

*United Nations Legislative Series*

LAWS AND REGULATIONS  
*on the*  
REGIME OF THE HIGH SEAS

*Volume II*

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*Laws relating to Jurisdiction over  
Crimes Committed Abroad or on the  
High Seas*



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## INTRODUCTION

The second volume of the *United Nations Legislative Series* deals with the problem of criminal jurisdiction of a State over acts committed in other States or on the high seas, on board a ship or an airplane. Like the previous volume of this series, the present volume has been prepared by the Division for the Development and Codification of International Law in the Legal Department of the United Nations.

This collection of national legislation in the field of criminal jurisdiction contains laws of more than sixty countries. While the collection is not exhaustive, it is sufficiently broad to show the main trends in this field, the extent of agreement as well as the degree of divergence.

The present volume deals not only with general provisions on criminal jurisdiction, but also with special provisions relating to jurisdiction over crimes committed on the high seas. Since the decision of the Permanent Court of International Justice in the *Lotus* case in 1927, this particular question has been discussed by several international organizations and is at present before the International Law Commission. Though the laws of many countries contain some provisions on the subject, in others they have to be deduced from more general jurisdictional rules.

The texts of relevant laws are accompanied in many cases by editorial notes containing additional information, in particular with respect to provisions dealing with the punishment for offences connected with collisions between ships.



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## 1. Argentina

(a) PENAL CODE, APPROVED BY LAW NO. 11.179, 29 OCTOBER 1921.  
L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES  
IBEROAMERICANOS" (1946), VOL. I, P. 421. TRANSLATION BY THE  
SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 1.* This Code shall apply:

1. To offences committed or intended to take effect in the territory of the Argentine Nation or in places subject to its jurisdiction.
2. To offences committed abroad by agents or employees of Argentine authorities in the exercise of their duties.

. . . .

*Note.* The Penal Code of Argentina contains the following provisions with respect to sinking of vessels:

"*Article 186.* A person who causes a fire, explosion or flood shall be punished:

"1. By confinement or imprisonment for not less than three or more than ten years, if the act gives rise to a general danger to property . . .

"4. By confinement or imprisonment for not less than three or more than fifteen years, if the act endangers the life of any person.

"5. By confinement or imprisonment for not less than eight or more than twenty years, if the act is the direct cause of the death of any person.

"*Article 187.* A person who causes damage by sinking or stranding a vessel, by causing the collapse of a building, by flood, mine or any other powerful means of destruction, shall be punished, as appropriate, by one of the penalties enumerated in the foregoing article.

. . . .

"*Article 189.* A person who, through imprudence or negligence, lack of skill in his trade or profession, or failure to comply with rules and regulations, causes a fire or other damage, shall be punished by imprisonment for not less than one month or more than one year.

"If the act or culpable omission results in danger to life or causes the death of any person, the maximum penalty may be raised to four years.

. . . .

"*Article 194.* A person who commits any act tending to endanger the safety of a ship or vessel or to prevent or obstruct navigation shall be punished by imprisonment for not less than one or more than six years.

"If the act results in shipwreck, damage or stranding, the penalty shall be confinement or imprisonment for not less than three or more than twelve years.

"If the accident causes injury to any person, the penalty shall be confinement or imprisonment for not less than three or more than fifteen years,

and if it results in loss of life, confinement or imprisonment for not less than ten or more than twenty-five years.

“*Article 196.* A person who, through imprudence or negligence, lack of skill in his trade or profession or failure to comply with rules and regulations, causes a derailment, shipwreck or any other accident referred to in this chapter, shall be punished by imprisonment for not less than six months or more than two years.

“If the act results in the injury or death of any person, the penalty shall be imprisonment for not less than one or more than four years.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, pp. 447-449.

