial divisions shall give decisions sitting with one member of the Regional Court as presiding judge and two honorary judges, insofar as the presiding judge must not decide in lieu of the division pursuant to the provisions of procedural law.
(2) All members of the commercial division shall have the same voting rights.
(3) (repealed)

Section 106

In the case of section 93 subsection (1), second sentence, a Local Court judge may be presiding judge of the commercial division.

Section 107

(1) The honorary judges who have neither their residence nor their business establishment at the seat of the commercial division shall receive per diem and overnight accommodation allowances pursuant to the provisions applicable to judges at the Regional Court.
(2) The honorary judges shall be reimbursed for their travel expenses in analogous application of section 5 of the Judicial Remuneration and Compensation Act.

Section 108

The honorary judges shall be appointed on the qualified recommendation of the chambers of industry and commerce for a term of five years; re-appointment shall not be excluded.

Section 109

(1) A person may be appointed to the office of honorary judge if he

1. is a German,
2. has attained the age of thirty and
3. is or was registered in the commercial register or in the cooperatives register as a merchant, as a member of the board of management or as a managing director of a corporate entity, or as an officer with statutory authority or if, as a member of the board of management of a corporate entity established under public law, he need not be registered in these registers on the basis of a special statutory arrangement for such corporate entities.

(2) A person who fulfils these requirements should only be appointed if he

1. lives in the district of the commercial division or
2. has a business establishment in that district or
3. is employed by a business enterprise that has its domicile or a branch in that district.

Furthermore, appointment should only be possible in the case of

1. an officer with statutory authority if he holds a position of responsibility in the enterprise that is comparable to the independent position of an entrepreneur,
2. a member of the board of management of a cooperative if he is employed full time in a cooperative that engages in commercial activity in a manner similar to a commercial partnership.

(3) A person may not be appointed to the office of honorary judge if he is ineligible for the office of lay judge or should not be appointed to the office of lay judge pursuant to section

33, number 4. A person should not be appointed to the office of honorary judge if he should not be appointed to the office of lay judge pursuant to section 33, number 6.

Section 110

At seaports, honorary judges may also be appointed from the circle of individuals with a knowledge of shipping and navigation.

Section 111
(repealed)

Section 112

Honorary judges shall have all the rights and duties appurtenant to the office of a judge for the duration of their term of office.

Section 113

(1) An honorary judge shall be removed from office

1. if he no longer meets one of the necessary criteria for his appointment or if circumstances arise or subsequently become known that constitute an obstacle to an appointment pursuant to section 109 or

2. if he is guilty of a gross breach of his official duties.

(2) An honorary judge should be removed from office if circumstances arise or become known the existence of which should preclude an appointment pursuant to section 109 subsection (3), second sentence.
(3) The decision shall be given by the first civil division of the Higher Regional Court in a ruling after hearing the person concerned. It shall not be contestable.
(4) If an honorary judge himself asks to be relieved of his office, the decision shall be made by the *Land* agency for the administration of justice.

Section 114

The commercial division may, on the basis of its own expertise and knowledge, give decisions on matters for which the judgment of a commercial expert is sufficient as well as decisions concerning the existence of commercial practices.

Eighth Title
Higher Regional Courts

Section 115

The Higher Regional Courts (*Oberlandesgerichte*) shall be composed of a president, presiding judges and additional judges.

Section 115a
(repealed)

Section 116

(1) Civil and criminal divisions shall be established at the Higher Regional Courts. Investigating judges shall be appointed at the Higher Regional Courts with jurisdiction pursuant to section 120; any member of another Higher Regional Court the seat of which is located in the territory designated in section 120 may also be appointed investigating judge.
(2) The *Land* governments shall be authorised to issue statutory instruments providing that civil or criminal divisions be established outside the seat of the Higher Regional Court for the district of one or more Regional Courts and that they be entirely or partially assigned the functions of the civil or criminal divisions of the Higher Regional Court for that district. An external family division may be established for the districts of several Family Courts.
(3) The *Land* governments may transfer the authorisation pursuant to subsection (2) to the *Land* agencies for the administration of justice.

Section 117

The provision of section 70 subsection (1) shall apply *mutatis mutandis*.

Section 118

The Higher Regional Courts shall have jurisdiction in civil disputes at first instance for hearing and ruling on model case proceedings under the Act on Model Case Proceedings in Disputes under Capital Markets Law.

Section 119

(1) The Higher Regional Courts shall have jurisdiction in civil matters for hearing and ruling on the legal remedies of:

1. complaint against decisions of the Local Courts

   a) in the matters decided by the Family Courts;

   b) in non-contentious matters with the exception of imprisonment matters and the matters decided by the Adult Guardianship Courts;

2. complaint and appeal on fact and law against decisions of the Regional Courts.

(2) Section 23b subsections (1) and (2) shall apply *mutatis mutandis*.
(3) (repealed)
(4) (repealed)
(5) (repealed)
(6) (repealed)

Section 119a

A civil division or a number of civil divisions for the following subject areas shall be constituted at the Higher Regional Courts:

1. disputes deriving from banking and financial transactions,

2. disputes deriving from building and architectural contracts as well as from engineering contracts, insofar as they are connected with building services,

3. disputes on claims deriving from medical treatment and

4. disputes deriving from insurance policy relationships.

As well as disputes in the subject areas specified in the first sentence numbers 1 to 4, disputes under section 119 subsection (1) may also be assigned to the civil divisions under the first sentence.

Section 120

(1) In criminal matters, the Higher Regional Courts in the districts of which the *Land* governments have their seat shall have jurisdiction for the territory of the given *Land* for hearing and deciding cases at first instance involving

1. (repealed),

2. high treason (sections 81 to 83 of the Criminal Code),

3. treason and endangering external security (sections 94 to 100a of the Criminal Code) as well as criminal offences pursuant to section 52 subsection (2) of the Patent Law, pursuant to section 9 subsection (2) of the Utility Model Act in conjunction with section 52 subsection (2) of the Patent Law, or pursuant to section 4 subsection (4) of the Semiconductor Protection Act in conjunction with section 9 subsection (2) of the Utility Model Act and section 52 subsection (2) of the Patent Law,

4. an assault against organs and representatives of foreign states (section 102 of the Criminal Code),

5. a crime against constitutional organs in the cases of sections 105 and 106 of the Criminal Code,

6. a violation of a ban of an organisation pursuant to section 129a, also in conjunction with section 129b subsection (1), of the Criminal Code,

7. failure to report crimes pursuant to section 138 of the Criminal Code if the failure to report concerns a crime falling under the jurisdiction of the Higher Regional Courts and

8. criminal offences pursuant to the Code of Crimes against International Law.

