

Article 24. In case of an offence committed on board a Romanian vessel, the court of the first Romanian port at which the vessel calls after the commission of the offence shall be competent.

The court of the first Romanian port at which the vessel calls shall be competent in respect of any offence committed by the crew of a foreign merchant vessel in the circumstances set forth at the end of paragraph 3 of article 7 and in cases covered by paragraph 8 of article 11 of the Penal Code.

An offence committed on a Romanian aircraft shall be within the jurisdiction of the court of the place where the aircraft lands if such place is situated in the country; if it is situated abroad, the offence shall be within the jurisdiction of the Romanian court of the place where the airport of registry of the aircraft is situated.

An offence committed by the crew of a foreign commercial aircraft in the circumstances set forth in the last part of paragraph 3 of article 7 of the Penal Code shall be within the jurisdiction of the Romanian court of the place where the aircraft lands if such place is situated in the country; if it is situated abroad, the offence shall be within the jurisdiction of the Romanian court of the place where the airport of registry of the aircraft is situated.

The provisions of article 23 shall apply to any person who is guilty of an attempt against the security of the State.

Article 25. Offences committed abroad by Romanian nationals in diplomatic or consular posts, by officials of legations or consulates and by a person entrusted with a mission on behalf of the Romanian Government shall fall within the jurisdiction of the courts of their place of domicile in Romania.

In default of a domicile, the courts of Bucharest shall be competent.

Article 26. In the case of offences which have been committed abroad by Romanians and have been adjudicated by consular courts, an appeal may be taken to the Court of Appeal of Bucharest.

Article 27. An offence committed by the press shall fall within the competence of the court of the district in which the publication which is the object of the proceedings is printed, provided that the place of printing is known and is situated in Romania.

In cases where the place of publication is unknown or is situated abroad, the court of the district in which the publication was distributed shall be competent.

If, in the latter case, two or more courts have concurrent jurisdiction, the first court seized of the offence shall deal with the case.

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49. Spain

(a) PENAL CODE, 23 DECEMBER 1944. E. CUELLO CALÓN, "CÓDIGO PENAL, TEXTO REFUNDIDO DE 1944" (2ND EDITION, 1950), p. 623. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 554. The penalties prescribed in the present chapter shall apply to persons causing damage by destroying an aircraft, sinking

or grounding a ship, causing a flood or the explosion of a mine or steam engine, removing the railway track, maliciously changing railway safety signals, destroying telegraph wires and poles, and in general causing by any other agency or means, damage as serious as the examples enumerated above.

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(b) CODE OF CRIMINAL PROCEDURE, 14 SEPTEMBER 1882. L. MEDINA AND M. MARAÑON, "LEYES PENALES DE ESPAÑA" (10TH EDITION, 1947), *Ley de Enjuiciamiento Criminal*, pp. 13-14.

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Article 15. Cases in which the place of the misdemeanour or offence is not established shall be tried by the following:

1. The judges and courts of the municipality, district or circuit in which material evidence of the offence was discovered.
2. The judges and courts of the municipality, district or circuit where the accused was arrested.
3. The judges and courts of the accused's place of residence.
4. Any judge or court that has been notified of the offence.

Any question of competence which may arise between these judges and courts shall be settled by giving priority in the aforementioned numerical order.

When the place of the offence is established, legal proceedings shall be taken by the appropriate judge or court, and the accused and his impounded effects shall be placed at their disposal.

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(c) PROVISIONAL LAW CONCERNING THE ORGANIZATION OF JUDICIAL POWER, 15 SEPTEMBER 1870. L. MEDINA AND M. MARAÑON, "LEYES PENALES DE ESPAÑA" (10TH EDITION, 1947), *Ley Provisional sobre Organización del Poder Judicial*, pp. 56-58, 60-61. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 333. Aliens who commit misdemeanours or criminal offences in Spain shall be tried by the appropriate authorities having jurisdiction in respect of the persons or the territory.

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Article 335. Spanish judges and courts shall take judicial cognizance of offences initiated in Spain and accomplished or attempted in foreign countries only if the acts committed in Spain constitute offences under Spanish law.

Article 336. Spaniards and aliens who commit any of the following offences outside the national territory shall be tried by judges and courts of the Kingdom in accordance with the order prescribed in article 326:

Offences against the external security of the State.

Lèse-majesté.

Revolt.

Forgery of the Regent's signature or royal seal.

Forgery of the Ministers' signatures.

Forgery of other public seals.

Any counterfeiting which directly harms State credit or interests, and the introduction and circulation of such counterfeits.