(b) CODE OF CRIMINAL PROCEDURE FOR THE FEDERAL COURTS, THE TRIBUNALS OF THE CAPITAL AND OF THE NATIONAL TERRITORIES, APPROVED BY LAW NO. 2372, 17 OCTOBER 1888. J. M. MEDIANO, “LEYES PENALES COMENTADAS” (1946), pp. 627, 629. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 23.* District judges (*juces de sección*) and judges of national territories shall take cognizance in the first instance of the following cases:

1. Crimes committed on the high seas on board national ships or by pirates, nationals or foreigners.
2. Crimes committed in Argentine waters and ports or on Argentine islands.

*Article 25.* The ordinary criminal jurisdiction of the tribunals of the capital and of the national territories extends to:

1. The cognizance of all ordinary crimes committed within their respective jurisdiction by citizens or foreigners; with the exception, as far as the tribunals of the capital are concerned, of the cases especially excluded by domestic public law or by the principles of international law.
2. The cognizance of ordinary crimes committed abroad in cases where the laws so provide.

*Note.* Law No. 1893 (12 November 1886) on the organization of the tribunals in the capital of the Republic provides similarly in No. 11 of article 111 that federal judges in the capital shall take cognizance of “all crimes committed on the high seas on board national ships or by foreign pirates, whenever the ships arrive directly in the ports of the Capital”. *Códigos de la República Argentina* (1941), pp. 1338-1339.

(c) LAW NO. 48, CONCERNING THE JURISDICTION AND COMPETENCE OF NATIONAL COURTS, 14 SEPTEMBER 1863. V. PERALTA, “LEYES NACIONALES, COMPILACIÓN CONCORDADA PER MATERIA” (1940), VOL. 3, P. 23. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 3.* District judges shall also take cognizance of all cases of smuggling and of criminal cases which come under national jurisdiction. In particular:

(1) Crimes committed on the high seas on board national ships or by foreign pirates shall be decided by the judge of the district where is situated the first port at which the ship arrives; . . .

- (d) ORGANIC REGULATIONS TO LAW NO. 4712 (ORGANIZATION OF CONSULAR SERVICE), ENACTED BY THE MINISTRY OF FOREIGN AFFAIRS AND WORSHIP, 31 MARCH 1926. MINISTERIO DE RELACIONES EXTERIORES Y CULTO, "REGLEMENTACIÓN ORGÁNICA DE LA LEY NO. 4712" (1926), p. 7. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON, 1933), VOL. I, PP. 17, 30-31.

*Article 186.* If on board of an Argentine merchant ship a crime is committed on the high seas, the consular official who has jurisdiction at the first point which the ship touches, shall inquire whether the master has drawn up a report of the offence, and, if this has not been done, he shall make, taking the declarations of the crew and the passengers, all pertinent investigations.

He shall retain the offenders on board and shall send them, together with the papers of the investigation, by the same ship or by the first one leaving for the Republic, to be submitted to the competent judges.

*Article 187.* If the ship on board of which the crime was committed has to leave for another destination and there is no ship to carry the offenders to the Republic, the consular official shall request the local authorities to hold them in a public prison, until they can be sent on for prosecution, with due attention to the respective provisions of the treaties or the laws of the country.

*Article 188.* He shall protest against any attempt which the authority might make to take cognizance of crimes committed on the high seas on board of Argentine merchant vessels, for it is incumbent upon the authorities of the Republic to judge these crimes.

## 2. Australia

- (a) NAVIGATION ACT 1912-1935, AS AMENDED BY ACT NO. 1 OF 1943. AUSTRALIA, "COMMONWEALTH ACTS, 1901-1935", VOL. II, PP. 1504, 1505-6, 1607-8, 1610, 1635-6, 1638-1640; *idem*, VOL. 41 (1943), p. 2.

*Section 2.* (1) This Act shall not apply in relation to any Australian-trade ship, limited coast-trade ship, or river and bay ship, or her master or crew, unless the ship:

(a) Is engaged in trade or commerce with other countries or among the States or with or among the Territories under the authority of the Commonwealth; or

(b) Is on the high seas, or in waters which are used by ships engaged in trade or commerce with other countries or among the States; or

(c) Is in the territorial waters of any Territory under the authority of the Commonwealth.