(2) These Higher Regional Courts shall furthermore have jurisdiction for hearing and deciding cases at first instance involving

1. the criminal offences designated in section 74a subsection (1), if the Federal Prosecutor General takes over the prosecution due to the special significance of the case pursuant to section 74a subsection (2),

2. murder (section 211 of the Criminal Code), manslaughter (section 212 of the Criminal Code) and the criminal offences designated in section 129a subsection (1), number 2, and section 129a subsection (2) of the Criminal Code, if there is a connection with the activity of an organisation not or not only existing in Germany the purpose or activity of which is to commit criminal offences of this kind and the Federal Prosecutor General takes over the prosecution due to the special significance of the case,

3. murder (section 211 of the Criminal Code), manslaughter (section 212 of the Criminal Code), abduction for the purpose of blackmail (section 239a of the Criminal Code), hostage taking (section 239b of the Criminal Code), serious arson and especially serious arson (sections 306a and 306b of the Criminal Code), arson resulting in death (section 306c of the Criminal Code), causing an explosion by nuclear power in the cases of section 307 subsection (1) and subsection (3), number 1, of the Criminal Code, causing an explosion in the cases of section 308 subsections (1) to (3) of the Criminal Code, misuse of ionizing radiation in the cases of section 309 subsections (1) to (4) of the Criminal Code, acts preparatory to causing an explosion or radiation offence in the cases of section 310 subsection (1), numbers 1 to 3, of the Criminal Code, causing a flood in the cases of the section 313 subsection (2) in conjunction with section 308 subsections (2) and (3) of the Criminal Code, poisoning dangerous to the public in the cases of section 314 subsection (2) in conjunction with section 308 subsections (2) and (3) of the Criminal Code and assaults on air and sea traffic in the cases of section 316c subsections (1) and (3) of the Criminal Code, if under the circumstances the offence is capable of

a) undermining the continued existence or security of a state,

b) destroying, invalidating or undermining a constitutional principle of the Federal Republic of Germany,

c) undermining the security of the troops of the North Atlantic Treaty Organization or of its non-German member states stationed in the Federal Republic of Germany or

d) undermining the continued existence or security of an international organisation

and the Federal Prosecutor General takes over the prosecution due to the special significance of the case.

4. criminal offences pursuant to the Foreign Trade and Payments Act and criminal offences pursuant to section 19 subsection (2), number 2, and section 20 subsection (1) of the Act on the Control of Weapons of War, if under the circumstances the offence

a) is capable of seriously endangering the external security or the foreign relations of the Federal Republic of Germany or

b) is intended to and is capable of disrupting the peaceful coexistence of peoples

and the Federal Prosecutor General takes over the prosecution due to the special significance of the case.

Special significance of the case is also to be presumed if, in the cases under the first sentence, it appears necessary for the Federal Prosecutor General to have jurisdiction for the investigation on account of the cross-regional character of the offence. At the opening of the main proceedings, the Higher Regional Courts shall, in the cases of number 1, refer the matter to the Regional Court and, in the cases of numbers 2 to 4, to the Regional Court or the Local Court, if the case is not deemed to be of special significance.
(3) In the matters under the jurisdiction of these Higher Regional Courts pursuant to subsections (1) or (2), they shall also give the decisions designated in section 73 subsection (1). They shall furthermore rule on complaints against orders of the investigating judges of the Higher Regional Courts (section 169 subsection (1), first sentence, of the Code of Criminal Procedure) in the cases designated in section 304 subsection (5) of the Code of Criminal Procedure.
(4) These Higher Regional Courts shall also rule on complaints against orders and decisions of the court with jurisdiction pursuant to section 74a. For rulings on complaints against orders and decisions of the court with jurisdiction pursuant to section 74a subsection (4) and in the cases of section 100e subsection (2), sixth sentence, of the Code of Criminal Procedure, a division that is not seized of main proceedings in criminal matters shall have jurisdiction.
(5) The place of jurisdiction shall be governed by the general provisions. The *Länder* involved may agree to transfer the functions assigned to the Higher Regional Courts under subsections (1) to (4) to the duly competent court of one *Land* for the territory of another *Land* as well.
(6) Insofar as the competence of the Federation to prosecute criminal cases has been established pursuant to section 142a, these Higher Regional Courts shall exercise jurisdiction pursuant to Article 96 paragraph (5) of the Basic Law.
(7) Insofar as the *Länder*, on the basis of criminal proceedings in which the Higher Regional Courts rule in exercise of jurisdiction of the Federation, must bear costs of the proceedings and expenses of participants in the proceedings or pay remuneration, they may request reimbursement from the Federation.

Section 120a

(1) If at first instance a criminal division has reserved the order of preventive detention or, in the case of section 66b of the Criminal Code, has ruled as the trial court, this criminal division shall have jurisdiction at first instance for hearing and ruling on the order of preventive detention reserved in the judgment or on the subsequent order of preventive detention.
(2) In the case of section 66b of the Criminal Code, section 462a subsection (3), second and third sentences, of the Code of Criminal Procedure shall apply *mutatis mutandis*.

Section 120b

In criminal matters, the Higher Regional Courts in the districts of which the Land

governments have their seat shall have jurisdiction for the territory of the given Land for hearing and deciding cases at first instance involving the taking and offering of a bribe by elected mandate holders (section 108e of the Criminal Code). Section 120 subsections (3) and (5) apply mutatis mutandis.

Section 121

(1) In criminal matters, the Higher Regional Courts shall furthermore have jurisdiction for hearing and ruling on the legal remedies of:

1. appeal on points of law only against

   a) judgments delivered by Criminal Court judges that cannot be contested with an appeal on fact and law;

   b) judgments delivered by small criminal divisions and grand criminal divisions in appeals on fact and law;

   c) judgments delivered by the Regional Court at first instance if the appeal on law is exclusively based on the violation of a legal norm contained in *Land* legislation;

2. complaint against decisions of Criminal Court judges, except where the criminal divisions or the Federal Court of Justice have jurisdiction;

3. complaint on points of law only against decisions of the criminal divisions with jurisdiction over execution of sentences pursuant to section 50 subsection (5), section 116 and section 138 subsection (3) of the Prison Act and decisions of the juvenile divisions pursuant to section 92 subsection (2) of the Juvenile Courts Act.

(2) If a Higher Regional Court wishes to deviate in its decision

1. pursuant to subsection (1), number 1, letter a or letter b, from a decision given after 1 April 1950,

2. pursuant to subsection (1), number 3, from a decision given after 1 January 1977, or

3. pursuant to subsection (1), number 2, from a decision on the disposal of a measure of placement in preventive detention or in a psychiatric hospital, or on the admissibility of its further execution, given after 1 January 2010

by another Higher Regional Court or from a decision of the Federal Court of Justice, it must submit the matter to the Federal Court of Justice.

(3) A *Land* in which several Higher Regional Courts have been established may, under a statutory instrument issued by the *Land* government, assign to one Higher Regional Court or to the Highest Regional Court (*Oberstes Landesgericht*) the decisions pursuant to subsection (1), number 3, for the districts of several Higher Regional Courts, insofar as such assignment serves the purpose of material furtherance or swifter disposal of the proceedings. The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.

Section 122

(1) The divisions of the Higher Regional Courts shall, unless decisions are to be given by a judge sitting alone in lieu of a division pursuant to the provisions of procedural law, give decisions sitting with three members, including the presiding judge.

(2) The criminal divisions shall rule on the opening of the main proceedings at first instance sitting with five judges, including the presiding judge. At the opening of the main proceedings, the criminal division shall rule that it will be composed of three judges, including the presiding judge, during the main hearing unless the participation of two more judges appears necessary due to the scale or complexity of the case. The criminal division shall rule

on the termination of the main proceedings due to a procedural impediment in the composition prescribed for the main hearing. If a case has been referred back by a court hearing an appeal on law, the then competent criminal division may once again rule on its composition pursuant to the second sentence.

