

imprisonment from nine years to fifteen years instead of life imprisonment. In other cases, the punishment is abated from one-fourth up to three-fourth.

Voluntary Abandonment

ARTICLE 36 - If a person voluntarily abandons performance of the acts necessary to commit the crime, or avoids accomplishment of the crime with his own efforts, then he may not be punished for this crime; however, where the accomplished part constitutes an offense, punishment is given only for this specific offense.

FOURTH SECTION

Participation In Commission of A Crime

Perpetration

ARTICLE 37-(1) Each one of the persons who jointly execute the act defined as crime in the law is responsible from its legal consequences as the offender.

(2) Also, a person who uses another person in commission of a crime is also kept responsible as the offender. The punishment of the persons who uses a person(s) lacking culpability is increased from one-third up to one half.

Solicitation

ARTICLE 38- (1) A person soliciting another person to commit offense is punished according to the degree of crime committed.

(2) In case of solicitation to commit offense by using the power originating from lineage (antecedent/descendent) relation, the punishment of the soliciting person is increased from one-third to one half. The lineage relation is not sought for increase of punishment pursuant to the provisions of this subsection in case of solicitation of minors to commit offense.

(3) Where the soliciting person is not known, the offender who plays role in identification of the soliciting person, or other accomplice is sentenced to imprisonment from twenty years to twenty-five years instead of heavy life imprisonment and to imprisonment from fifteen years to twenty years the offense requires life imprisonment. In other cases, one-third of the punishment can be abated.

Encouragement of A person To Commit Offence

ARTICLE 39- (1) A person encouraging another person to commit offense is sentenced to life imprisonment from fifteen years to twenty years if subject to heavy life imprisonment; and from ten years to fifteen years imprisonment if the offense requires life imprisonment.

2) A person is kept responsible under the following conditions from commission of offense as the party encouraging the offender;

a) To solicit a person for commission of an offense or to support his decision to commit offense or to guarantee help after commission of offense.

b) To give idea about how the offense shall be committed or to supply the necessary tools to be used during commission of offense.

c) To render support before and during the commission of offense in order to simplify the intended act.

Connected offenses

ARTICLE 40- (1) If an act is executed intentionally and contrary to the laws, then this is considered as participation in commission of offense. Each person participating in commission of an offense is punished according to his involvement in the offense, irrespective of the personal reasons avoiding the punishment of the other.

(2) In particular offenses the person possessing the characteristics of a perpetrator is defined as offender. The others who participate in commission of offense are kept responsible from commission of offense as soliciting or supporting parties.

(3) In order to keep a person responsible from participation in commission of an offense, at least there must be an attempt to commit offense.

Voluntary Abandonment in Jointly Committed Offenses

ARTICLE 41-(1) In jointly committed offenses, only the accomplice who voluntarily abandons the attempt to commit offense may benefit from the provisions of the law relating to voluntary abandonment.

(2) The provisions relating to voluntary abandonment is applied;

a) If the commission of offense is not bound to any other reason than the efforts shown by the person who voluntarily abandons the attempt.

b) If the offense is committed despite all the efforts of the person who voluntarily abandons the attempt.

FIFTH SECTION

Joinder of Offenses

Joint Offenses

ARTICLE 42-(1) Any offense which is considered to have been committed by a single act, where each act constitutes the moral elements or aggravating reasons of the other, is called joint offense. The provisions relating to joinder may not be applicable for such offenses.

Successive Offenses

ARTICLE 43- (1) In case of commission of the same offense against a person more than once at successive intervals, the offender is imposed a punishment. However, this punishment may be increased from one-fourth to three-fourth. The basic elements or characteristics of an offense determining the degree of punishment (heavy or light punishment) are considered to define whether the intended act is the same offense or not.

(2) The provisions of first subsection are applied in case of commission of the same offence against more than one person with a single attempt.

(3) The offences such as voluntary manslaughter (felonious homicide), felonious injury, torture, sexual abuse and plunder are not subject to the provisions of this article.

Joinder of ideas

ARTICLE 44- (1) A person, who is considered to have committed more than one offense through performance of an act, is punished from the offense which requires imposition of heavier punishment.

THIRD CHAPTER

Sanctions

FIRST SECTION

Punishments

Punishments

ARTICLE 45-(1) The punishments to be imposed as sanction against the offenses are imprisonment and administrative fines.

disqualification from performance of this profession or art, or seizure of the driving license for a period not less than three months and more than three years.

The sentence is executed upon finalization of prohibition and seizure decision.