*Section 258.* (1) The Governor-General may make regulations for the prevention of collisions and for prescribing what lights are to be carried and exhibited, and what fog signals are to be carried and used by ships.

(2) No owner or master of a ship shall:

(a) In any way contravene the regulations for the prevention of collisions; or

(b) Exhibit any lights or use any fog signals other than those prescribed by the regulations.

Penalty: One hundred pounds.

(3) The imposition of a penalty under this section shall not relieve any person from any civil liability for any damage occasioned by any default.

(4) If any contravention of the regulations is caused by the wilful default of the master or owner of the ship, he shall be guilty of an indictable offence.

*Section 264.* (1) In every case of collision between two vessels it shall be the duty of the person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any):

(a) To render to the other vessel, her master, crew, and passengers (if any) such assistance as is practicable and necessary in order to save them from danger caused by the collision; and

(b) To stay by the other vessel until he has ascertained that she has no need of further assistance; and

(c) To give to the master or person in charge of the other vessel the name of his own vessel and the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) If the master of any vessel fails without reasonable cause to comply with this section, he shall be guilty of an indictable offence.

(3) Notwithstanding anything contained in sub-section (2) of section four hundred and twenty-two of the Merchant Shipping Act, in case of a collision between two vessels, the collision shall not be deemed to have been caused by the wrongful act, neglect, or default of the master or person in charge of the vessel, who failed to comply with the provisions of that section, solely by reason of the fact that he has not complied with the provisions of that section.

*Section 364.* (1) A court of marine inquiry shall have jurisdiction to make inquiries as to all casualties affecting ships, or entailing loss of life on or from ships, and as to charges of incompetency or misconduct, or of failure of duty in regard to any collision or in any matter relating to the navigation, management or working of a ship, on the part of masters, mates or engineers of ships, in the following cases, namely:

(a) Where a shipwreck or casualty occurs to a ship on or near the coast of Australia, or in the course of a voyage to a port within Australia;



(b) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in Australia;

(c) Where some of the crew of a ship, which has been wrecked or to which a casualty has occurred, who are competent witnesses to the facts, are found in Australia;

(d) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Australia, or on board a British ship in the course of a voyage to a port within Australia;

(e) Where the incompetency or misconduct or failure of duty has occurred on board a British ship registered in Australia;

(f) Where the master, mate, or engineer of a British ship who is charged with incompetency or misconduct is found in Australia;

(g) Where any ship is lost or supposed to have been lost, and any evidence is obtainable in Australia as to the circumstances under which she went to sea or was last heard of; and

(h) Where it appears to the Minister, on a report made in consequence of a medical examination made under this Act, that a master, mate, or engineer holding a certificate of competency issued or recognized under this Act is incompetent by reason of his unfitness to perform the duties ordinarily required of a person employed in a position corresponding to that certificate.

(2) An inquiry shall not be held under this section into any matter:

(a) Which has once been the subject of an investigation or inquiry, and has been reported on, by a competent court or tribunal in any part of the King's dominions outside Australia; or

(b) With reference to which an investigation or inquiry has been commenced in the United Kingdom; or

(c) In respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a naval court constituted under the Merchant Shipping Act; or

(d) In respect of a shipwreck or casualty occurring to a ship registered in any part of the King's dominions outside Australia unless:

(i) At the request or with the consent of the government of that part;

(ii) The shipwreck or casualty occurs on or near the coast of Australia;

or

(iii) The ship is wholly engaged in the coasting trade.

*Section 378.* For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either:

(a) In the place in which it actually was committed or arose; or

(b) In any place in which the offender or person complained against is.

*Section 379.* If, in any legal proceeding under this Act, a question arises whether any ship or person is or is not within the provisions of this Act or of some part thereof, the ship or person shall be taken to be within those provisions unless the contrary is proved.