Ninth Title
Federal Court of Justice

Section 123
The seat of the Federal Court of Justice (*Bundesgerichtshof*) shall be Karlsruhe.

Section 124
The Federal Court of Justice shall be composed of a president, presiding judges and additional judges.

Section 125
(1) The members of the Federal Court of Justice shall be chosen jointly by the Federal Minister of Justice and Consumer Protection and the judicial selection committee pursuant to the Judicial Selection Act and shall be appointed by the Federal President.
(2) A person may only be appointed a member of the Federal Court of Justice if he has attained the age of thirty-five.

Sections 126 to 129
(repealed)

Section 130
(1) Civil panels and criminal panels shall be established and investigating judges shall be appointed at the Federal Court of Justice. Their number shall be determined by the Federal Minister of Justice and Consumer Protection.
(2) The Federal Minister of Justice and Consumer Protection shall be authorised to also establish civil panels and criminal panels outside the seat of the Federal Court of Justice and to determine the official seats of the investigating judges of the Federal Court of Justice.

Section 131
(repealed)

Section 131a
(repealed)

Section 132
(1) A Grand Panel for Civil Matters and a Grand Panel for Criminal Matters shall be established at the Federal Court of Justice. The Grand Panels shall form the United Grand Panels.
(2) In the event that a panel wishes to deviate from the decision of another panel on a legal issue, the Grand Panel for Civil Matters shall decide if a civil panel wishes to deviate from another civil panel or from the Grand Panel for Civil Matters, the Grand Panel for Criminal Matters shall decide if a criminal panel wishes to deviate from another criminal panel or from the Grand Panel for Criminal Matters, and the United Grand Panels shall decide if a civil panel wishes to deviate from a criminal panel or from the Grand Panel for Criminal Matters or if a criminal panel wishes to deviate from a civil panel or from the Grand Panel for Civil Matters or if a panel wishes to deviate from the United Grand Panels.
(3) A submission to the Grand Panel or to the United Grand Panels shall only be admissible if the panel from whose decision there is to be deviation has declared in response to an inquiry of the adjudicating panel that it stands by its legal opinion. If the panel from whose decision there is to be deviation can no longer be seized of the legal issue due to a change in the roster allocating court business, its place shall be taken by the panel that would be competent pursuant to the roster allocating court business for the case in which the

divergent decision was given. The ruling on the inquiry and the response shall be given in a ruling by the respective panel in the composition prescribed for judgments; section 97 subsection (2), first sentence, of the Act on Tax Advisors and section 74 subsection (2), first sentence, of the Auditors' Regulations shall remain unaffected.
(4) The adjudicating panel may submit an issue of fundamental importance to the Grand Panel for a decision if it deems this necessary for the development of the law or in order to ensure uniform application of the law.
(5) The Grand Panel for Civil Matters shall be composed of the president and one member from each of the civil panels; the Grand Panel for Criminal Matters shall be composed of the president and two members from each of the criminal panels. If submission is by another panel, or if there is to be deviation from the decision of another panel, a member of that panel shall also sit on the Grand Panel. The United Grand Panels shall be composed of the president and the members of the Grand Panels.
(6) The members and their deputies shall be appointed by the presidium for one business year. This shall also apply to the member of another panel pursuant to subsection (5), second sentence, and to his deputy. The Grand Panels and the United Grand Panels shall be presided over by the president or, in the event that he is unable to be present, by the most senior member. In the case of a tie, the presiding judge shall have the casting vote.

Section 133

In civil matters, the Federal Court of Justice shall have jurisdiction for hearing and ruling on the legal remedies of appeal on points of law only (*Revision*), immediate appeal on law only in lieu of an appeal on fact and law (*Sprungrevision*), complaint on points of law only (*Rechtsbeschwerde*) and immediate complaint on points of law only in lieu of a complaint (*Sprungrechtsbeschwerde*).

Section 134
(repealed)

Section 134a
(repealed)

Section 135

(1) In criminal matters, the Federal Court of Justice shall have jurisdiction for hearing and ruling on the legal remedy of appeal on points of law only (*Revision*) against judgments of the Higher Regional Courts at first instance and against judgments of the Regional Courts at first instance, unless the jurisdiction of the Higher Regional Courts has been established.
(2) The Federal Court of Justice shall furthermore rule on complaints against orders and directions given by the Higher Regional Courts in the cases designated in section 138d subsection (6), first sentence, section 304 subsection (4), second sentence, and section 310 subsection (1) of the Code of Criminal Procedure as well as on complaints against directions of the investigating judge at the Federal Court of Justice (section 169 subsection (1), second sentence, of the Code of Criminal Procedure) in the cases designated in section 304 subsection (5) of the Code of Criminal Procedure.

Section 136
(repealed)

Section 137
(repealed)

Section 138

(1) The Grand Panels and the United Grand Panels shall give a decision on the point of law only. They may decide without an oral hearing. The decision shall be binding on the panel adjudicating the case at hand.
(2) The Federal Prosecutor General shall be heard prior to the decision of the Grand Panel for Criminal Matters or the United Grand Panels and in legal disputes the subject of which is

the contestation of a declaration of death. The Federal Prosecutor General may also present his opinion at the sitting.
(3) If a decision on the matter requires another oral hearing before the adjudicating panel, the participants shall be summoned to the hearing and informed in the summons of the decision given on the point of law.

Section 139

(1) The panels of the Federal Court of Justice shall give decisions sitting with five members, including the presiding judge.
(2) The criminal panels shall give decisions on complaints sitting with three members, including the presiding judge. This shall not apply to the decision on complaints against rulings through which the opening of the main proceedings is refused or the proceedings are terminated due to a procedural impediment.

Section 140

The official procedure shall be governed by rules of procedure that shall be adopted by the full court.

Title 9a
Jurisdiction over proceedings to reopen cases in criminal matters

Section 140a

(1) In proceedings to reopen a case, a decision shall be given by another court with the same substantive jurisdiction as the court against whose decision the application for the reopening of proceedings is directed. The decision on an application against a judgment delivered in appellate proceedings on law shall be given by another court of the same rank as the court against whose judgment the appeal on law was filed.
(2) Prior to the beginning of the business year, the presidium of the Higher Regional Court shall designate the courts within its district that shall have local jurisdiction over decisions in proceedings to reopen cases.
(3) If only one Regional Court has been established within the district of a Higher Regional Court, the decision on an application over which the Regional Court has jurisdiction pursuant to subsection (1) shall be given by another criminal division of the Regional Court, which shall be designated by the presidium of the Higher Regional Court prior to the beginning of the business year. The *Land* governments shall be authorised to issue statutory instruments providing that the decision to be given pursuant to subsection (2) by the presidium of a Higher Regional Court in the district of which only one Regional Court has been established be assigned to the presidium of a neighbouring Higher Regional Court in respect of those applications over which the Regional Court has jurisdiction pursuant to subsection (1). The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.
(4) In the *Länder* in which only one Higher Regional Court and only one Regional Court have been established, subsection (3), first sentence, shall apply *mutatis mutandis*. The *Land* governments of these *Länder* shall be authorised to agree with a neighbouring *Land* that the duties of the presidium of the Higher Regional Court pursuant to subsection (2) shall be transferred to a neighbouring Higher Regional Court of another *Land* in respect of applications over which the Regional Court has jurisdiction pursuant to subsection (1).
(5) In the *Länder* in which only one Regional Court has been established and in which one Local Court has been assigned the criminal matters for the districts of the other Local Courts, subsection (3), first sentence, and subsection (4), second sentence, shall apply *mutatis mutandis*.
(6) If the reopening of proceedings is requested for a case that was decided by a Higher Regional Court at first instance, another division of this Higher Regional Court shall have jurisdiction. Section 120 subsection (5), second sentence, shall apply *mutatis mutandis*.

