

FEDERAL CRIMINAL CODE

As of February 2000.

FIRST BOOK **Preliminary Title**

Article 1.- This Code shall be applied to federal crimes in the Mexican Republic.

Article 2.- Likewise, this Code shall be applied to the following cases:

- I. Crimes committed or prepared abroad, which produce or are intended to produce effects within the Mexican territory, and
- II. Crimes committed in Mexican consulates or against Mexican consular personnel, when such crimes have not been judged by the courts of the country where they were committed.

Article 3.- Continuous crimes committed abroad which continue being committed in Mexico, shall be prosecuted according to the Mexican law whether the offender is Mexican or foreigner.

The same rule shall apply to continuing crimes.

Article 4.- Crimes committed in foreign territory by a Mexican against Mexicans or against foreigners, or by a foreigner against Mexicans, shall be punished in the Republic according to federal laws, if the following conditions met:

- I. That the accused is in Mexico;
- II. That the defendant has not been definitely judged in the country in which the crime was committed, and
- III. That the infraction committed is considered as a crime in both the country where it was committed and in Mexico.

Article 5.- The following crimes are considered as committed in Mexico:

- I. Those committed by Mexicans or by foreigners in open seas, aboard national vessels.
- II. Those committed on board a national war vessel anchored at a foreign port or in foreign territorial waters. This applies also to national commercial vessels, whenever the criminal has not been judged by the courts of the country owner of the port.

- III. Those committed aboard a foreign vessel anchored at a national port or in national territorial waters, whenever the public peace is altered or whenever the offender or victim is not part of the crew. Otherwise, reciprocity shall apply.
- IV. Those committed aboard national or foreign aircrafts that are in national or foreign territory, atmosphere, air space or waters, in the same cases described in the precedent paragraphs, and
- V. Those committed in Mexican embassies or delegations.

Article 6.- In cases of crimes not contemplated by this Code but contemplated by a special law or by an international treaty of compulsory observance in Mexico, the special law or the international treaty shall apply taking into account the provisions of the First Book of this Code and, if applicable, those of the Second Book.

FIRST TITLE

Criminal Responsibility

Chapter I

General rules on crimes and responsibility

Article 7.-

Article 8.-

Article 9.- An individual is criminally responsible whenever, knowing the elements of the crime, or foreseeing the possible results of the crime, desires or accepts the consequences of the conduct described by law, and

An individual is responsible of negligence whenever he/she produces the consequences of a crime as described by law, by failing to his/her duty to anticipate the foreseeable consequences, or foresees such consequences but expects them not to materialize, whenever he/she should and could foresee them in virtue of the circumstances or personal conditions.

Article 10.- The criminal responsibility is limited to the offender and his/her property, except for those cases specified by law.

Article 11.- When any member or representative of a legal entity, or of an association, corporation or enterprise of any kind, exception made to governmental institutions, commits a crime with means provided by such legal entity, thus resulting in a crime committed in the name or on behalf of his/her principal or in his/her benefit, the judge, in the cases specifically described by law, may decree the suspension of the corporation or its dissolution, if he/she deems it necessary by reasons of public safety.

Chapter II Attempt

Article 12.- A punishable criminal attempt is produced when the determination to perpetrate an offense is materialized by partially or totally executing the actions to produce the consequences, or by omitting those actions that would avoid them, whenever the crime is not completed due to causes contrary to the offender's will.

In order to determine the punishment of a criminal attempt, the judge shall consider, in addition to what is set forth by article 52, the level of proximity to the total commission of the crime,.

If the offender spontaneously desists from executing the crime or prevents its commission, no penalty or security measure shall be imposed on him, this without prejudice of applying those for other crimes.

