

47. Portugal

- (a) PENAL CODE, 16 SEPTEMBER 1886. J. OSÓRIO AND F. DE MIRANDA, "CÓDIGOS DO FÔRO CRIMINAL" (1946), PP. 29-30. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 53. Subject to any provision of a treaty to the contrary, the criminal law shall apply to:

1. All offences (*infracções*) committed in Portuguese territory or possessions, regardless of the nationality of the offender;
2. Crimes committed on board Portuguese ships on the high seas, Portuguese warships in foreign ports or Portuguese merchant ships in foreign ports, involving members of the crew only and not disturbing the peace of the port;
3. Crimes committed by Portuguese nationals in foreign countries against the internal or external security of the State, or involving the counterfeiting of public seals, Portuguese money, public credit notes, national bank notes, or the notes of companies or establishments legally authorized to issue the same, provided that the offender has not been judged in the country in which the offence was committed;
4. Aliens committing any of the above offences, if they appear on Portuguese territory or can be sent there;
5. Any other crime or misdemeanour (*delito*) committed by a Portuguese national in a foreign country, if:
 - (a) The offender is found in Portugal;
 - (b) The act is also a crime or misdemeanour under the law of the country in which it was committed;
 - (c) The offender has not been judged in the country in which he committed the crime or misdemeanour.

§ 1. Offences committed on board foreign warships in Portuguese ports or territorial waters or on board foreign merchant ships, if they involve members of the crew only and do not disturb the peace of the port, are excepted from the rule laid down in No. 1 of this article.

§ 2. Where the offences referred to in No. 5 are punishable by correctional penalties only, the department of public prosecution (*Ministério Público*) shall not prosecute or move for the hearing of the case unless the aggrieved party lodges a complaint or the authorities of the country in which the offence was committed formally intervene.

§ 3. If in one of the cases referred to in Nos. 3 and 5 the offender has been sentenced at the place in which the crime or offence was committed and exempted from all or part of the penalty, fresh proceedings shall be instituted in a Portuguese court and, if he is found guilty of the crime or misdemeanour, he shall be sentenced to the appropriate penalty under Portuguese law and allowance shall be made for any part of the penalty which he has already suffered.

- (b) CODE OF CRIMINAL PROCEDURE, APPROVED BY DECREE NO. 16489, 15 FEBRUARY 1929. J. OSÓRIO AND F. DE MIRANDA, "CÓDIGOS DO FÓRO CRIMINAL" (1946), P. 276. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.
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Article 48. An offence against Portuguese law committed aboard a Portuguese ship on the high seas or in a foreign port or aboard a Portuguese aircraft in free air space or on foreign territory shall be tried by the judge of the district in which is situated the Portuguese port to which the offender is proceeding or at which he disembarks; or, if he is not proceeding to any Portuguese port or is a member of the crew, by the judge of the district in which is situated the first Portuguese port which the ship enters or at which the aircraft lands after the commission of the offence.

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- (c) PENAL AND DISCIPLINARY CODE OF THE MERCHANT MARINE, ENACTED BY DECREE-LAW NO. 33252, 20 NOVEMBER 1943. "DIÁRIO DO GOVÉRNO", No. 253 (20 NOVEMBER 1943); "CÓDIGO PENAL E DISCIPLINAR DA MARINHA MERCANTE" (ED. PROCURAL, LISBON, 1943), PP. 34-35, 56. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.
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Article 156. Any person who deliberately causes the loss or destruction of a ship in which he is embarked shall be sentenced to major imprisonment for six years followed by deportation for ten years or alternatively to the fixed penalty of deportation for twenty years.

Article 157. The master or any other member of the crew who deliberately causes the loss or destruction of a ship other than that in which he is embarked shall be sentenced to major imprisonment for six years followed by deportation for ten years or alternatively to the fixed penalty of deportation for twenty years.

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Article 159. Any person who with malice aforethought causes damage to a ship in which he is embarked shall be sentenced:

1. To ordinary imprisonment for a period up to two years, if the value of the damage does not exceed 20,000 escudos;
2. Major imprisonment of two to eight years or, alternatively, temporary deportation, if the value of the damage exceeds 20,000 escudos, but is not more than 100,000;
3. Major imprisonment for four years followed by deportation for eight or, alternatively, the fixed penalty of deportation for fifteen years, if the value of the damage exceeds 100,000 escudos.

Article 160. A master or other member of a crew who with malice aforethought causes damage to a ship which is not that in which he is embarked shall be liable to the penalties prescribed in the preceding article.

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Article 278. Maritime offences committed on board and during a voyage or by members of the crew on land in the course of a voyage shall be tried by the maritime court of the port captaincy in which the ship was registered.

Article 279. Maritime offences committed in a ship anchored in a foreign port, when involving members of the crew only and when they do not disturb the peace of the port, shall be tried by the maritime court of the port captaincy in which the ship was registered.

- (d) CONSULAR REGULATIONS, APPROVED BY DECREE No. 6462, 17 MARCH 1920. "REGULAMENTO CONSULAR PORTUGUÊS" (LISBON, 1920). TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON, 1933), VOL. II, PP. 1022, 1038.
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Article 408. Consular officials exercise maritime commercial jurisdiction, in accordance with the provisions of the Penal and Disciplinary Code of the Merchant Marine; this jurisdiction includes offences of discipline, offences or crimes committed on board Portuguese vessels; its provisions are applicable to any person, national or alien, employed by whatever title on board of Portuguese sailing or steam vessels belonging to private persons or public administrations, in cases of offences or crimes committed from the day on which they become members of the crew until and including the day of their legal discharge.

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48. Romania

- (a) PENAL CODE, 18 MARCH 1936. "MONITORUL OFICIAL", 18 MARCH 1936, No. 65; C. HAMANGIU, "CODUL GENERAL AL ROMÂNIEI", 1856-1937, VOL. 24 (1936), PART I, PP. 3-7; "AKADEMIE FÜR DEUTSCHES RECHT, SAMMLUNG AUSSERDEUTSCHER STRAFGESETZBÜCHER", NO. 54 (1942), PP. 30-35. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.
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CHAPTER II. TERRITORIAL APPLICATION OF CRIMINAL LAW

Section I. Offences committed in Romania

Article 6. Any criminal act committed in Romanian territory is punishable in accordance with the provisions of Romanian penal law.

Romanian penal law likewise applies to criminal acts committed on or over Romanian territory, within the limits of the territorial seas or inland waters, or on board a Romanian ship or aircraft.

A criminal act is deemed to have been committed in Romania if the act of commission or omission, or merely a part of the act, was begun or completed in Romanian territory or if the criminal act produces its effect in Romanian territory.