(7) Subsections (1) to (6) shall apply *mutatis mutandis* to decisions on applications to prepare for the reopening of proceedings.

Tenth Title
Public prosecution office

Section 141
A public prosecution office should exist at each court.

Section 142
(1) The official duties of the public prosecution office shall be discharged:

1. at the Federal Court of Justice by a Federal Prosecutor General and by one or more federal prosecutors;

2. at the Higher Regional Courts and the Regional Courts by one or more public prosecutors;

3. at the Local Courts by one or more public prosecutors or officials of the public prosecution office with a right of audience before the Local Courts.

(2) The competence of the officials of the public prosecution office with a right of audience before the Local Courts shall not encompass the Local Court proceedings to prepare public charges in criminal matters falling under the jurisdiction of courts other than the Local Courts.
(3) Trainee jurists may be assigned responsibility for discharging the duties of an official of the public prosecution office with a right of audience before the Local Courts and, in an individual case, for discharging the duties of a public prosecutor under the latter's supervision.

Section 142a
(1) The Federal Prosecutor General shall discharge the duties of the public prosecution office in respect of the criminal matters falling under the jurisdiction of the Higher Regional Courts at first instance pursuant to section 120 subsections (1) and (2) at these courts as well. In order for prosecution to be transferred to the Federal Prosecutor General it is sufficient if adequate factual indications exist to fulfil the preconditions for his jurisdiction. The public prosecution office shall inform the Federal Prosecutor General without delay of any events that give cause to examine the transfer of prosecution to him. If, in the cases of section 120 subsection (1), the officials of the public prosecution office of a *Land* and the Federal Prosecutor General cannot agree which of them should take over the prosecution, the Federal Prosecutor General shall decide.
(2) The Federal Prosecutor General shall refer the proceedings to the *Land* public prosecution office prior to filing a bill of indictment or a written application (section 435 of the Code of Criminal Procedure)

1. if the following criminal offences are the subject of the proceedings:

   a) criminal offences pursuant to section 82, section 83 subsection (2) or sections 98, 99 or 102 of the Criminal Code,

   b) criminal offences pursuant to sections 105 or 106 of the Criminal Code, if the offence is directed against an organ of a *Land* or against a member of such an organ,

   c) criminal offences pursuant to section 138 of the Criminal Code in conjunction with one of the provisions of the Criminal Code designated in letter a) or

   d) criminal offences pursuant to section 52 subsection (2) of the Patent Law, pursuant to section 9 subsection (2) of the Utility Model Act in conjunction with

section 52 subsection (2) of the Patent Law, or pursuant to section 4 subsection (4) of the Semiconductor Protection Act in conjunction with section 9 subsection (2) of the Utility Model Act and section 52 subsection (2) of the Patent Law;

2. in cases of lesser importance.

(3) The proceedings shall not be referred to the *Land* public prosecution office

1. if the offence affects the interests of the Federation to a considerable degree or

2. if it is advisable in the interest of legal uniformity for the Federal Prosecutor General to prosecute the offence.

(4) The Federal Prosecutor General shall refer a case that he has taken over pursuant to section 120 subsection (2), first sentence numbers 2 to 4, or pursuant to section 74a subsection (2) back to the *Land* public prosecution office if the case is no longer of special significance.

Section 143

(1) The local competence of the public prosecution office shall be determined by the local jurisdiction of the court at which the public prosecution office exists. If venue cannot be established in any court within the territorial scope of this Act, or if such court cannot be ascertained, the public prosecution office first seized of the matter shall be competent. If in the cases referred to in the second sentence the jurisdiction of a court is established, the proceedings shall be referred to the public prosecution office competent pursuant to the first sentence as soon as all necessary measures have been taken to secure the proceedings and the state of the proceedings permits an orderly referral. The third sentence shall apply *mutatis mutandis* where the competence of one public prosecution office has ceased to exist and another public prosecution office has become competent.
(2) In exigent circumstances, an official of the public prosecution office who lacks competence must perform the official acts necessary in his district.
(3) If the public prosecution offices of different *Länder* cannot agree which one of them is to take over the prosecution, the Federal Prosecutor General shall decide. Upon the application of a public prosecution office, he also decides if the public prosecution offices of different *Länder* cannot agree on combining connected criminal cases.
(4) The officials of one public prosecution office may be assigned competence for the districts of several Regional or Higher Regional Courts for the prosecution of certain kinds of criminal matters, for the execution of sentences in respect of these matters, and for the processing of requests for mutual judicial assistance from offices outside the territorial scope of this Act, insofar as such assignment serves the purpose of material furtherance or swifter disposal of the proceedings; in such cases the local competence of the officials of the public prosecution office for the matters assigned to them shall encompass all the courts of the districts for which they have been assigned these matters.
(5) The *Land* governments shall be authorised to issue statutory instruments providing that competence for execution of sentences or for execution of measures of reform and prevention be assigned either entirely or partially to a single public prosecution office for the districts of several Regional or Higher Regional Courts, insofar as such assignment serves the purpose of material furtherance or swifter disposal of the execution proceedings. The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.

Section 144

If the public prosecution office of a court is composed of several officials, the persons assigned to the highest-ranking official shall act as his deputy; they shall, when they act in his stead, be authorised to perform all his official tasks without proof of a special commission.

Section 145

(1) The highest-ranking officials of the public prosecution office at the Higher Regional Courts and the Regional Courts shall be entitled to take over all the official tasks of the public prosecution office at all the courts in their district themselves or to commission an official other than the initially competent official to perform these tasks.
(2) Officials of the public prosecution office with a right of audience before the Local Courts may only discharge the official duties of the public prosecution office at the Local Courts.

Section 145a
(repealed)

Section 146

The officials of the public prosecution office must comply with the official instructions of their superiors.

Section 147

The right of supervision and direction shall lie with:

1. the Federal Minister of Justice and Consumer Protection in respect of the Federal Prosecutor General and the federal prosecutors;

2. the *Land* agency for the administration of justice in respect of all the officials of the public prosecution office of the *Land* concerned;

3. the highest-ranking official of the public prosecution office at the Higher Regional Courts and the Regional Courts in respect of all the officials of the public prosecution office of the given court's district.

Section 148

The Federal Prosecutor General and the federal prosecutors shall be civil servants.

Section 149

The Federal Prosecutor General and the federal prosecutors shall be appointed by the Federal President on the proposal of the Federal Minister of Justice and Consumer Protection, which shall require the approval of the Bundesrat.

Section 150

The public prosecution office shall be independent of the courts in the performance of its official tasks.

Section 151

The public prosecutors may not perform judicial functions. They also may not be assigned responsibility for supervising the service of judges.

