

36. Luxembourg

- (a) PENAL CODE, REVISED BY THE ACT OF 18 JUNE 1879. P. RUPPERT, "LE CODE PÉNAL LUXEMBOURGEOIS" (1879), P. 4; "PASINOMIE LUXEMBOURGEOISE, 1878-1881", P. 231. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 3. Offences committed in the territory of the Grand Duchy by Luxembourg nationals or aliens shall be punished in accordance with the provisions of the laws of Luxembourg.

Article 4. Offences committed outside the territory of the Grand Duchy by Luxembourg nationals or aliens shall be punished in the Grand Duchy only in the cases prescribed by law.

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- (b) ACT CONCERNING CRIMES AND OFFENCES COMMITTED ABROAD BY LUXEMBOURG NATIONALS, 18 JANUARY 1879. "MÉMORIAL", 3 FEBRUARY 1879, No. 9, P. 89; "PASINOMIE LUXEMBOURGEOISE, 1878-1881", P. 145. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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ARTICLE I. The act of 4 July 1845 and articles 5, 6 and 7 of the Code of Criminal Procedure are hereby repealed and replaced by:

Article 5. A Luxembourg national who commits outside the territory of the Grand Duchy a crime punishable under Luxembourg law may be tried and sentenced in the Grand Duchy.

A Luxembourg national who commits outside the territory of the Grand Duchy an act termed an offence under Luxembourg law may be tried and sentenced in the Grand Duchy if the act is punishable under the law of the country in which it was committed.

None the less, no prosecution shall be brought in respect of a crime or offence when the person accused was brought to trial abroad on the same charge and acquitted.

There shall likewise be no prosecution, if, after being sentenced abroad, the offender has served his sentence, his sentence has been barred by lapse of time or he has been pardoned.

Any imprisonment suffered abroad in respect of an offence leading to a conviction in the Grand Duchy shall be deducted from the term of imprisonment awarded.

When an offence is committed against an individual Luxembourg national or an alien, proceedings shall be instituted solely at the instance of the Public Prosecutor; prior complaint must be lodged by the injured party or official information presented to the Luxembourg authorities by the authorities of the country in which the offence was committed.

No proceedings shall be instituted until the person accused has returned to the Grand Duchy except in the case of the crimes set forth in article 7 hereunder.

The above provisions shall not apply to political crimes or offences committed abroad. None the less, an attempt against the person of the

head of a foreign government or against individual members of his family shall not be deemed a political offence or related to such an offence when the attempt constitutes the crime of murder, assassination or poisoning.

Article 6. Proceedings shall be instituted at the instance of the Public Prosecutor of the place where the accused resides or where he may be found.

Article 7. An alien who, as a principal or accomplice, commits outside the territory of the Grand Duchy an offence against the security of the State, or of counterfeiting the State seal, national currency which is legal tender, government documents, or legally-authorized banknotes, may be tried and sentenced according to the provisions of Luxembourg law, if he is apprehended within the Grand Duchy or if his extradition has been obtained by the Government.

ARTICLE II. A Luxembourg national who commits offences or violations in respect of laws and regulations relating to forests, agriculture, hunting, fishing, customs, or indirect taxation, within the territory of an adjoining State may be tried and sentenced in the Grand Duchy according to Luxembourg law when prosecution of its nationals for similar acts committed within the Grand Duchy is authorized by that State. Reciprocity shall be legally established by international conventions published in the "Mémorial".

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(c) ACT REGULATING AIR NAVIGATION, 31 JANUARY 1948. "PASINOMIE LUXEMBOURGEOISE", VOL. 25 (1948-49), PP. 22, 26-27. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 37. Offences committed on board a Luxembourg aircraft in flight shall be deemed to have been committed in the Grand Duchy and shall be liable to prosecution therein even if the offender cannot be found in the territory of the Grand Duchy.

Power to institute proceedings in respect of these offences and the other offences as provided for in the present Act and in the ordinances issued for its execution is vested in the public prosecutor or the representative of the public prosecutor's office at the police court of the place of the offence, of the offender's place of residence, or of any other place where he may be found, or in their default, by the public prosecutor of Luxembourg City.

Articles 5, 6 and 7 of the Code of Criminal Procedure, as amended by the Act of 18 January 1879 and the Grand-Ducal Ordinance of 25 May 1944, shall apply to offences committed on board a foreign aircraft in flight in the same way as if they had been committed outside the territory of the Grand Duchy. Furthermore, a person guilty of a crime or an offence committed on board a foreign aircraft in flight may be prosecuted in the Grand Duchy, if either he himself or the victim is a Luxembourg national, or if the aircraft lands in the Grand Duchy after the offence.

Power to institute proceedings in respect of the offences referred to in the preceding paragraph is vested in the public prosecutor of the offender's

place of residence, of the place where he may be found or of the place of landing, or in their default by the public prosecutor of Luxembourg City.

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Note. Article 32 of the Luxembourg Act regulating air navigation contains the following provisions:

"Anyone who, involuntarily, or through negligence or lack of due care, does anything likely to endanger the persons on board an aircraft shall be sentenced to a term of imprisonment of eight days to six months and to a fine of 501 francs to 3,000 francs, or to one of those penalties only.

"If the accident results in bodily injury the offender shall be sentenced to a term of imprisonment of one month to three years and to a fine of 501 francs to 10,000 francs.

"If the accident results in death, the term of imprisonment shall be from six months to five years and the fine from 1,000 francs to 10,000 francs."

37. Mexico

(a) PENAL CODE, 13 AUGUST 1931. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" 1946), VOL. II, P. 161. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 1. This Code shall apply in the Federal District and Territories to offences within the jurisdiction of the ordinary courts, and throughout the territory of the Republic to offences within the jurisdiction of the federal courts.

Article 2. It shall likewise apply:

I. To offences commenced, prepared or committed abroad and producing or intended to produce effects in the territory of the Republic, and

II. To offences committed in Mexican consulates or against members of consulate staffs and not judged in the country in which they are committed.

Article 3. A continuing offence committed first abroad and later in the Republic, whether by a Mexican or an alien, shall be prosecuted under the laws of the Republic.

Article 4. An offence committed abroad by a Mexican against a Mexican or an alien, or by an alien against a Mexican, shall be punished in the Republic in conformity with Federal law, provided that the following conditions are fulfilled:

I. The accused person is found in the Republic;

II. He has not been finally judged in the country in which his offence was committed; and

III. The act of which he is accused is an offence in the country in which it was committed and also in the Republic.

Article 5. The following offences shall be deemed to have been committed in the territory of the Republic:

I. Offences committed by Mexicans or aliens on the high seas on board Mexican vessels.