Seizure of Property

ARTICLE 54-(1) The court may adjudicate seizure of the property/tools used in or reserved for commission of felonious offense, provided that such property does not belong to third parties. The property/tools prepared for use in commission of offense is seized if it is determined to be dangerous for public safety, public health or oral principles.

(2) In case of concealment, disposal, consumption of the property defined in the first subsection, or avoidance of seizure in any other manner, the court may adjudicate confiscation of a sum corresponding to the value of this property.

(3) If it is understood that seizure of the property used in commission of offense will involve consequences heavier than the offense, then the court may refrain from adjudicating seizure of property.

(4) The property of which the production, storage, use, transportation, purchase or sale constitutes an offense is subject seizure.

(5) Where partial seizure is in question, the court may decide seizure of only that portion without giving damage to other parts of the property.

(6) With regard to the property owned by more than one person, the court may adjudicate seizure of the part corresponding to the share of the person participating the offense.

Confiscation of Income

ARTICLE 55-(1) The court may adjudicate confiscation of pecuniary benefits provided through commission of offense, or constituting the object of the offense, or secured for commission of offense, as well as the economic gains recorded as a result of assessment or conversion of these benefits. In order to take decision for confiscation pursuant to the provisions of this subsection, reimbursement of pecuniary benefits to the aggrieved part should be out of question.

(2) In cases where the seizure of the property or pecuniary benefits subject to confiscation is not likely, or it is not possible to deliver the same to the concerned authorities, the court may adjudicate confiscation of the values considered as the counterpart of this property.

Security Precautions Specific To Minors

ARTICLE 56-(1) Types and implementation procedures of the security precautions specific to minors are defined in the relevant law.

Security Precautions Specific To Insane People

ARTICLE 57-(1) Decision for imposition of security precautions is given by the court about a person suffering from mental illness at the time of commission of the offense. The insane people subject to security precautions under the court's decision are sheltered and taken under protection for treatment purposes in the fully organized health institutions.

(2) An insane person against whom security precautions are imposed, may be discharged from the health institution where he receives treatment under the court's or judge's decision if the report prepared by the health commission of the institution contains a statement that there is no risk to the community, or the risk is considerably diminished.

(3) In the report of the health commission, information is provided according to the degree of mental illness and the quality of the offense whether the person is to be kept under the medical control or not and if so, how long this should be continued and at what intervals.

Invasion of a place

ARTICLE 154-(1) Any person who entirely or partially occupies immovable property or its attachments belonging to public institutions or real persons, or broadens, changes or destructs the boundaries of such places, or avoids, at a certain extent, exploitation of these immovable by the rightful parties, is punished with imprisonment from six months to three years and punitive fine up to thousand days.

(2) The punishments set-forth in first subsection are applied for any person who entirely or partially confiscates immovable property belonging to village administration and allocated for common use of villagers such as pasturages, harvest place, roads and fountains, and uses this immovable for agricultural purposes.

(3) Any person who changes the direction of water canals belonging to public or real persons is subject to punishments stipulated in first subsection.

Misuse of trust

ARTICLE 155-(1) Any person who illegally holds possession on a property entrusted to him to be used for certain purpose, or converts this property to his own or others' use beyond the object seeking transfer of possession, or denies this transfer event, is punished to imprisonment from six months to two years and imposed fine upon complaint.

(2) In case of commission of offense through embezzlement of property entrusted to a person or being under his control, or responsibility by virtue of his office based on a professional, artisanship, trading or service relation, the person involved in such act is punished with imprisonment from one year to seven years and imposed punitive fine up to three thousand days.

Use of blank bill

ARTICLE 156-(1) Any person who uses blank bill is sentenced to imprisonment from six months to two years and imposed punitive fine upon complaint.

Fraud

ARTICLE 157-(1) Any person who deceives another person through fraud or secures benefit both for himself and others by giving injury to the victim is punished with imprisonment from one year to five years and imposed punitive fine up to five thousand days.

Qualified form of Fraud

ARTICLE 158-(1) In case of commission of offense of fraud;

- a) By exploiting religious belief and perception of a person,
- b) By taking advantage of his being in a risky or difficult condition,
- c) By taking advantage of gradual deterioration of consciousness of a person,
- d) By using public institutions and corporations, public professional organizations, political parties, foundations or associations as a tool,
- e) By executing acts to the disadvantage of public institutions and corporations,
- f) By using data processing systems, banks and financial institutions as an tool,
- g) By benefiting from the facilities of press and publication organs,
- h) By executing fraudulent acts within the frame of trading activities of the persons being a merchant or executive of a company, or of those acting on behalf of the company,
- i) Through breach of trust by the free-lancers,