Section 152

(1) The investigative personnel of the public prosecution office shall be obliged in this capacity to comply with the orders of the public prosecution office of their district and the orders of the officials superior thereto.
(2) The *Land* governments shall be authorised to issue statutory instruments designating the groups of civil servants and salaried staff who are to be subject to this provision. The salaried staff must be public service employees, must have attained the age of 21 and must have been employed in the designated groups of civil servants or salaried staff for at least two years. The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.

Eleventh Title
Court registry

Section 153

(1) A court registry staffed with the necessary number of registry clerks shall be established at each court and at each public prosecution office.
(2) Anyone who has completed two years of preparatory training (*Vorbereitungsdienst*) and passed the examination for the intermediate judicial service or for the intermediate service in the area of labour jurisdiction may be entrusted with the duties of a registry clerk of the court registry. Six months of the preparatory training should consist of a specialised course of instruction.
(3) Anyone

1. who has passed the judicial administration officer's examination (*Rechtspflegerprüfung*) or the examination for the higher intermediate service in the area of labour jurisdiction,

2. who has qualified for a career in the intermediate judicial service pursuant to the provisions governing career track changes,

3. who, as another applicant (section 4 subsection (3) of the Framework Act to Harmonise Civil Service Law), has been admitted to the intermediate judicial service career track pursuant to the provisions of *Land* law

may also be entrusted with the duties of a registry clerk of the court registry.
(4) The detailed provisions governing implementation of subsections (1) to (3) shall be enacted by the Federation and the *Länder* for their areas. They may also specify whether and to what extent periods of other training or employment conducive to realisation of the training objective may be credited towards the period of preparatory training.
(5) The Federation and the *Länder* may furthermore specify that a person may also be entrusted with the duties of a registry clerk of the court registry if he can demonstrate a level of knowledge and proficiency in the area of expertise to be transferred to him that is equivalent to the level imparted through the training pursuant to subsection (2). In the *Länder* Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia, those persons may continue to be entrusted with the duties of a registry clerk of the court registry who were entrusted with such duties until 25 April 2006 pursuant to Annex I Chapter III Subject Area A section III, number 1, letter q, paragraph (1), of the Unification Treaty of 31 August 1990 (Federal Law Gazette 1990, Part II, pages 889, 922).

Title XII
Officials entrusted with service and execution

Section 154

The status and duties of the officials entrusted with service, summons and execution (court bailiffs) shall be determined at the Federal Court of Justice by the Federal Minister of Justice and Consumer Protection and at the Regional Courts by the *Land* agency for the administration of justice.

Section 155

The court bailiff shall be barred by law from exercising his office:

I. in civil disputes:

1. if he himself is a party or the statutory representative of a party or is jointly entitled or jointly obligated along with a party or is liable for damages to a party;

2. if his spouse or same sex partner is a party, even if the marriage or same sex partnership no longer exists;

3. if a party is a person with whom he is or was lineally related or related by marriage, collaterally related to the third degree, or related by marriage to the second degree;

II. in criminal matters:

1. if he himself was aggrieved by the criminal offence;

2. if he is or was the spouse or same sex partner of the accused or of the aggrieved party;

3. if he is or was related or related by marriage to the accused or to the aggrieved party in the manner designated under number I 3.

Thirteenth Title
Mutual judicial assistance

Section 156
The courts shall provide mutual judicial assistance in civil matters and in criminal matters.

Section 157
(1) A request for mutual judicial assistance shall be addressed to the Local Court in the district of which the official act is to be performed.
(2) The *Land* governments shall be authorised to issue statutory instruments providing that the handling of requests for mutual judicial assistance be assigned either entirely or partially to a single Local Court for the districts of several Local Courts insofar as this serves to facilitate or expedite the provision of mutual judicial assistance in general. The *Land* governments may issue statutory instruments transferring this authorisation to the *Land* agencies for the administration of justice.

Section 158
(1) A request may not be refused.
(2) A request by a court that is not a superior appellate instance must, however, be refused if the act to be performed is prohibited by the law of court to which the request has been addressed. If the requested court does not have local jurisdiction, it shall refer the request to the competent court.

Section 159
(1) If a request is refused, or if it is granted in contravention of the provision of section 158 subsection (2), the matter shall be decided by the Higher Regional Court to the district of which the requested court belongs. The decision shall only be contestable if it declares the mutual judicial assistance to be inadmissible and the requesting and requested courts belong to the districts of different Higher Regional Courts. The Federal Court of Justice shall rule on the complaint.
(2) The decisions shall, upon application of the participants or the requesting court, be given without an oral hearing.

Section 160
Execution, summons and service shall be effected pursuant to the provisions of procedural law, irrespective of whether they are to be performed in the *Land* to which the trial court belongs or in another German *Land*.

Section 161
Courts, public prosecution offices and court registries may, for the purpose of commissioning a court bailiff, avail themselves of the assistance of the court registry of the Local Court in the district of which the commission is to be executed. The court bailiff commissioned by the court registry shall be deemed to be directly commissioned.

Section 162
If a person sentenced to a term of imprisonment is staying at a place outside the district of the executing authority, this authority may request the public prosecution office of the

Regional Court in the district of which the convicted person is staying to execute the sentence.

Section 163

If a prison sentence is to be executed in the district of another court or if a convicted person staying in the district of another court is to be apprehended and handed over in order to serve his sentence, the public prosecution office at the Regional Court of that district shall be asked to perform the act.

Section 164

(1) The costs and expenses entailed in the provision of mutual judicial assistance shall not be reimbursed by the requesting authority.
(2) Fees or other public charges to which the documents (certificates, records) sent by the requesting authority are subject pursuant to the law of the requested authority shall not be levied.

Section 165
(repealed)

Section 166

Within the territorial scope of this Act, a court may also perform official acts outside its district.

Section 167

(1) The police officers of one German *Land* shall be authorised to continue to pursue a fugitive on the territory of another German *Land* and to apprehend the fugitive there.
(2) The apprehended person shall be taken without delay to the nearest court or the nearest police authority of the *Land* in which he was apprehended.

Section 168

The provisions existing in one German *Land* concerning the communication of files of a public authority to a court of that *Land* shall also apply in the event that the requesting court belongs to another German *Land*.

Fourteenth Title
Publicity and court officers

Section 169

(1) The hearing before the adjudicating court, including the pronouncement of judgments and rulings, shall be public. Audio and television or radio recordings as well as audio and film recordings intended for public presentation or for publication of their content shall be inadmissible. Audio transmission to a workroom for persons reporting for the press, radio, television or for other media may be permitted by the court. Audio transmission may be partially prohibited in order to safeguard interests meriting protection on the part of the participants or of third parties or to safeguard the proper course of proceedings. In all other respects, the second sentence above shall apply to the audio transmitted to the workroom, mutatis mutandis.
(2) Audio recordings of the hearing, including of the pronouncement of judgments and rulings, may be permitted by the court for academic and historical purposes if the proceedings are of outstanding historical significance for the Federal Republic of Germany. Audio recordings may be partially prohibited in order to safeguard interests meriting protection on the part of the participants or of third parties or to safeguard the proper course of proceedings. The recordings shall not be put on file and may neither be issued nor used or exploited for purposes of the recorded proceedings or of other proceedings. Upon conclusion of the proceedings, they shall be offered by the court to the competent Federal or Land archive which, under the Federal Archive Act or a Land Archive Act, is required to

ascertain whether the recordings are of lasting value. If the Federal Archive or the respective Land archive does not accept the recordings, they shall be deleted by the court.
(3) Notwithstanding paragraph (1), second sentence, the court may in special cases permit audio and television or radio recordings as well as audio and film recordings intended for public presentation or for publication of their content of the pronouncement of judgments of the Federal Court of Justice. Recordings or their transmission may be partially prohibited or subjected to compliance with conditions in order to safeguard interests of the participants or of third parties meriting protection and to safeguard the proper course of proceedings.
(4) The decisions of the court pursuant to paragraphs (1) to (3) above shall be incontestable.

