

wise the Appellate Court shall try and decide the case on the merits (article 502, paragraph 3).

24. Guatemala

- (a) PENAL CODE, 25 MAY 1936. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, PP. 1299-1300. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 6. The provisions of this Code shall apply, save as otherwise provided in international treaties in force in the Republic:

1. To Guatemalans or aliens committing offences in Guatemalan territory or on the high seas or in free air space on board a Guatemalan vessel or aircraft.

2. To Guatemalans or aliens committing offences on board foreign merchant vessels or aircraft in Guatemalan ports or aerodromes or in the territorial waters or air space of the Republic, unless the offence is committed by a member of the crew against another member of the crew.

3. To a Guatemalan or alien member of the crew of a foreign vessel or aircraft committing offence against a member of the same crew, if the assistance of the Guatemalan authorities is requested from aboard the vessel or aircraft, or if the peace of the port or the State is disturbed by the offence.

4. To any Guatemalan or alien apprehended in or extradited to the Republic who has committed in foreign territory an offence against the independence of the Republic, the integrity of its territory, its form of government, its social institutions, public order or internal or external security or the Head of the State, or has forged the signature of the President of the Republic or of a Secretary of State, or has counterfeited public seals, fiscal, postal or telegraphic forms, Guatemalan coins or notes of lawful currency, bonds, titles or other public credit documents or State securities, or notes issued by a bank lawfully established in the Republic and authorized to issue the same, or has introduced such forgeries or counterfeits into Guatemala or passed them there.

5. To Guatemalans committing in a foreign country offences against social institutions, or arson, parricide, murder, manslaughter, robbery or any other extraditable offence, provided that charges are preferred by the aggrieved party or a request is made by the government of the country in which the offence was committed.

6. To aliens who after committing like offences against Guatemalans take up residence in the Republic, provided that charges are preferred by the department of public prosecutions (*Ministerio Público*) or by a person entitled by law to prosecute.

Article 7. When any of the persons referred to in paragraphs 1 and 2 of the foregoing article has been punished by a foreign tribunal and has suffered all or part of his sentence, due allowance shall be made therefor and the approximate penalty commensurately reduced. Where any of the persons referred to in paragraphs 3, 4, 5 and 6 has been acquitted or

punished by a foreign court and, in the latter case, suffered the penalty, proceedings shall not be instituted in the Republic; if he has not suffered the whole penalty, proceedings shall be instituted in the Republic and due allowance shall be made for the portion of the penalty suffered abroad and the appropriate penalty shall be commensurately reduced.

Article 8. The provisions of the foregoing two articles shall not apply:

1. To persons enjoying immunity under existing rules of international law, who shall, if they commit offences in Guatemalan territory, be delivered to their governments.

2. When, in the cases referred to in paragraphs 5 and 6 of article 6, penal proceedings for an offence have been barred by lapse of time in conformity with Guatemalan law or the law of the country in which the offence was committed.

3. In the cases referred to in paragraphs 5 and 6 of article 6 the penalties prescribed by the foreign law shall be imposed, if less severe than those prescribed by Guatemalan law. In case of doubt, the court shall decide the matter in its discretion.

Note. Article 439 of the Guatemalan Penal Code provides for the punishment of "any person who causes damage by sinking or stranding a vessel", or "by wrecking an aircraft". L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, p. 1359.

(b) CODE OF CRIMINAL PROCEDURE, PROMULGATED BY DECREE NO. 551 OF 7 JANUARY 1898. SECRETARIA DE GOBERNACIÓN Y JUSTICIA, "CÓDIGO PENAL Y DE PROCEDIMIENTOS PENALES DE LA REPÚBLICA DE GUATEMALA" (1941), pp. 127, 132-133. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 33. Judges of the first instance are the only persons in their respective departments empowered to try all criminal cases instituted for offences committed in the territory under their jurisdiction, with the exception of cases within the competence of special or exclusive courts.

Article 36. Judges in the capital of the Republic, or in the place where delinquents are apprehended, are empowered to try offences committed outside the territory of the Republic and punishable therein under article 6 of the Penal Code.

25. Haiti

(a) CODE OF CRIMINAL PROCEDURE, 31 JULY 1835, AS REVISED. A. RIGAL, "CODE D'INSTRUCTION CRIMINELLE AVEC LES DERNIÈRES MODIFICATIONS" (1943), pp. 8-9, 12. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 5. Any Haitian who commits, outside the territory of Haiti, a crime against the security of the State, counterfeits national currency