Counterfeiting of bank notes the issue of which has been authorized by law, and the introduction and circulation of such counterfeits.

Offences committed in the course of their duties by public officials residing in foreign territory.

Article 337. Further legal proceedings shall not be taken if the persons accused of the offences mentioned in the foregoing article have been acquitted or punished abroad, provided that, in the latter case, they have served their sentence.

A similar course shall be followed if the accused have been pardoned. An exception shall, however, be made in the case of treason or *lèse-majesté*.

Should part of the sentence have been served, that fact shall be taken into account in order to reduce proportionately the penalty that would otherwise be applicable.

Article 338. The provisions of the two preceding articles shall be applicable to aliens who, having committed any of the offences referred to, are arrested on Spanish territory or extradited.

Article 339. A Spaniard who commits an offence in a foreign country against another Spaniard shall be tried in Spain by the judges and courts mentioned in article 326 and in the same order of priority, provided the following conditions apply: (1) he is accused by the injured party or by any person legally empowered to do so; (2) the accused is on Spanish soil; (3) the accused has not been acquitted, pardoned or punished abroad and, in the latter case, has served his sentence.

The appropriate provision of article 337 shall apply if the accused has served part of his sentence.

Article 340. A Spaniard who commits against an alien in a foreign country an act which is a serious offence under the Spanish Penal Code shall, if the three conditions mentioned in the foregoing article apply, be tried in Spain by the judges referred to in that article.

Article 341. No criminal proceedings may be taken in the case mentioned in the foregoing article when the act committed is an offence under Spanish law but is not so considered in the State where it was committed.

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Article 350. The following offences shall not be tried by any authority other than the Military Tribunal or the Maritime Tribunal, as the case may be:

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12. Offences of whatever nature committed on board Spanish or foreign vessels, other than warships, if the offence is committed within ports, bays, roadsteads, or elsewhere within the maritime zone of the Kingdom, or committed by pirates captured on the high seas, whatever their nationality may be; and acts of reprisals and smuggling by sea, wrecking, collision, and unlawful putting into harbour.

Notwithstanding the foregoing provision, where an offence against the ordinary law is committed by individual members of a crew against each other on board a foreign merchant vessel within the Spanish maritime zone, then, unless otherwise provided by treaty, any offender not of Spanish nationality shall be delivered, upon official request, to the consular or diplomatic agent of the nation under the flag of which the vessel is sailing on which the offence was committed.

14. Breaches of police regulations relating to vessels, ports, seacoasts and maritime zones, and of marine ordinances and regulations relating to salt-water sea-fishing.

Note. Article 15 of the Code of Criminal Procedure, which is reproduced under (b) above, has replaced article 326 of the Law concerning the organization of judicial power, mentioned in articles 336 and 339 of that Law.

(d) PENAL LAW OF THE MERCHANT MARINE, 21 JUNE 1923, RATIFIED BY ARTICLE 4 OF THE LAW OF 29 MARCH 1941. E. CUELLO CALÓN, "CÓDIGO PENAL, TEXTO REFUNDIDO DE 1944" (2ND EDITION, 1950), PP. 777, 785. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 51. Collision, wrecking or destruction of a ship at sea, if done with intent, shall be punished by major penal servitude (*presidio mayor*).

If serious injury to a person results from the offence, the maximum penalty shall be imposed.

If the offence occasions the death of a person, the penalty shall be either penal servitude for life or death.

Article 52. Collision, wrecking or destruction of a ship at sea, through negligence or recklessness, shall be punished by a penalty varying from major arrest (*arresto mayor*) to correctional imprisonment (*prisión correccional*).

The courts shall apply this penalty to the degree they deem just, without regard to the provisions of the ordinary Penal Code, taking into account the circumstances of the offence and the extent of the damage.

If the offence provided for in the present article results in the serious injury or death of any person the penalty of correctional imprisonment shall be imposed.

Article 53. Deliberate collision, wrecking or destruction of a ship in port shall be punished by correctional penal servitude (*presidio correccional*).

If serious injury or death of a person results from the offence, the maximum penalty shall be imposed.

Article 54. If the offence provided for in the preceding article is committed through negligence or recklessness, the penalty shall be major arrest or a fine of 500 to 5,000 pesetas.

If serious injury or death of a person results from the offence, the penalty shall vary from the maximum term of major arrest to the minimum term of correctional imprisonment.