Chapter III Persons who are responsible of crimes

Article 13.- The following individuals are authors or participants of the offence:

- I. Those who agree or prepare its perpetration;
- II. Those who carry it out;
- III. Those who carry it out in a jointly manner;
- IV. Those who carry it out through a third party;
- V. Those who intentionally determine another individual to perpetrate it;
- VI. Those who intentionally help or assist another individual to commit it;
- VII. Those who after the perpetration of the offence, assist the offender, in fulfillment of a promise made prior to the commission of the offence;
- VIII. Those who without previous agreement, participate with others in the commission of an offence, when the results produced by each participant cannot be precised.

Each of the authors or participants referred to in this article shall be responsible for their own guilt.

The principles contemplated by article 64 bis of this Code shall be applied to those individuals referred to in sections VI, VII, and VIII.

Article 14.-

Chapter IV

General Defenses

Article 15.- A criminal event is not considered a crime whenever:

- I. It is committed without the will of the agent;
- II. Any of the elements of the legal description of the crime is proved to be absent;
- III. The agent acts with the consent of the owner of the legally protected interest that is affected, if the following conditions are met:
 - a) The legally protected interest is available;
 - b) The owner of the legally protected interest is capable to freely dispose of it, and
 - c) The consent of the owner of the legally protected interest is given expressly or tacitly and free from any vice; or the conduct occurs in such circumstances to presume that the owner of the legally protected interest would have granted his/her consent if he/she were requested.
- IV. The agent repels an actual, present or imminent and unlawful aggression, in order to protect his/her legally protected interests or those of others; there is an actual need of defense and rationality in the means used by the agent, and the agent or the person defended by him did not provoke the aggression.

There is legitimate defense when the agent causes a damage against anyone who unlawfully try to break in his/her house, his/her family's house, his/her dependents' house or the house of any person which he/she has the duty to protect; or to a place containing property of the agent or under the custody of the agent, whenever the agent finds anyone in any of such places in such circumstances that lead the agent to expect some sort of attack.
- V. The agent, in the effort of protecting a legally protected interest of his/her property or of anyone else's property from an actual or imminent danger, causes an unintended damage to another interest of less or of the same value, as long as the danger cannot be avoid through other means and as long as the agent is not legally required to confront such danger.
- VI. The action is done or the omission is committed in compliance with a legal duty or exercising a legal right, as long as there is a rational need of the means used, and the agent does not have any intention of damaging any other party.

VII. The agent is not capable of understanding the illicit character of the crime or of conducting himself/herself in accordance with that understanding by virtue of mental illness or intellectual retardation, except when the agent intentionally or negligently preordered his/her mental illness, in which case he/she shall answer if the consequences of the crimes were foreseen or foreseeable.

In case the intellectual capacity mentioned above is considerably diminished, article 69 bis of this Code shall apply.

VIII. The action is done or the omission is committed under an invincible mistake of law:

- a) On any essential element of the legal description of the crime, or
- b) On the legal nature of the conduct, whether the agent is unaware of the existence of the law, or of the scope of it, or he/she considers the conduct to be justified.

If the above-mentioned mistakes are vencible, article 66 of this Code shall apply.

IX. According to the circumstances, the agent can not be obligated to act in a different way because he/she was unable to act in accordance to law, and

X. The consequences of the conduct are attributable to *force majeure*.

Article 16.-

Article 17.-

Article 18.-

Article 19.-

Article 20.-

Article 21.-

Article 22.-

Article 23.-

SECOND TITLE

Chapter I

Penalties and Security Measures

Article 24.- The penalties and security measures are:

1. Prison.
2. Treatment in freedom and semi-freedom and work in favor of the community.
3. Confinement or treatment in freedom of unaccusable persons and of those who have the habit or need of consuming drugs.
4. Confinement.
5. Prohibition of going to a specific place.
6. Monetary sanction.
7. (Derogated).
8. Forfeiture of instruments, objects and proceeds of crime.
9. Admonition.
10. Warning.
11. Not to offend bond.
12. Suspension or deprivation of rights.
13. Disablement, dismissal or suspension from functions or employment.
14. Special publication of the sentence.
15. Surveillance by the authority.
16. Suspension or dissolution of business associations.
17. Minors guardianship measures.
18. Forfeiture of assets pertaining illicit enrichment.

