

4. Belgium

- (a) PENAL CODE, 8 JUNE 1869, REVISED. SERVAIS AND MECHELYNCK, "LES CODES BELGES" (27TH EDITION, 1947), VOL. I, P. 637. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 3. Offences committed in the territory of the realm by Belgian nationals or by aliens shall be punished in accordance with Belgian law.

Article 4. Offences committed outside the territory of the realm by Belgian nationals or by aliens shall not be punished, in Belgium, except in the cases determined by law.

- (b) ACT CONTAINING THE INTRODUCTORY TITLE OF THE CODE OF PENAL PROCEDURE, 17 APRIL 1878, AS AMENDED. SERVAIS AND MECHELYNCK, "LES CODES BELGES" (27TH EDITION, 1947), VOL. I, PP. 742-744; "MONITEUR BELGE", VOL. 117, NO. 135 (15 MAY 1947), P. 5008; VOL. 117, NOS. 177-178 (26-27 JUNE 1947), P. 6304; VOL. 118, NOS. 117-118 (26-27 APRIL 1948), P. 3440. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 6. Proceedings may be taken in Belgium against any Belgian national who, being outside the territory of the Kingdom, has committed:

1. A crime or offence against the security of the State;
2. A crime or offence against public confidence defined in book II, part III, chapters I, II and III of the Penal Code, or an offence defined in articles 497 and 497a, if the crime or offence involves currency legally circulating in Belgium or articles intended for the manufacture, counterfeiting, debasement or falsification thereof, or securities, papers, seals, stamps, marks, or dies of the State or of Belgian administrative departments or public establishments;
3. A crime or offence against public confidence as set forth in the same provisions, if the crime or offence involves currency not legally circulating in Belgium or articles intended for the manufacture, counterfeiting, debasement or falsification thereof, or securities, papers, seals, stamps, marks or dies of a foreign State.

In the latter case no proceedings may be taken except on official application being made to the Belgian authorities by the authorities of the foreign State.

Article 7. A Belgian national who, being outside the territory of the Kingdom, commits a crime or offence against another Belgian national may be prosecuted in Belgium.

Article 8. A Belgian national who, being outside the territory of the Kingdom, commits, against an alien, any crime or offence as set forth in the extradition law, or any of the offences referred to in articles 426, paragraph 1, 427, 428, 429 and 430 of the Penal Code, may be prosecuted in Belgium on a charge preferred by the injured alien or his family,

or on an official application lodged with the Belgian authorities by the authorities of the country where the offence was committed.

A Belgian national who, in time of war has committed outside the territory of the Kingdom a crime or an offence, including those which are not subject to the extradition law, against a national of a country allied to Belgium, as defined in article 117, paragraph 2, of the Penal Code, may be prosecuted in Belgium, either on a charge preferred by the injured alien or his family, or on an official application lodged with the Belgian authorities by the authorities of the country where the offence was committed, or of which the injured alien is or was a national.

Article 9. A Belgian national who commits an offence against the forestry, rural, fishing or hunting regulations in the territory of an adjacent State may, if that State agrees to reciprocity, be prosecuted in Belgium on a complaint lodged by the injured party or on an official notice given to the Belgian authorities by the authorities of the country where the offence was committed.

Article 10. Proceedings may be instituted in Belgium against an alien who, being outside the territory of the Kingdom, commits:

1. A crime or offence against the security of the State ;
2. A crime or offence as set forth in article 6, paragraph 2 ;
3. A crime or offence as set forth in article 6, paragraph 3.

In the latter case no proceedings may be instituted except on official application to the Belgian authorities by the authorities of the foreign State;

4. In time of war, against a Belgian national, against a foreigner residing in Belgium at the time of the opening of hostilities, or against a national of a country allied with Belgium as defined by article 117, paragraph 2, of the Penal Code, an act of homicide or deliberate bodily injury, rape, an offence against public decency, or denunciation to the enemy.

Article 11. An alien who is a co-principal or an accomplice in a crime committed outside the territory of the Kingdom by a Belgian national, may be prosecuted in Belgium, jointly with the Belgian national accused or after the latter has been sentenced.

Article 12. Except in the cases referred to in paragraphs 1 and 2 of article 6 and article 10, the offences referred to in this chapter shall be prosecuted only if the accused is found in Belgium.

If the offence had been committed, however, in time of war, the proceedings shall be instituted, if the offender is a Belgian national, in all cases even when he cannot be found in Belgium, and if the offender is an alien, in addition to cases mentioned in paragraph 1, if he is found in an enemy country or if his extradition can be obtained.

Article 13. The foregoing provisions shall not apply, save in respect of crimes and offences committed in time of war, where the accused, after having been tried abroad for the same offence, has been acquitted, or if sentenced, has served his penalty, or if his penalty has been barred by lapse of time, or he has been pardoned.