Section 170

(1) Proceedings, discussions and hearings in family matters and in non-contentious matters shall not be public. The court may admit the public but not, however, against the will of a participant. In adult guardianship and placement matters, at the request of the person concerned a person of his confidence shall be permitted to be present.
(2) The court hearing a complaint on points of law only may admit the public unless there is an overriding interest of a participant in non-public discussion.

Section 171
(repealed)

Section 171a

The public may be excluded from the main hearing or from a part thereof if the subject of the proceedings is the placement of the accused in a psychiatric hospital or to an institution for withdrawal treatment in lieu of or in addition to a penalty.

Section 171b

(1) The public may be excluded if circumstances from the private sphere of a participant in the proceedings, a witness or a person aggrieved by an unlawful act (section 11 subsection (1), number 5, of the Criminal Code) are mentioned, the public discussion of which would violate interests meriting protection. This shall not apply if there is an overriding interest in public discussion of these circumstances. The particular burdens on children and juveniles that can be associated with a public main hearing shall thereby be taken into account. The same shall apply *mutatis mutandis* to persons of legal age who were children or juveniles when aggrieved by the criminal offence.
(2) The public should be excluded if a witness under 18 years of age is to be examined in proceedings relating to criminal offences against sexual self-determination (sections 174 to 184j of the Criminal Code) or against life (sections 211 to 222 of the Criminal Code), to ill-treatment of an individual placed in the charge of another (section 225 of the Criminal Code) or to criminal offences against personal liberty pursuant to sections 232 to 233a of the Criminal Code. Subsection (1), fourth sentence, shall apply *mutatis mutandis*.
(3) The public shall be excluded if the preconditions of subsections (1) or (2) exist and the person whose private sphere is affected applies for such exclusion. The public shall be excluded from the final motions in proceedings relating to the criminal offences referred to in subsection (2) without an application being required herefor if the public was excluded from the hearing either entirely or in part under the preconditions referred to in subsections (1) or (2) or in section 172, number 4.
(4) In derogation from subsections (1) and (2), the public may not be excluded if the persons whose private sphere is affected object to exclusion of the public.
(5) The decisions pursuant to subsections (1) to (4) shall not be contestable.

Section 172

The court may exclude the public from a hearing or from a part thereof if

1. endangerment of state security, the public order or public morals is to be feared,

1a. endangerment of the life, limb or liberty of a witness or another person is to be feared,

2. an important business, trade, invention or tax secret is mentioned, the public discussion of which would violate overriding interests meriting protection,

3. a private secret is discussed, the unauthorised disclosure of which by a witness or expert carries a penalty,

4. a person under the age of 18 is examined.

Section 173

(1) The pronouncement of the judgment as well as the final decision in matrimonial matters and family dispute matters shall in any case be public.
(2) The public may, under the preconditions of sections 171b and 172, also be excluded from the pronouncement of the reasons for the decision or a part thereof by a special ruling of the court.

Section 174

(1) The issue of exclusion of the public shall be discussed in a non-public sitting if a participant so applies or if the court deems this appropriate. The ruling excluding the public must be pronounced in public; it may be pronounced in a non-public sitting if there is fear that its public pronouncement would seriously disrupt order in the sitting. In the cases of sections 171b, 172 and 173, the reason for exclusion of the public must be stated at the time of pronouncement.
(2) Insofar as the public is excluded on the grounds of endangerment of state security, the press, radio and television may not make public any reports concerning the hearing or the content of an official document relating to the matter.
(3) If the public has been excluded on the grounds of endangerment of state security or on the grounds designated in section 171b and section 172, numbers 2 and 3, the court may obligate the persons present to observe secrecy in respect of facts of which they become aware in the course of the hearing or through an official document relating to the matter. The ruling shall be included in the record of the sitting. It shall be contestable. The complaint shall not have suspensive effect.

Section 175

(1) Access to public hearings may be denied to minors and to persons who appear in a manner that is not in keeping with the dignity of the court.
(2) The court may grant individuals access to non-public hearings. In criminal matters, the aggrieved person should be granted access. The participants need not be heard.
(3) Exclusion of the public shall not constitute an obstacle to the presence of the judicial administration officials responsible for supervision of service at the hearings before the adjudicating court.

Section 176

The maintenance of order in the sitting shall be incumbent upon the presiding judge.

Section 177

Parties, accused persons, witnesses, experts or persons not participating in the hearing who fail to follow the orders given to maintain order may be removed from the courtroom or taken into coercive detention and held for a period of time to be determined; such period may not exceed twenty-four hours. Decisions on measures pursuant to the first sentence in respect of persons who are not participants in the hearing shall be made by the presiding judge and in all other cases by the court.

Section 178

(1) A coercive fine of up to one thousand euros may be imposed or coercive detention of up to one week may be ordered and immediately executed against parties, accused persons, witnesses, experts or persons not participating in the hearing who are found to be in contempt of court at the sitting, subject to prosecution by a Criminal Court. At the time the coercive fine is imposed, a determination shall also be made concerning the extent to which it shall be replaced by coercive detention in event that the fine cannot be collected.
(2) The decision on imposition of coercive measures in respect of persons who are not participants in the hearing shall be made by the presiding judge and in all other cases by the court.
(3) If a person is later sentenced for the same offence, the coercive fine or coercive detention shall be credited against the sentence.

Section 179

Execution of the coercive measures designated hereinbefore shall be ordered directly by the presiding judge.

Section 180

The powers designated in sections 176 to 179 shall also be vested in a single judge performing official acts outside the sitting.

Section 181

(1) If, in the cases of sections 178 and 180, a coercive measure has been imposed, a complaint may be lodged against the decision within a time limit of one week after its notification unless it has been given by the Federal Court of Justice or by a Higher Regional Court.
(2) The complaint shall not have suspensive effect in the case of section 178 and shall have suspensive effect in the case of section 180.
(3) The Higher Regional Court shall rule on the complaint.

Section 182

If a coercive measure has been imposed for contempt of court, or if a person has been taken into coercive detention, or if a person participating in the hearing has been removed from the courtroom, the ruling of the court and the reasons therefor shall be included in the record of the proceedings.

Section 183

If a criminal offence is committed at the sitting, the court must establish the facts and communicate the record thereof to the competent authority. Where appropriate, the provisional arrest of the perpetrator shall be ordered.

Fifteenth Title
Language of the court, communication with the court

Section 184

The language of the court shall be German. The right of the Sorbs to speak Sorbian before the courts in the home districts of the Sorbian population shall be guaranteed.