Chapter II

Prison

Article 25.- Prison consists in the deprivation of corporal freedom. The term of imprisonment goes from three days up to sixty years. An additional penalty might be added to the maximum limit only if the condemned commits a new crime during reclusion. Prison shall be served in the penitentiary colonies, institutions or places appointed by law or by the executive authority for such purpose, according to the respective judicial resolution.

Article 26.- The defendants submitted to preventive prison and the political prisoners, shall be confined in special institutions or departments.

Article 27.- ...

Article 28.- ...

Chapter V

Monetary Sanction

Article 29.- The monetary sanction comprises the imposition of fines and the repair of the damage suffered.

The fine consists in the payment of an amount of money to the State, which shall be determined in "fine days" and shall not exceed five hundred days, except if the law provided so. The fine day is the equivalent to the net daily income of the

condemned at the moment when the crime was fully completed, taking into account all his/her source of income.

In order to apply this Code, the lower limit of the fine day shall be the equivalent to the minimum daily wage in force in the place where the crime was committed. In the case of continuing crimes, the minimum wage in force at the moment when the last conduct was perpetrated, shall be taken into account. In the case of permanent crimes, the minimum wage in force at the moment when the crime is fully completed, shall be considered.

When proofs are presented that the condemned is not able to pay the fine or that he/she is only able to pay a part of it, the judicial authority may partially or totally substitute it with work in favor of the community.

Each day of work shall be the equivalent to one fine day. If the substitution of the fine is not possible or convenient, the judicial authority may freed the condemned to be under surveillance for a term that shall not exceed the number of fine days substituted.

If the condemned refuses to pay the fine without a due cause, the State shall demand it through the economic compelling proceeding.

The total amount of the fine may be paid at any time, deducting from it the proportional part of the working days served in favor of the community or the time served in jail when the fine was substitutive to prison. One day in prison is the equivalent to one fine day.

Article 30.- The repair of the damage caused includes:

- I. The restitution of the thing obtained from the crime and if this is not possible, the payment of the price of such thing;
- II. The compensation of the material and moral damage caused, including the payment of the curative treatments needed by the victim to his/her health rehabilitation as a consequence of the crime. Regarding crimes against individual's freedoms and the normal psico-sexual development, as well as those related to family violence, the repair of the damage shall include the psico-therapeutic treatments required by the victim, and
- III. The restitution of the consequential losses and damages.

Article 30 bis.- The individuals entitled to have the damage repaired are the following: 1o. the victim; 2o. in case of death of the victim, his/her spouse or concubine or the man who lives with a concubine; the minor daughters or sons of the victim; if they do not exist, the rest of the descendants and ascendants who depended in economic terms on him/her at the moment of his/her death.

Article 31.- The repair of the damage shall be determined by the judicial authority, according to the damage required to be repaired and taking into account the evidence obtained during the process.

Related to the damage caused by crimes resulting from negligent or imprudent conduct, the Executive Branch of the Union shall rule the administrative means to guarantee such repair through a special insurance, regardless of the judicial resolution.

Article 31 bis.- In any criminal process the Public Prosecutor shall be obliged to request the repair of the damage caused and the judge shall be obliged to decide on it.

The failure to comply with this provision shall be sanctioned with a fine that goes from thirty to fifty days of minimum wage.

Article 32.- The following persons are obliged to repair the damage caused in terms of article 29:

- I. Ascendants, for the crimes committed by their descendants under tutelage;
- II. Tutors and custodians, for the crimes committed by the disabled persons under their tutelage;
- III. Directors of boarding schools or workshops who accept pupils or apprentices under 16 years old, for the crimes committed by those pupils or apprentices during the time they are under their care;
- IV. Owners, business associations or persons in charge of business or commercial business of any kind, for the crimes perpetrated by their workers, day laborers, employees, domestic workers or artisans, due to and as a consequence of their services;
- V. Business associations or corporations, for the crimes committed by their partners or director managers, in the same terms that, according to law, these associations or corporations are also responsible for all other obligation incurred by the second.
Community property -in the case of joint ownership of property by husband and wife- is excepted from the above cited rule; each spouse shall answer with his/her own assets for the repair of the damage he/she causes.
- VI. The State, in joint liability for the intentional crimes committed by its public officials made in practice of their functions and in a subsidiary way when those crimes were committed with negligence or imprudence.