Any term of imprisonment served abroad for an offence leading to a conviction in Belgium shall in all cases be deducted from the period of deprivation of liberty ordered.

Article 14. In all the cases provided for under the present chapter, the accused shall be prosecuted and judged in accordance with the provisions of the Belgian law.

Note. The text reproduced above contains amendments introduced by the following laws:

- (a) Article 6, no. 1—by article 3 of the Law of 4 August 1914;
- (b) Article 6, nos. 2 and 3—by article 2 of the Law of 12 July 1932;
- (c) Article 8, paragraph 2—by article 1 of the Decree-Law of 5 August 1943 and article 1 of the Law of 30 April 1947;
- (d) Article 10, no. 1—by article 4 of the Law of 19 July 1934;
- (e) Article 10, no. 2—by article 2 of the Law of 12 July 1932;
- (f) Article 10, no. 4—by article 2 of the Decree-Law of 5 August 1943, by article 1 of Law of 20 June 1947 and by article 1 of Law of 2 April 1948;
- (g) Articles 12 and 13—by articles 3 and 4 of the Decree-Law of 5 August 1943;
- (h) Article 12—by article 2 of the Law of 30 April 1947.

The articles referred to in paragraph 1 of article 8 relate to duel. The extradition law (of 15 March 1874), cited in the same paragraph contains a list of thirty-three offences, including "destruction of a ship" (article 1, no. 29); *Les Codes Belges* (27th ed., 1947), p. 1352.

- (c) ACT TO AMEND THE DISCIPLINARY AND PENAL CODE FOR THE MERCHANT MARINE, 5 JUNE 1928. "MONITEUR BELGE", 26 JULY 1928; SERVAIS AND MECHÉLYNCK, "LES CODES BELGES" (27TH EDITION, 1947), VOL. II, PP. 1608, 1614-1616. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 62. The master of a vessel who fails to render assistance, so far as he can do so without serious peril to his own vessel or the persons on board, to any person, even an enemy national, found in distress at sea or in maritime waters, shall be liable to a term of imprisonment of not less than one month nor more than two years and to a fine of not less than 500 francs nor more than 5,000 francs.

Article 63. The master of a vessel who, after a collision, fails to take all action within his power, so far as he can do so without serious peril to the vessel or the persons on board, to save the other vessel, her crew or passengers, shall be liable to a term of imprisonment of not less than one month nor more than two years, and to a fine of not less than 500 francs nor more than 5,000 francs.

Any master who, after a collision, fails to inform the other vessel of the name and nationality of his own vessel, and of the ports from which and to which she is bound, shall be liable to the same penalties.

Article 64. The master of a vessel who, during a voyage, unnecessarily, or without having consulted the officers or leading seamen, abandons his vessel when in distress shall be liable to a term of imprisonment of not less than six months nor more than three years.

The master of a vessel who, when abandoning ship, does not make every effort to save the persons on board, the ship's papers and funds and the most valuable objects and cargo, shall be liable to the same penalties.

The master of a vessel who, when compelled to abandon ship, fails to remain on board until all others have left, shall be liable to a term of

imprisonment of not less than one month nor more than six months and to a fine of not less than 50 francs nor more than 500 francs.

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Article 67. The master or pilot responsible for the navigation of a vessel who, with criminal intent, casts away, destroys or sinks the vessel or seriously damages it by any means other than by fire, shall be liable to the penalties provided for in sections 510, 511, 513, 514, and 518 of the Penal Code, in accordance with the distinctions therein laid down.

If it is proved that these offences were committed by any person on board, such person shall be liable to the penalty next in descending order of severity.

The penalties provided for in section 510 of the Penal Code shall apply to any person who, being aware of the deliberate nature of the acts referred to in the first paragraph of this section, has profited thereby.

The penalties provided for in section 516 of the Penal Code shall apply to any person who has, with criminal intent, instigated or incited the acts referred to in the first and second paragraphs of this section.

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Article 73. Offences committed on board a Belgian vessel shall be deemed to have been committed in the territory of the realm.

The master or member of the crew of a Belgian vessel who, being outside the territory of the realm, has committed the offences referred to in this Act may be prosecuted in Belgium.

Similarly, a Belgian national or an alien who, being outside the territory of the realm, has committed the offences referred to in sections 23, 32, 33, 43, 44 and 45 of this Act may be prosecuted in Belgium.

The proceedings referred to in this section may be instituted even if the accused is not found in the territory of the realm.

Article 74. The courts of assize and the courts of summary jurisdiction shall have power to deal with maritime crimes and offences in accordance with the provisions of the laws in force.

The following shall also be similarly empowered: the magistrate of the place where the offence was committed, of the accused person's place of residence or of his last-known residence, or of the place in which he was found, or the magistrate within whose jurisdiction lies the home port of the vessel.