(e) CODE OF MILITARY JUSTICE, 17 JULY 1945. "BOLETÍN OFICIAL DE ESTADO", 20 JULY — 5 AUGUST 1945; L. MEDINA AND M. MARAÑÓN, "LEYES PENALES DE ESPAÑA" (10TH EDITION, 1947), *Código de Justicia Militar*, pp. 6-10, 14-16, 36-37. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 6. On the basis of the subject-matter of the offence, the military courts shall have jurisdiction in proceedings against any person:

10. For shipwreck, collision or running ashore, and for the offences covered by the Navy Acts and committed by way of reprisals.

11. For offences against the provisions of the Navy Acts dealing with the policing of vessels, ports and maritime zones, and for contraventions of the regulations on fishing in salt water areas.

Article 9. On the basis of locality, the military courts shall have jurisdiction in proceedings against any person for delicts (*delitos*) and contraventions (*faltas*) which, while not covered by article 16 of this Code, are committed:

1. . . . (b) At sea, on navigable rivers, on board national or foreign merchant vessels, which are situated in ports, roadsteads, bays or at any other point in the maritime zone of Spain or of the Spanish possessions or protectorates.

Notwithstanding the provisions of the preceding paragraph, when an offence is committed on board a foreign merchant vessel in the maritime zone of Spain, and only the vessel's crew are involved, those of the offenders who are not Spanish nationals shall be handed over to the diplomatic or consular representatives of the country whose flag is flown by the vessel on which the offence was committed, if the said agents officially lay claim to the offenders and if no provision to the contrary is made by treaty.

(c) In the air space subject to the national sovereignty or in the air space of the protectorate; on board aircraft whether stationed in airfields or Spanish waters or in flight through the above-mentioned air space, including foreign commercial aircraft which land in Spanish territory before crossing the frontier, or cause damage to Spanish nationals, property or interests, or on board other national aircraft, without prejudice to the exceptions which may be established by special acts or international treaties for the purpose of dealing with delicts or contraventions committed in aircraft, missions or places used for civil air navigation or in specified cases, and without prejudice to the provision whereby alien members of foreign crews who, on board the aircraft to which they are assigned, commit offences amongst themselves, may be handed over to the diplomatic or consular representatives of the countries concerned.

Article 37. When the offence has been committed at sea outside Spanish jurisdictional waters and not on board a vessel which forms part of or

or is in the service of a naval squadron, the authorities of the department in whose waters the vessel on board which the offence has been committed or discovered arrives will be competent to take cognizance of the case.

If the vessel referred to in the preceding paragraph arrives at a port abroad, the competent authority will be the naval judicial authority of the Spanish port to which the diplomatic or consular agents of Spain at the vessel's point of arrival may most easily and promptly send the offender or offenders or the data of the case. If the offence is committed outside Spanish jurisdictional waters in a vessel under orders to join a naval squadron, the competent authority will be the authority possessing jurisdiction over the naval squadron.

The same rule as that laid down in the preceding paragraph will apply also to offences committed during the voyage on merchant vessels which arrive at foreign ports.

If the vessel arrives at a national port, the authority to whose jurisdiction the port belongs will be competent to deal with the case.

In so far as they may be applicable, similar standards will be valid also for aerial jurisdiction.

Note. No amendments in the provisions quoted above were introduced by the Law of 21 April 1949, which revised the Code of Military Justice, including some other paragraphs of article 6. *Boletín Oficial*, vol. 14, no. 113 (23 April 1949), p. 1827.

50. Sweden

- (a) PENAL CODE, 16 FEBRUARY 1864, AS AMENDED. A. AFZELIUS, "SVERIGES RIKES LAG" (71ST EDITION, 1950), p. 757. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Chapter 1. Persons to whom Swedish criminal law applies

Article 1. A Swedish national shall be judged according to Swedish law and before a Swedish court for an offence committed by him within the Kingdom or on board a Swedish vessel or committed outside the Kingdom against Sweden or a Swedish national, or for any other offence committed outside the Kingdom if his Majesty decrees that such offence may be prosecuted within the Kingdom.

An offence shall be deemed to have been committed at the place where the criminal act took place or the offence was completed, or, in the case of an attempt, where the intended offence would have been completed. (Act of 30 June 1948.)

Article 2. An alien within the Kingdom shall be judged according to Swedish law and before a Swedish court for an offence committed by him within the Kingdom or on board a Swedish vessel outside the Kingdom, and for any offence committed by him outside the Kingdom against Sweden or a Swedish national if his Majesty decrees that such offence may be prosecuted within the Kingdom.

Article 3. Except by decree of His Majesty no person may be prosecuted for an offence for which he has suffered a penalty or other consequence