Article 33.- The obligation to pay the monetary sanction is preferential regarding any other obligation acquired after the crime is committed, excepting those related to allowance for food and labor relations.

Article 34.- The repair of damage that the offender shall pay is considered as public penalty and shall be required by the Public Prosecutor. The victim or his beneficiaries may provide the Public Prosecutor or the judge with the information or

evidence they possess to demonstrate the legal basis and amount of such repair, according to the Federal Criminal Proceedings Code.

The failure of the authority to comply with the obligation sets forth in the aforementioned provision shall be sanctioned with a fine that goes from thirty to forty days of minimum wage.

When the repair of the damage must be required to a third party, it shall have the nature of civil responsibility and it shall be claimed through an incidental proceeding as provided by the Federal Criminal Proceedings Code.

Whomever regards him/herself with the right to claim a repair of the damage caused, which can not be claimed before the judge on criminal matters, due to the lack of an indictment by the Public Prosecutor or a dismissal or an acquittal, may claim it through the civil law.

Article 35.- ...

Article 36.- When a crime is perpetrated by a group of individuals, the judge shall determine a fine for each one of the participants, taking into consideration the participation and economic situation of each one of them; regarding the repair of the damage, it shall be considered as a joint debt.

Article 37.-

Article 38.-

Article 39.-

Chapter VI

Forfeiture of the instruments, objects and proceedings of crime

Article 40.- The instruments of crime, as well as the things that are the object of or proceeds of it, shall be forfeited, if they are of forbidden use. If they are of permitted use, they shall be forfeited when the crime is committed intentionally. If the assets belong to a third party, they shall only be forfeited when the third party who is in possession of them, or has acquired them, is in any of the hypothesis set forth in article 400 of this Code (concealment), regardless of the legal nature of said third owner or possessor and of the relationship between him/her and the criminal. The competent authorities shall proceed to the immediate seizure of the assets that could be subject of forfeiture, during the pre trial investigation or during the process. It shall be acted in accordance with the terms set forth in this paragraph whatever the nature of the instruments, objects or proceeds of crime.

If the instruments or things forfeited are substances that are noxious or dangerous, they shall be destroyed at the discretion of the authority that is in charge, in the terms set forth in the Federal Criminal Proceedings Code, but the authority, when it deems it convenient, shall determine their conservation for academic or

investigative purposes. About the instruments of crime or the things that are the object of or proceeds of it, the authority in charge shall determine their destiny, depending on its utility, for the benefit of law enforcement or the administration of justice, or if this is the case, their non utilization, according to the applicable provisions.

Article 41 to 52.-

THIRD TITLE Imposition of Penalties

Chapter I General rules

Article 52.- The judge shall determine the penalties and security measures deemed just and within the law, based on the seriousness of the crime and the degree of liability of the agent, taking into account:

- I. The magnitude of the damage caused to the legally protected interest or the danger to which it was exposed;
- II. The nature of the action or omission and of the means used to execute it;
- III. The circumstances of time, place, mode or occasion of the fact;
- IV. The way and the degree of participation of the agent in the perpetration of the crime, as well as his/her quality and the quality of the victim or offended;
- V. The age, education, enlightenment, customs, social and economic condition of the agent, as well as the reasons that impelled or determined him/her to commit the crime. When the indicted belongs to an indigenous ethnic group, the uses and customs shall be taken in to account;
- VI. The behavior of the accused related to the crime after it was committed;
- VII. Other special and personal circumstances of the agent at the moment when the crime was committed, whenever they are relevant in order to determine the possibility of having acted according to the law.