Section 185

(1) If persons are participating in the hearing who do not have a command of the German language, an interpreter shall be called in. No additional record shall be made in the foreign language; however, testimony and declarations given in the foreign language should also be included in the record or appended thereto in the foreign language if and to the extent that the judge deems this necessary in view of the importance of the case. Where appropriate, a translation to be certified by the interpreter should be annexed to the record.
(1a) The court may permit the interpreter to be at a different location during the proceedings, hearing or examination. There shall be simultaneous audio-visual transmission of the proceeding, hearing or examination to such place and to the courtroom.

(2) An interpreter may be dispensed with if all the persons involved have a command of the foreign language.
(3) In family matters and in non-contentious matters, an interpreter need not be called in if the judge has a command of the language in which the persons involved make their statements.

Section 186

(1) Communication with a hearing-impaired or speech-impaired person shall, at his choice, take place orally, in writing or with the assistance of a communication facilitator to be called in by the court. The court shall furnish suitable technical aids for oral and written communication. The hearing-impaired or speech-impaired person shall be advised of his right to choose.
(2) The court may require written communication or order a person to be called in as an interpreter if the hearing-impaired or speech-impaired person has not availed himself of his right to choose pursuant to subsection (1) or if adequate communication is not possible in the form chosen pursuant to subsection (1) or would require disproportionate effort.
(3) The Federal Ministry of Justice and Consumer Protection shall specify in a statutory instrument, which shall require the approval of the Bundesrat,

1. the extent of the right to provision of appropriate communication aids pursuant to subsections (1) and (2),

2. the principles of appropriate remuneration for the use of communication aids pursuant to subsections (1) and (2),

3. the appropriate communication aids by means of which the communication specified in subsections (1) and (2) is to be guaranteed, and

4. whether and how the person with a hearing or speech impairment is required to cooperate.

Section 187

(1) The court shall call in an interpreter or a translator for an accused or convicted person who does not have a command of the German language, insofar as this is necessary for the exercise of his rights under the law of criminal procedure. The court shall advise the accused in a language he understands that he may to this extent demand that an interpreter or a translator be called in for the entire criminal proceedings free of charge.
(2) As a rule, a written translation of custodial orders as well as of bills of indictment, penal orders and non-binding judgments shall be necessary for the exercise of the rights under the law of criminal procedure of an accused who does not have a command of the German language. An excerpted written translation shall be sufficient if the rights of the accused under the law of criminal procedure are thereby safeguarded. The written translation shall be made available to the accused without delay. An oral translation of the documents or an oral summary of the content of the documents may be substituted for a written translation if the rights of the accused under the law of criminal procedure are thereby safeguarded. As a rule, this can be assumed if the accused has defence counsel.
(3) The accused may only effectively waive a written translation if he has been instructed beforehand concerning his right to a written translation pursuant to subsections (1) and (2) and concerning the consequences of a waiver of a written translation. The instruction pursuant to the first sentence and the waiver of the accused shall be documented.
(4) Subsection (1) shall apply *mutatis mutandis* to persons who have the right to join a public prosecution as a private accessory prosecutor pursuant to section 395 of the Code of Criminal Procedure.

Section 188

Persons who do not have a command of the German language shall swear oaths in the language they speak fluently.

Section 189

(1) The interpreter shall swear an oath affirming that he will translate faithfully and conscientiously. If the interpreter states that he does not wish to swear an oath for reasons of faith or conscience, he shall make an affirmation. This affirmation shall be equivalent to an oath; the interpreter shall be informed of this fact.
(2) If the interpreter has been generally sworn for translations of the kind involved in one *Land* pursuant to the provisions of *Land* law, a reference to this oath shall be sufficient before all courts of the Federation and the *Länder*.
(3) In family matters and in non-contentious matters, the interpreter need not be sworn if the persons involved waive this requirement.
(4) The interpreter or translator shall observe secrecy concerning circumstances that become known to him in his professional capacity. The court shall advise him of this fact.

Section 190

The services of an interpreter may be rendered by the registry clerk of the court registry. No special administration of an oath shall be required.

Section 191

The provisions governing the exclusion and rejection of experts shall apply *mutatis mutandis* to the interpreter. The decision shall be made by the court or by the judge who called in the interpreter.

Section 191a

(1) A blind or visually impaired person may submit pleadings and other documents to the court in a form accessible to him. He may, as provided in the statutory instrument pursuant to subsection (2), demand that pleadings and other documents of court proceedings be made accessible to him in a barrier-free form. If the blind or visually impaired person is to be granted access to the files, he can demand that this access be granted him barrier-free as provided in the statutory instrument under subsection 2. A blind or visually impaired person who has been entrusted or appointed to safeguard another person's rights also has a right within the meaning of the first to third sentences. No charges shall be made for providing barrier-free access in accordance with these provisions.
(2) The Federal Ministry of Justice and Consumer Protection shall specify in a statutory instrument, which shall require the approval of the Bundesrat, the conditions under which and the manner in which the documents mentioned in subsection (1) and the documents submitted by the parties for the record shall be rendered accessible to a blind or visually impaired person as well as whether and how this person is to participate in the safeguarding of his rights.
(3) Electronic documents represented in graphic characters shall be rendered accessible for blind or visually impaired persons. Any secure transmission of an electronic document shall be done in an accessible manner. If electronic forms are introduced (section 130c of the Code of Civil Procedure, section 14a of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction, section 46f of the Labour Courts Act, section 65c of the Social Courts Act, section 55c of the Code of Administrative Court Procedure, section 52c of the Finance Courts Code), these shall be rendered accessible for blind or visually impaired persons. The standards of section 3 of the Ordinance on Barrier-Free Information Technology of 12 September 2011 (Federal Law Gazette Part I p. 1843) in the respective applicable version shall prevail.

Sixteenth Title
Deliberations and voting

Section 192

(1) Only the statutory number of judges may participate in decisions.

(2) At hearings of lengthy duration, the presiding judge may order that additional judges be called in to attend the hearing and take the place of a judge in the event that he is unable to be present.
(3) These provisions shall also be applicable to lay judges.

Section 193

(1) Except for the judges who have been appointed to give the decision, only those persons who are employed at the same court for the purposes of their judicial training and the specialist auxiliary staff who are employed there may be present during deliberations and voting, insofar as the presiding judge permits them to be present.
(2) Foreign professional judges, public prosecutors and attorneys-at-law who have been assigned to a court in the context of a study visit may be present during deliberations and voting at the same court, insofar as the presiding judge permits them to be present and they are placed under an obligation pursuant to subsections (3) and (4). The first sentence shall apply *mutatis mutandis* to foreign jurists who are undergoing training in the seconding state.
(3) The persons designated in subsection (2) shall upon their application be placed under a special obligation to observe secrecy. Section 1 subsections (2) and (3) of the Obligations Act of 2 March 1974 (Federal Law Gazette I, page 469, page 547 - Article 42) shall apply *mutatis mutandis*. Persons who have been placed under a special obligation pursuant to the first sentence shall be deemed to be the equivalent of persons with special public service obligations for the purposes of application of the provisions of the Criminal Code on the violation of private secrets (section 203 subsection (2), first sentence, number 2, section 203 subsection (2), second sentence, section 203 subsections (5) and (6), and section 205), exploitation of secrets of another (sections 204 and 205), violation of official secrecy (section 353b subsection (1), first sentence, number 2, section 353b subsection (1), second sentence, and section 353b subsections (3) and (4)) and violation of tax secrecy (section 355).
(4) The obligation shall be imposed by the president or by the supervising judge of the court. He may transfer this authority to the presiding judge of the adjudicating body or to the judge to whom the persons designated in subsection (2) have been assigned. A renewal of the obligation shall not be required for the duration of the study visit. In the cases of section 355 of the Criminal Code, the judge imposing the obligation shall be entitled to file a complaint collateral to the aggrieved party.

