

Section 261 of the German Criminal Code (Strafgesetzbuch – StGB)

Money Laundering; Concealment of Unlawfully Acquired Assets

(1) Whoever hides an object which is derived from an unlawful act named in sentence 2, conceals its origin or obstructs or endangers the investigation of its origin, its being found, its forfeiture, its confiscation or its being taken into custody, shall be punished with imprisonment from three months to five years. Unlawful acts within the meaning of sentence 1 shall be:

1. serious criminal offences;
2. less serious criminal offences under: a) Section 332 subsection (1), also in conjunction with subsection (3), and Section 334; b) Section 29 subsection (1), sent. 1, no. 1, of the Narcotics Law and Section 29 subsection (1), no. 1, of the Precursors Control Law;
3. less serious criminal offences under Section 373 and, if the perpetrator acted professionally, under Section 374 of the Fiscal Code, and also in conjunction with Section 12 subsection (1), of the Law to Implement the Common Market Organizations respectively;
4. less serious criminal offences: a) under Sections 180b, 181a, 242, 246, 253, 259, 263 to 264, 266, 267, 269, 284, 326 subsections (1), 2 and 4, and 328 subsections (1), 2 and 4; b) under Section 92a of the Aliens Law and Section 84 of the Asylum Procedure Law, which were committed professionally or by a member of a gang which has combined for the continued commission of such acts; and
5. less serious criminal offences committed by a member of a criminal organization (Section 129). In cases under sentence 1, number 3, sentence 1 shall also apply to an object in relation to which fiscal charges have been evaded.

(2) Whoever:

1. procures an object indicated in subsection (1) for himself or a third person; or
2. keeps an object indicated in subsection (1) in his custody or uses it for himself or a third person, shall be similarly punished.

(3) An attempt shall be punishable.

(4) In especially serious cases the punishment shall be imprisonment from six months to ten years. An especially serious case exists, as a rule, if the perpetrator acts professionally or as a member of a gang, which has combined for the continued commission of money laundering.

(5) Whoever, in cases under subsections (1) or (2), is recklessly unaware, that the object is derived from an unlawful act named in subsection (1), shall be punished with imprisonment for not more than two years or a fine.

(6) The act shall not be punishable under subsection (2), if a third person previously acquired the object without having thereby committed a crime. (7) Objects to which the crime relates may be confiscated. Section 74a shall be applicable. Sections 43a, 73d shall be applicable if the perpetrator acts as a member of a gang which has combined for the continued commission of money laundering. Section 73d shall also be applicable if the perpetrator acts professionally. (8) Objects which are derived from an act of the type indicated in subsection (1) committed overseas shall be the equivalent of the objects indicated in subsections (1), 2, and 5, if the act is also punishable at the place of commission of the act. (9) Whoever:

1. voluntarily reports the act to the competent public authority or voluntarily causes such a report to be made, if the act was not already discovered in whole or in part at the time and the perpetrator knew this or should have taken this into account upon a reasonable evaluation of the factual situation; and
2. in cases under subsections (1) or (2) under the prerequisites named in number 1, causes the object to which the crime relates to be taken into custody, shall not be punished under subsections (1) to (5). Whoever is punishable because of participation in the antecedent act shall also not be punished under subsections (1) to (5). (10) The court in its discretion may mitigate the punishment (Section 49 subsection (2)) in cases under subsections (1) to (5) or dispense with punishment under these provisions, if the perpetrator through voluntary disclosure of his knowledge has substantially contributed, so that the act, beyond his own contribution thereto, or an unlawful act of another named in subsection (1), could be uncovered.