TITLE TENTH Crimes Comitted by Public Servants

Chapter I

Article 212.- For the purpose of this title and its subsequent, a public servant is any person employed, holding an office or carrying out a commission of any nature by, in or in behalf of the Central Federal Public Administration or the Federal District, decentralized bodies, enterprises with majority of state participation, organizations or similar bodies, public trusts, in the Congress of the Union, or in the Federal Judicial Power or the Judicial Power of the Federal District, or manages federal public funds. The regulations contained in this title are applicable to State

Governors, Deputies of Local Legislatures and Magistrates of Local Justice Courts, for committing the crimes contemplated in this title, in federal matters.

The same shall be imposed to any person who participates in the perpetration of any of the crimes provided for in this title.

Article 213.- In order to individualize the penalties provided for in this title, the judge shall consider in the relevant case, whether the public official is a syndicate employee, an official or a staff employee, seniority, background as public official, income, education, the need to repair the damages and losses caused by the illicit conduct and the special circumstances of the facts that constitute the crime. Notwithstanding the aforementioned, the level of the official or staff employee shall be a condition that may result in the aggravation of the penalty.

Article 213bis.- When the crimes referred to in articles 215, 219 and 222 of this Code are committed by public officials who are members of police, customs or immigration corporations, the penalty shall be increased up to a half and further, the dismissal and disqualification to hold any other public employment, post or commission for a term from one to eight years shall be imposed.

Chapter II

Undue exercise of the public service

Article 214.- A public servant commits the crime of undue exercise of public service, whenever he/she incurs in the following:

- I. Exercises the functions of an employment, post or commission, without being legitimately empowered or without fulfilling all necessary legal requirements.
- II. Continues to exercise the functions of an employment, post or commission after knowing that his/her appointment has been revoked or that he/she has been suspended or dismissed.
- III. Having knowledge by reason of his/her employment, post or commission that the patrimony or the interests of any agency or entity of the Centralized Federal Public Administration or the Federal District, decentralized bodies, public enterprises with a majority of state participation, assimilated associations or societies, public trusts, the Congress of the Union, or the Federal Judicial Power or the Judicial Power of the Federal District, could be seriously affected by any act or omission and he/she misses to report it in writing to his/her hierarchical superior or avoids rendering such written report by reason of his/her competence.
- IV. Per se or through a third party, misappropriates, destroys, hides, uses or causes the uselessness of information or documentation under his/her custody or to which he/she has access, or which he has knowledge of by virtue of his/her employment, post or commission.

Those who commit any of the crimes referred to in sections I and II of this article, shall be punished with incarceration of three day to up to one year; fine of thirty to up to three hundred times the minimum daily general wage for the Federal District at the time of the commission of the crime and disqualification from one month to up to two years to carry out any other employment, post or commission.

V. Having the duty, by reason of his employment, post or commission, of caring, guarding, protecting or safeguarding persons, places, installations or objects, fails to fulfil his/her duty, causes in anyway a damage to the persons, or to places, installations or objects, or the loss or misappropriation of the objects that are under his/her care.

Whomever violates sections III, IV or V, shall be punished with incarceration of two years to seven years, fine of thirty to up to three hundred times the minimum daily general wage for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to seven years.

Chapter III

Abuse of authority

Article 215.- Public officials commit the crime of abuse of authority whenever they incur in any of the following conducts:

I.- He/she requests assistance from the public force or employs it to impede the enforcement of any law or regulation, the collection of taxes, or the fulfillment of a judicial resolution;

II. He/she, in the exercise his/her functions or as result of it, uses the violence against a person without a legal cause or abuse or insult such person;

III. He/she unduly delays or refuses to provide individuals with the protection or services which he/she has the duty to provide or impedes the submission or the process of any requirement;

IV. He/she being in charge of justice administration, under any excuse, even the one of darkness or silence of law, unjustifiedly refuses to settle a pending matter before him, within the terms provided by law;

V. He/she being in charge of the public force, unduly refuses to provide assistance that has been legally requested to him/her by a competent authority;

