

ANNEX 1 to
Answer to question pursuant to the Order of the Appeals Panel

EXCERPTS FROM CCSFRY

Public

***THE CRIMINAL CODE
OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA***

adopted by the SFRJ Assembly at the session of the Federal Council held on September 28, 1976; declared by a decree of the President of the Republic on September 28, 1976; published in the Official Gazette SFRJ No. 44 of October 8, 1976; a correction was made in the Official Gazette SFRJ No. 36 of July 15, 1977; took effect on July 1, 1977.

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Chapter Two

CRIMINAL CONDUCT AND CRIMINAL LIABILITY

Criminal act

Article 8.

(1) A criminal act is a socially dangerous act which is defined by law as a criminal act, the characteristics of which are defined by law.

(2) An act which, although containing characteristics of a criminal act defined by law, represents an insignificant social danger because of its slight importance and the insignificance or absence of detrimental consequences, shall not be considered a criminal act.

Defense of necessity

Article 9.

(1) An act committed in necessary defense is not considered a criminal act.

(2) Necessary defense is an act of defense which is absolutely necessary for the offender to avert an immediate and unlawful attack from himself or from another.

(3) If the offender exceeds the limits of necessary defense, the court may reduce the punishment, and if he has exceeded the limits by reason of great excitement or fright stirred up by the attack, it may also refrain from imposing a punishment on him.

Extreme necessity

Article 10.

(1) An act committed in extreme necessity is not a criminal act.

(2) An act is committed in extreme necessity if it is performed in order that the offender avert from himself or from another an immediate danger which could not have been averted in any other way, provided that the evil created thereby does not exceed the one which was threatening him.

(3) If the offender himself has negligently created the danger, or if he has exceeded the limits of extreme necessity, the court may impose a reduced punishment on him, and if he exceeded the limits under particularly mitigating circumstances, it may also refrain from imposing a punishment on him.

(4) There is no extreme necessity if the offender was under an obligation to expose himself to the danger.

Criminal liability

Article 11.

(1) An offender is considered criminally liable if he is responsible and if he has committed a criminal act with premeditation or by negligence.

(2) An offender is criminally liable for a criminal act committed negligently insofar as the act in question is punishable by law.

Responsibility

Article 12.

(1) A person who committed a criminal act is not considered responsible if at the time of the commission of a criminal act he was incapable of understanding the significance of his act or control his conduct due to a lasting or temporary mental disease, temporary mental disturbance, or mental retardation (no responsibility).

(2) If due to one of the states referred to in paragraph 1 of this article, the capacity of the offender to understand the significance of his act or his ability to control his conduct was substantially reduced, the court may impose a reduced punishment on him. (materially reduced responsibility).

(3) The offender shall be criminally liable if, by indulgence in alcohol, drugs or in some other way, he has placed himself in a state in which he has not been capable of understanding the importance of his actions or controlling his conduct, and if prior to his placing himself in such a state, the act was premeditated or if he was negligent in relation to the criminal act, insofar as the act in question is punishable by law if committed negligently.

Premeditation

Article 13.

A criminal act is premeditated if the offender is conscious of his deed and wants its commission; or when he is conscious that a prohibited consequence might result from his act or omission and consents to its occurring.

Negligence

Article 14.

A criminal act is committed negligently when the offender is conscious that a prohibited consequence may occur but carelessly assumes that it will not occur or that he will be able to avert it; or when he was unaware of the possibility that a prohibited consequence might occur although, under the circumstances and by his personal characteristics, he should and could have been aware of this possibility.

Liability for a graver consequence

Article 15.

When a graver consequence has resulted from a criminal act for which a more severe punishment is prescribed by statute, this more severe punishment may be imposed if the consequence is attributable to the offender's negligence.

Mistake of fact

Article 16.

(1) A person is not criminally responsible if at the time of committing a criminal act he was not aware of some statutory element of it; or if he mistakenly believed that circumstances existed which, if they had actually existed, would render such conduct permissible.

(2) If the offender's mistake is due to his negligence, he shall be criminally responsible for a criminal act committed by negligence, insofar as the act in question is punishable by law if committed by negligence.

Legal mistake

Article 17.

The court may reduce the punishment of the perpetrator of a criminal act who had justifiable cause for not knowing that his conduct was prohibited, and it may also grant remission of punishment.

Preparation

Article 18.

(1) A person who prepares to commit a criminal act with premeditation shall be punished insofar as the act in question is punishable by law for the particular social danger of the preparation alone.

(2) Preparation of a criminal act may be defined by law as a separate criminal act, or the law may provide punishment for the preparation of a particular criminal act.

(3) When the law prescribes a punishment for the preparation of a particular criminal act, the preparation may comprise procuring or making operational means for the commission of the criminal act, removing obstacles to the commission of the criminal act, planning or organizing with others the commission of a criminal act, as well as other activities which create conditions for the direct commission of a criminal act and which are not part of the commission itself.

Attempt

Article 19.

(1) Anybody who with intent commenced the execution of a criminal act but has not completed it, shall be punished for the attempt of only those criminal acts for which there is according to statute a sentence of five years' imprisonment or a more severe penalty. With regard to other criminal acts attempt is punishable only when so provided by statute.

(2) For an attempted criminal act the court may reduce the punishment provided for the completed criminal act.