Section 194

(1) The presiding judge shall preside over the deliberations, ask the questions and collect the votes.
(2) Differences of opinion concerning the subject matter, wording and sequence of the questions or concerning the result of the vote shall be resolved by the court.

Section 195

No judge or lay judge may refuse to vote on a question because he was in the minority when a vote was taken on a previous question.

Section 196

(1) The court shall give its decisions by an absolute majority vote unless otherwise provided by statute.
(2) If more than two opinions emerge in connection with amounts to be decided and no one of them can command a majority, the number of votes cast for the largest amount shall be added to the votes initially cast for the next smaller amount(s) until a majority is reached.
(3) If more than two opinions emerge in a criminal matter, aside from the question of guilt, and no one of them can command the necessary majority, the votes cast for the decision most unfavourable to the accused shall be added to those initially cast for the next less unfavourable decision(s) until the necessary majority is reached. If two opinions emerge on

the question of sentencing and neither can command the necessary majority, the more lenient opinion shall prevail.
(4) If there is a tie at a court composed of two judges and two lay judges on an issue to be decided by a simple majority, the presiding judge shall have the casting vote.

Section 197

The judges shall vote in order of seniority, and in a case of equal seniority in order of age, whereas the honorary judges and lay judges shall vote in order of age; the younger one shall vote before the older one. The lay judges shall vote before the judges. If a rapporteur has been appointed, he shall vote first. The presiding judge shall vote last.

Seventeenth Title[1]
Legal redress for excessive length of court proceedings and of criminal investigation proceedings

[1] Footnote: From the Act on Legal Redress for Excessive Length of Court Proceedings and of Criminal Investigation Proceedings (Article 1 – Amendment of the Courts Constitution Act); translation provided by Brian Duffett

Section 198

(1) Whoever as the result of the unreasonable length of a set of court proceedings experiences a disadvantage as a participant in those proceedings shall be given reasonable compensation. The reasonableness of the length of proceedings shall be assessed in the light of the circumstances of the particular case concerned, in particular the complexity thereof, the importance of what was at stake in the case, and the conduct of the participants and of third persons therein.
(2) A disadvantage not constituting a pecuniary disadvantage shall be presumed to have occurred in a case where a set of court proceedings has been of unreasonably long duration. Compensation can be claimed therefor only insofar as reparation by other means, having regard to the circumstances of the particular case, is not sufficient in accordance with subsection (4). Compensation pursuant to the second sentence shall amount to EUR 1,200 for every year of the delay. Where having regard to the circumstances of the particular case the sum pursuant to the third sentence is inequitable, the court can assess a higher or lower sum.
(3) A participant in proceedings shall obtain compensation only if he has complained about the length of the proceedings to the court seized of the case (censure of delay). A censure of delay can be filed only if there is cause to fear that the case will not be concluded within a reasonable time; a censure of delay can be reiterated at the earliest after six months, but not in a case where a shorter duration is necessary by way of exception. Where expedition of the proceedings depends on factors that have not yet been introduced into the proceedings, reference shall be made thereto in the complaint. Otherwise, in the assessment of the reasonable length of proceedings, account shall not be taken of these factors by the court required to give the decision on compensation (court of compensation). Where the proceedings are further delayed before another court, it shall be necessary to file a new censure of delay.
(4) Reparation by other means shall be possible in particular where the court of compensation makes a finding that the length of the proceedings was unreasonable. Such finding shall not require the making of a prior application. In serious cases the finding can be made in addition to compensation; it can also be made where one, or more than one, precondition under subsection (3) has not been fulfilled.
(5) A court action to enforce a claim under subsection (1) can be brought at the earliest six months after the filing of the censure of delay. The court action must be brought no later than six months following entry into final and binding force of the decision ending the proceedings, or following another manner of disposal of the proceedings. The claim shall not be transferable until a final and binding decision has been given in the court action.
(6) Within the meaning of this provision

1. a set of court proceedings shall mean every set of proceedings from their introduction until their conclusion with final and binding force, including proceedings for granting provisional court relief and for granting legal aid; an exception to this shall be formed by insolvency proceedings once they have been opened; where insolvency proceedings have been opened the obtaining of a decision shall be deemed to be a set of court proceedings;

2. a participant in proceedings shall mean any party to, and any participant in, a set of court proceedings with the exception of entities of constitutional rank, of public administration entities and of other public agencies, so far as the latter are not participating in a set of proceedings in the exercise of a right of self-governance.

Section 199

(1) Section 198 shall be applied, subject to subsections (2) to (4), to criminal proceedings, including proceedings in preparation of public charges.
(2) During proceedings in preparation of public charges the public prosecution office and, in the cases under section 386 subsection (2) of the Fiscal Code, the revenue authority shall act in lieu of the court; section 198 subsection (3), fifth sentence, shall apply *mutatis mutandis* to the proceedings subsequent to preferment of public charges.
(3) Where for the benefit of the accused a criminal court or the public prosecution office has taken account of the unreasonable length of the proceedings, this shall constitute, pursuant to section 198 subsection (2), second sentence, sufficient reparation by other means; to this extent section 198 subsection (4) shall not apply. Where the accused in criminal proceedings seeks compensation for excessive length of proceedings, the court of compensation shall be bound, in respect of the assessment of the reasonableness of the length of the proceedings, by a decision given by the criminal court.
(4) A private prosecutor shall not be a participant in proceedings within the meaning of section 198 subsection (6), number 2.

Section 200

For disadvantages occurring as the result of delays at courts of a *Land*, the *Land* concerned shall bear liability. For disadvantages occurring as the result of delays at courts of the Federation, the Federation shall bear liability. The first and second sentences shall apply *mutatis mutandis* to public prosecution offices and revenue authorities in the cases under section 386 subsection (2) of the Fiscal Code.

Section 201

(1) Where a *Land* is to be sued in a court action for compensation, jurisdiction shall lie with the Higher Regional Court in whose district proceedings in the litigation were conducted. Where the Federation is to be sued in a court action for compensation, jurisdiction shall lie with the Federal Court of Justice. Such jurisdiction shall be exclusive in each case.
(2) The provisions of the Code of Civil Procedure governing proceedings conducted before the Regional Courts at first instance shall be applied *mutatis mutandis*. Jurisdiction to give a decision shall not lie with a judge sitting alone. Subject to section 543 of the Code of Civil Procedure, an appeal shall be possible on points of law in respect a decision given by the Higher Regional Court; section 544 of the Code of Civil Procedure shall be applied *mutatis mutandis.*
(3) The court of compensation can suspend its proceedings if the court proceedings upon whose length a claim under section 198 depends are still continuing. In criminal proceedings, including proceedings in preparation of public charges, the court of compensation shall suspend its proceedings for as long as the criminal proceedings have not yet been concluded.
(4) In a case where a compensation claim does not apply, or does not exist to the extent pleaded, but where a finding is made to the effect that the proceedings have been of unreasonable length, the court shall give a decision on the costs at its equitable discretion.