VI. He/she being in charge of any establishment intended to the confinement and serving of sentences, of establishments of social re-adaptation or of custody and re-habilitation of minors or of a preventive or administrative place of confinement, without the proper legal requirements, takes in a person to be incarcerated, detained, arrested or intern, without reporting the fact to the competent authority;

denies that the person is detained, if he really is; or does not comply with the release order issued by the competent authority;

VII. He/she having knowledge of an illegal deprivation of liberty does not immediately denounce it to the competent authority, or if within his/her powers, does not cause it to cease immediately;

VIII. He/she causes the delivery of funds, securities or other things to him/her, which have not been entrusted to him/her, and he/she appropriates or makes use of them;

IX. He/she, obtains with any excuse a portion of the salary, gifts or any other service from a hierarchical inferior employee;

X. He/she in the exercise of his/her functions or as result of them, employs, or assigns public commissions or professional services contracts or commercial contracts or of any other nature, which are paid, knowing that the service will not be rendered neither the contract accomplished;

XI. He/she authorizes or employs a persons that is disqualified by definitive resolution of the competent authority, to carry out an employment, post or commission in the public service, only when he/she is aware of this disqualification, and

XII. He/she grants any public servant identification to a person that in fact does not carry out an employment, post or commission in the public service.

Those who commit the crime of abuse of authority as defined by sections I to V and X to XII, shall be punished with one to up to eight years of prison, a fine from fifty to up to three hundred days of fine and dismissal and disqualification to carry out any other employment, post or commission in the public service for a term of two to up to nine years. The same penalty shall be imposed to those persons accepting the appointments, contracts or identifications as provided for in sections X to XII.

Those who commit the crime of abuse of authority as defined by sections VI to IX, shall be punished with two to up to nine years of imprisonment, a fine of seventy to four hundred days of fine and dismissal and disqualification to carry out an employment, post or public commission for a term of two up to nine years.

Chapter IV

Coalition of public servants

Article 216. Public servants commit the crime of coalition of public servants, whenever they ally to take measures against the law or rulings, to impede its enforcement or to resign from their posts with the purpose of impeding or suspending the public administration in any of its branches. Coalition of public

servants in the exercise of their constitutional rights or of their right of strike is not considered to be a crime.

Public servants who commit the crime of coalition of public servants shall be punished with two to seven years of imprisonment and a fine of thirty to three hundred times the daily minimum salary for the Federal District, at the time of the commission of the crime, and dismissal and disqualification to carry out any other employment, post or commission for a term of two to up two seven years.

Chapter V

Undue use of powers and faculties

Article 217.- The crime of undue use of powers and faculties is committed by:

I. The public servant that unduly:

A) Grants concessions to provide public services or for the exploitation, benefit and usage of property of the Federation;

B) Grants permissions, licenses or authorizations of economic purpose.

C) Grants franchises, exemptions, deductions, or subsidies on taxes, rights, products, benefits or social security fees or quotas, in general, on the tax income and prices and tariffs of the goods and services produced or given by the Federal Public Administration and the Federal District.

D) Grants, carries out or contracts public works, credits, acquisitions, leases, alienation of goods or services, placement of funds and securities with public economic resources.

II. Any person that unduly requests or promotes, or is a part in the illegal realization, granting or contracting of the operations referred to in section above, and

III.- The public servant that being in charge of public funds, knowingly makes an illegal payment or assigns such public funds to an application other than to the one which they were intended to originally.

Those who commit the crime of undue use of powers and faculties shall be punished with the following penalties:

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the amount of the operations referred to in this article, does not exceed the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to twelve years, whenever the amount of the operations referred to in this article, exceeds the equivalent of five hundred times the minimum daily salary for the Federal District in the time of the commission of the crime.

CAPITULO VI

Concussion

Article 218.- A public servant commits the crime of concussion whenever, in his/her capacity, per se or through a third party, demands money, securities, services or any other thing which he/she knows is undue, or in a greater quantity than that required by law, as a tax, contribution, surcharge, rent, revenue, salary or emolument.