*Section 380.* (1) Where any district within which any court has jurisdiction is situated on the sea coast, or abuts on or projects into any navigable water, the court shall have jurisdiction over any vessel being on or lying or passing off that coast, or being in or near that navigable water, and over

all persons thereon or belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court.

(2) The jurisdiction in this section shall be in addition to, and not in derogation of, any jurisdiction or power of a court of summary jurisdiction.

*Section 381.* Where any person:

(a) Being a British subject, is charged with having committed an offence on board a British ship on the high seas or in a foreign port or harbour, or on board a foreign ship to which he does not belong; or

(b) Not being a British subject, is charged with having committed an offence on board a British ship on the high seas,

and that person is found within the jurisdiction of any court in Australia which would have had cognizance of the offence if it had been committed on board a British ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.

*Section 382.* Any offence against property or person committed in or at any place either ashore or afloat, out of the King's dominions, by a master, seaman, or apprentice who at the time when the offence is committed is, or within three months previously has been, employed in any British ship, shall be deemed to be an offence of the same nature, and be liable to the same punishment, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same court and in the same place, as if the offence had been committed within Australia.

*Section 383.* (1) Whenever:

(a) Any foreign ship has, in any part of the world, caused injury to any property belonging to either the King, the Commonwealth, or any State, or any of His Majesty's subjects; and

(b) At any time thereafter that ship is found in any port of Australia or within three miles of the coast thereof,

a justice of the High Court or a judge of the Supreme Court of a State may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or crew of the ship, issue an order directed to any officer of Customs or other official named in the order, requiring him to detain the ship until such time as the owner, master, or consignee thereof has:

(i) Made satisfaction in respect of the injury, or

(ii) Given security, to be approved by the judge or court, to abide the event of any legal proceeding that may be instituted in respect of the injury, and to pay all costs or damages that may be awarded thereon,

and the official to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship will depart from Australia, the official may detain the ship for such time as will allow the application to be made and the result thereof to be communicated to him, and he shall not be liable for any costs or damages in respect of the detention unless it is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury, the person giving security shall be made defendant, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge or court made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

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### 3. Austria

(a) PENAL CODE, 27 MAY 1852, AS REINSTATED BY ACT NO. 25 OF 12 JUNE 1945. J. KIMMEL, "LEHRBUCH DES ÖSTERREICHISCHEN STRAFRECHTES" (10TH EDITION, 1948), PP. 87-88, 196-197.

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#### CRIMES (VERBRECHEN) COMMITTED BY AUSTRIAN CITIZENS ABROAD

*Article 36.* A citizen of the Austrian Republic who commits a crime abroad and afterwards enters Austria may not be extradited therefor but shall be dealt with in accordance with this Penal Code irrespective of the law of the country in which the crime was committed.

If the citizen has already been punished abroad for the act, the penalty suffered shall be set off against that imposable under this Penal Code.

No decision of a foreign authority in penal matters may be executed in Austria.

#### CRIMES COMMITTED BY ALIENS

##### (a) *In Austria*

*Article 37.* An alien committing a crime in Austrian territory may be judged only in accordance with the present Code.

##### (b) *Abroad*

*Article 38.* An alien committing abroad the crime of high treason against the Austrian Republic (article 58), of espionage or other collusion with the enemy (article 67), of illicit recruiting (article 92), of counterfeiting of Austrian public securities or coinage (articles 106-121), or inciting to or abetting a breach of military duty (article 222) shall be dealt with according to this Code as though he were a national. (As amended by Act of 15 July 1920.)

*Article 39.* An alien committing abroad any crime other than those mentioned in the foregoing article shall, if he enters Austria, be taken into custody, but agreement for his extradition shall be forthwith negotiated with the State in which the offence was committed.

*Article 40.* If the foreign State refuses to accept extradition, proceedings against the alien offender shall, in principle, be taken in accordance with this Penal Code. If, however, the penal code of the place in which the offence was committed permits of a lesser penalty, he shall be dealt with according to such more lenient provision. The sentence shall include deportation after the term of the penalty has expired.

