



Rechtsbelehrung für Auskunftspersonen (Untersuchung)

ENGLISCH

Extract from the Swiss Criminal Proceedings Order (StPO)

Art. 178 Definition

A person shall be interrogated as informant, who:

- a. establishes himself as a private prosecutor;
- b. has not attained the age of 15 years at the time of the interrogation;
- c. is not in a position to understand the subject matter of the interrogation on account of limited powers of judgement;
- d. without himself being accused, may not be excluded as offender or accomplice in the crime under investigation or another criminal offence associated with it;
- e. is to be interrogated about a criminal offence for which he himself is not charged as co-accused person;
- f. is charged in other proceedings on account of an offence connected with the crime under investigation;
- g. has been designated or could be designated as representative of the undertaking in a prosecution conducted against an undertaking, as well as his or her employees.

Art. 180 (1) Status

Informants according to Article 178 (b) to (g) are not under a duty to give evidence; the provisions concerning interrogation of accused persons apply analogously to them.

Art. 158 (1) (b) Notification on the initial interrogation (analogous)

The police or Public Prosecutor's Office shall advise the informant at the beginning of the initial interrogation in a language comprehensible to them, that they may refuse to make a statement and to co-operate.

Art. 168 Right to refuse to give evidence by reason of personal relationship (analogous)

¹ The following may refuse to give evidence:

- a. the husband or wife of the accused person or whoever maintains in material respects a long-term relationship;
- b. whoever has natural children from the accused person;
- c. those related in direct line or by marriage to the accused person;
- d. brothers and sisters and step brothers and step sisters of the accused person as well as the husband or wife of a brother or sister or a step brother or step sister;
- e. brothers and sisters and step brothers and step sisters of a person connected to the accused person by marriage as well as the husband or wife of a brother or sister or step brother or step sister;
- f. foster-parents, foster-children and foster-brothers and sisters of the accused person;
- g. the person appointed as guardian, financial protector or adviser to the accused person.

² The right to refuse to give evidence according to paragraph 1 a. and f. continues if the marriage is dissolved or if the foster relationship no longer exists with a foster family.

³ A registered personal partnership is given equal treatment to marriage.

⁴ The right to refuse to give evidence does not apply if:

- a. the criminal proceedings relate to a crime pursuant to Articles 111-113, 122, 140, 184, 185, 187, 189, 190 or 191 StGB; and
- b. the crime is committed against a person to whom the witness is related according to paragraphs 1-3.

Art. 169 Right to refuse to give evidence for the protection of oneself or the protection of a connected person (analogous)

¹ A person may refuse to give evidence if he or she would so incriminate themselves with their statement that they:

- a. could be made liable under criminal law;
- b. could be made liable under civil law and if the interest in protection outweighs the interest in criminal prosecution

² The right to refuse to give evidence also exists if the person would incriminate with their statement a person connected to them within the meaning of Article 168 paragraphs 1-3; Article 168 paragraph 4 remains reserved.

³ A person may refuse to give evidence if through their statement a substantial risk to life and health or another serious disadvantage threatens to him or her or a person connected to them within the meaning of Article 168 paragraphs 1-3 which may not be prevented with protective measures.

⁴ A victim of a crime against sexual integrity may in all cases refuse to make a statement which concerns his or

her privacy.

Extract from the Swiss Penal Code (StGB)

Art. 303 False accusation

1. Whosoever shall accuse an innocent person before the Administration of a felony or misdemeanour contrary to better judgement with the intent to bring about a criminal prosecution against him,

whosoever shall in another manner make malicious arrangements with the intent to bring about a criminal prosecution against an innocent person,

shall be punished by imprisonment or a fine.

2. The punishment shall be a term of imprisonment of up to three years or a fine if the false accusation shall concern a misdemeanour.

Art. 304 Misguidance of the administration of justice

1. Whosoever contrary to better judgement shall report to the Administration that a criminal act has been committed,

whosoever shall himself falsely admit commission of an offence to the Administration,

shall be punished by imprisonment of up to three years or a fine.

2. The judge may circumvent a punishment in particularly trivial cases.

Art. 305 Aiding and abetting

¹ Whosoever shall assist another in evading prosecution, execution of sentence or execution of the measures provided for in Articles 59-61, 63 and 64, shall be punished by imprisonment of up to three years or a fine.

^{1bis} Whoever shall assist another who is being prosecuted or shall have been sentenced abroad on account of a crime pursuant to Article 101 in evading prosecution there, or implementation of a custodial sentence there, or a measure within the meaning of Articles 59-61, 63 or 64, shall likewise be punished.

² The judge may circumvent a punishment if the offender shall be so closely in a relationship to the accomplice that his conduct shall be pardonable.