Those who commit the crime of concussion shall be punished with the following penalties:

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the quantity or value unduly demanded is not assessable or does not exceed the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to twelve years, whenever the quantity or value unduly demanded, exceeds the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Chapter VII Intimidation

Article 219.- A public servant commits the crime of intimidation whenever:

I. The public servant, per se or through a third party, using physical or moral violence, inhibits or intimidates any person in order to prevent this person or a third person to denounce, formulate an accusation or give information related to the commission of a conduct penalized by the criminal legislation or by the Federal Law of Responsibilities of the Public Servants.

II. The public servant as a result of an accusation, denouncement or information referred to in the previous section, carries out an illicit conduct or omits a required licit one that damages the interests of the persons that presented or provided such accusation, denouncement or information, or of a third party with whom such persons keep a family, business or affective relation.

Those who commit the crime of intimidation shall be punished with two years to up to nine years of imprisonment, fine for an amount of thirty to three hundred times the general minimum salary for the Federal District at the time of the commission of the crime, dismissal and disqualification to carry out any other public employment, post or commission for a term of two to up to nine years.

Chapter VIII

Abusive exercise of powers

Article 220.- A public servant commits the crime of abusive exercise of powers whenever:

I. The public servant, during the performance of his employment, post or commission, per se or through a third party, unduly grants contracts, concessions, permissions, licenses, authorizations, franchises, exemptions, purchases or sells or carries out any juridical act that yield an economic benefit for him/her, or his/her spouse, descendants or ascendants, relatives by consanguinity or marriage up to the fourth grade, to any third party with whom he/she has an affective, economic, or administrative dependence relations, or to shareholders or companies in which the public servant or the related persons mentioned above are part.

II. The public servant, making use of the information available by reason of his/her employment, post or commission, being or not matter of his/her functions and is not of the public knowledge, per se or through a third person, invests, sales or acquires, or carries out any other activity which yields an undue economic benefit to the public servant or to any other person mentioned in the first section.

Those who commit the crime of abusive exercise of powers shall be punished with the following penalties:

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the quantity that mount the operations does not exceed the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime the crime and dismissal and disqualification to carry out

any other employment, post or public commission for a term of two years to up to twelve years, whenever the quantity that mount the operations, exceeds the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Chapter IX Trading in Influence

Article 221.- A public servant commit the crime of trading in influence:

I. The public servant, per se or through a third party, promotes or arranges for the illicit negotiation or resolution of public businesses unrelated to the responsibilities inherent to his/her employment, post or commission, and

II.- Any person promoting the illicit conduct of the public servant or makes him/herself available to promote or negotiate public businesses referred to in the previous section.

III. The public servant, that per se or through a third party, unduly requests or promotes any resolution or the execution of any activity inherent to the employment, post or commission of another public servant, which will produce economic benefits for him/her or for any person described in the first section of article 220 of this Code.

Those who commit the crime of trading in of influence, shall be punished with two to up to six years, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other public employment, post or commission for a term of two to up to six years.

Chapter X Bribery

Article 222.- A public servant or any other person commits the crime of bribery whenever:

I. The public servant, per se or through a third party, requests or receives for his/her benefit or for that of a third party, money or any other gift, or accepts a pledge, in order to do or to refrain from doing something, whether is just or unjust, related to his/her functions, and

II. Any one who spontaneously gives or offers money or any other gift to any person described in the previous section, in order to cause any public official to carry out any activity, whether is just or unjust, related to his functions.

Those who commit the crime of bribery shall be punished with the following penalties:

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the amount or value of the gifts is not assessable or does not exceed the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to twelve years, whenever the amount or value of the gifts exceeds the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

In no case the money or gifts surrendered shall be returned to the delinquent, and such money and gifts shall be applied for the benefit of the State.