In their absence, the Court of Summary Jurisdiction at Brussels or the Court of Assize at Brabant shall have power to deal with the offence.

Nevertheless, the colonial courts shall have jurisdiction over maritime crimes and offences committed in a colonial port or in a Belgian or foreign port by natives of the colony who are members of the crew of a Belgian vessel, if the vessel calls at a colonial port. The courts shall impose the penalties laid down by the present Act, but in the manner and according to the jurisdictional regulations provided for under colonial legislation.

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Note. Articles 510-518 of the Penal Code, mentioned in article 67 of the Penal Code for the Merchant Marine, relate to arson and destruction by fire.

The provisions, mentioned in paragraph 3 of article 73 of the Penal Code for the Merchant Marine, relate to: inciting a seaman to desertion, conspiracies against the captain, seizures of vessels, procuring employment for seamen, and stowaways.

- (d) ACT CONCERNING THE REGULATION OF AIR NAVIGATION, 27 JUNE 1937. "MONITEUR BELGE", 26-27 JULY 1937; SERVAIS AND MECHELYNCK, "LES CODES BELGES" (27TH EDITION, 1947), VOL. I, PP. 828, 833. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 36. Offences committed on board a Belgian aircraft in flight shall be deemed to have been committed in Belgium and may be prosecuted in that country even if the accused is not found in the territory of the realm.

The following shall be authorized to prosecute such offences and those set forth in the present Act and the Orders adopted for its enforcement: the public prosecutor or the representative of the public law office at the police court of the place where the offence was committed, of the accused person's place of residence or of the place where the accused may have been found or, in their absence, the public prosecutor or the representative of the public law office at Brussels.

Articles 6 to 13 of the Act of 17 April 1878 constituting the Introductory Title of the Code of Penal Procedure shall apply to offences committed on board a foreign aircraft in flight as if the act had been committed outside the territory of the realm. Furthermore, a person who commits a crime or an offence on board a foreign aircraft in flight may be prosecuted in Belgium if he or the victim is a Belgian national or if the aircraft lands in Belgium after commission of the offence.

The following shall be authorized to prosecute the offences referred to in the preceding paragraph: the public prosecutor of the accused person's place of residence, the public prosecutor of the place where the accused was found or of the place where the aircraft landed, or, in their absence, the public prosecutor at Brussels.

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- (e) CONGO: PENAL CODE, 30 JANUARY 1940. L. STROUVENS AND P. PIRON, "CODES ET LOIS DU CONGO BELGE" (6TH EDITION, 1948), P. 113. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 3. An indigenous inhabitant of the Colony who has committed abroad an offence punishable under the laws of the Colony may be prosecuted on that account in the Congo, if he is found there.

There shall be no such prosecution if the offender has been tried for the offence in a foreign country and acquitted or, if he has been convicted, the offender has served his sentence or been pardoned, or the execution of the sentence has been barred by lapse of time.

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- (f) CONGO: ROYAL DECREE CONCERNING JUDICIAL ORGANIZATION AND JURISDICTION, 22 DECEMBER 1934. L. STROUVENS AND P. PIRON, "CODES ET LOIS DU CONGO BELGE" (6TH EDITION, 1948), PP. 147, 154. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 82. The judge of the place where the offence was committed, the judge of the place where the accused resides or of the place where he was found, shall be competent to try the offence.

When several persons are prosecuted jointly as co-authors of, or accomplices in, an offence or connected offences, the tribunal which is territorially competent to try one of the offences shall be competent to try all the others.

Separation of the proceedings in the course of the debates does not affect such extension of competence.

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5. Bolivia

- (a) PENAL CODE, 6 NOVEMBER 1834. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, P. 476. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 6. A national of Bolivia or an alien who commits a crime or misdemeanour (*delito o culpa*) within the territory of the Republic shall be punished in conformity with this Code, without distinction, and ignorance of the Code shall be no excuse; save as otherwise provided in treaties in force with other Powers.

Article 7. A Bolivian who, in conformity with a treaty or statutory provision, is judged in Bolivia for an offence committed by him in a foreign country, having been apprehended in the territory of the Republic or extradited thereto by another government, shall be punished by the penalty prescribed in this Code for the offence, save as otherwise provided in the treaty.

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Note. The "sinking of vessels" is punished by article 666 of the Bolivian Penal Code. *Ibid*, p. 593.

- (b) CRIMINAL PROCEDURE ACT, 6 AUGUST 1898. R. SALINAS MARIACA, "PROCEDIMIENTOS BOLIVIANOS" (2ND EDITION, 1949), PP. 185-188. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 6. Any Bolivian national guilty of an offence against the security of the State or of counterfeiting the currency or any credit instrument of the State may be tried, sentenced and punished in the Republic in accordance with its laws even though the offence was committed outside its territory.