Chapter XI

Bribery of Foreign Public Servants

Article 222 bis.- The same penalties provided in the previous article¹ shall be imposed to whom, with the purpose of obtaining or retaining for himself/herself or for another party, undue advantages in the development or conducting of international business transactions, offers, promises or gives, whether by himself/herself or through a third party, money or any other advantage, whether in assets or services:

- I. To a foreign public official in order that he/she negotiates or refrains from negotiating the carrying out or the resolution of issues related to the functions inherent to his/her job, post or commission;
- II. To a foreign public official in order to perform the carrying out or the resolution of any issue that is beyond the scope of the inherent functions to his/her job, post or commission, or
- III. To any person in order for him/her to go before a foreign public official and require or propose him/her to perform the carrying out or the resolution of any issue related to the inherent functions to the job, post or commission of the last.

For the purpose of this article, foreign public official is understood as any person displaying or holding a public post considered as such by the applicable law, whether in legislative, executive or judicial branches of a foreign State, including

¹ Penalties are referred to the offence of bribery (of domestic public officials) foreseen in article 222. The description of this penalties is included in the answer to question 3.1.

within autonomous, independent or with mayor state participation agencies or enterprises, in any governmental order or level, as well as in any international public organization or entity.

When any of the crimes included in this article is committed under the hypothesis of article 11 of the FCC, the judge shall impose the legal entity up to five hundred days of fine and shall decree its suspension or dissolution, taking into consideration the degree of knowledge of the management bodies regarding the bribery in the international transaction and the damage caused or the benefit obtained by the legal entity.

Chapter XII

Embezzlement

Article 223.- A public servant commits the crime of embezzlement whenever:

I. Any public servant diverts for his own or third parties' benefit money, securities, properties, or any other thing belonging to the State, to a decentralized body or to a private person, if by reason of his post he/she would have received such belongings for administration, in deposit or by other cause.

II. A public servant unduly uses public funds or grants any of the act referred to in the article related to undue use of powers and faculties with the purpose of promoting his/her political or social image, that of his hierarchical superior or of a third party, or in order to denigrate any person.

III. Any person requests or agrees to handle the promotion or denigration referred to in the previous section, in exchange for public funds or benefits derived from the acts in the article related to undue use of powers and faculties, and

IV. Any person that without being a federal public servant and being legally obligated to the custody, administrate or apply federal public funds, diverts them for his or others' personal use or assigns such funds otherwise.

Those who commit the crime of embezzlement shall be punished with the following penalties:

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the amount of the diverted or unduly used funds is not assessable or does not exceed the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the

commission of the crime the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to twelve years, whenever the amount of the diverted or unduly used funds exceeds the equivalent of five hundred times the minimum daily salary for the Federal District at the time of the commission of the crime.

Chapter XIII

Illicit enrichment

Article 224.- Those who commit illicit enrichment as result of his employment, post or commission in the public service, shall be punished. Illicit enrichment exists whenever the public servant cannot justify legitimate increase of his patrimony or the legitimate origin of the assets in his/her name or of those with respect to which he/she conducts himself as owner, in terms of the Federal Law of Responsibilities of Public Servants.

Likewise, criminal liability shall be imputed to anyone who causes assets to appear as hi/her property, knowing that such assets have been acquired by a public servant in contravention with what is provided by law.

Those who commit the crime of illicit enrichment shall be punished with the following penalties:

Forfeiture in benefit of the State of those assets which origin cannot be demonstrated according to the Federal Law of Responsibilities of Public Servants.

Three months to up to two years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of three months to up to two years, whenever the amount of the illicit enrichment does not exceed the equivalent of five thousand times the minimum daily salary for the Federal District at the time of the commission of the crime.

Two to up to twelve years of imprisonment, fine of thirty to up to three hundred times the daily minimum salary for the Federal District at the time of the commission of the crime the crime and dismissal and disqualification to carry out any other employment, post or public commission for a term of two years to up to twelve years, whenever the amount of the illicit enrichment exceeds the equivalent of five thousand times the minimum daily salary for the Federal District at the time of the commission of the crime.