. . . .

LIABILITY OF ALIENS [FOR MISDEMEANOURS AND PETTY OFFENCES]

*Article 234.* Aliens resident in the State of Austria may likewise become liable for these misdemeanours (*Vertretungen*) and petty offences (*Übertretungen*), since they are bound to acquaint themselves as a matter of course with the general regulations on public security and order and also, if they engage in a transaction, with the special regulations applicable thereto.

Nevertheless, aliens committing in a foreign State any punishable act referred to in this part of the Penal Code may neither be extradited nor punished in Austria therefor.

MISDEMEANOURS AND PETTY OFFENCES COMMITTED BY AUSTRIANS ABROAD

*Article 235.* An Austrian who commits abroad a misdemeanour or petty offence and afterwards enters Austria may not be extradited therefor but shall, if the said acts have not been punished or investigated abroad, be dealt with according to this Penal Code, irrespective of the law of the country in which they were committed.

This provision shall likewise apply where an Austrian has been sentenced for a misdemeanour or petty offence committed abroad but the sentence has not been carried out. No decision of a foreign authority in penal matters may be executed in Austria.

. . . .

(b) CODE OF CRIMINAL PROCEDURE, 23 MAY 1873, AS REINSTATED BY ACT NO. 26 OF 12 JUNE 1945. L. F. TLAPEK, "DIE ÖSTERREICHISCHE STRAFPROZESSORDNUNG" (2ND EDITION, 1948), PP. 51-52. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

§ 54. (1) If a punishable act has been committed outside the Republic of Austria, that court shall be competent in the district of which the accused is domiciled or resides, and in default thereof, in the district of which he has been found.

(2) Should a foreign State offer to extradite the accused or should extradition be applied for before the competence of a domestic court has been established, the Supreme Court, after hearing the Public Prosecutor, shall designate the court which shall have competence in the case.

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#### 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 MECHELYNCK, "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.

. . .

*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.

. . .

*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.

. . .

*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.

. . .

*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.

. . .

- (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.

. . .

*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.

. . .

- (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.

. . .

*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.

. . .

## 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.

. . .

*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.

. . .

*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.

. . .

*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.

*Article 7.* The provisions of the preceding article shall also apply to any alien participating in one of the above-mentioned offences who can be apprehended, either through extradition or because he resides in the territory of the Republic.

*Article 8.* Any Bolivian national guilty of an offence against another Bolivian national outside the territory of the Republic may, at the instance of the injured party or his legal representative, be tried and punished upon his return to the Republic, if he has not already been tried and punished in the country where the offence was committed.

. . .

*Article 17.* Public prosecutors shall be responsible for the investigation and prosecution of all offences falling within the jurisdiction of police or divisional (*de partido*) courts or district courts designated in the Judicial Organization Act.

*Article 18.* The public prosecutors at the place where the offence is committed, the place of residence of the accused and the place, if any, where the accused is apprehended shall be equally authorized to exercise the functions referred to in the preceding article and shall initiate the preliminary investigation.

*Article 19.* With regard to offences committed outside the territory of the Republic as provided in articles 6, 7 and 8, the public prosecutors at the place or last known place of residence of the accused and the place, if any, where the accused is apprehended shall have equal authority and shall take the initial steps in the exercise of the functions referred to in article 17.

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## 6. Brazil

- (a) PENAL CODE, ENACTED BY DECREE-LAW NO. 2848, 7 DECEMBER 1940. "DIARIO OFICIAL", 31 DECEMBER 1940, P. 23911. J. F. MARQUES, "CÓDIGO PENAL" (4TH EDITION, 1949), P. 86. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 4. Place of Crime.* Brazilian law shall apply, without prejudice to conventions, treaties and rules of international law, in the case of any offence which is wholly or partly committed in national territory or which produces or is likely to produce its effect or some of its effect therein.

*Article 5. Extra territoriality.* Brazilian law shall apply in the case of the following offences, even if committed abroad:

I. Offences against:

- (a) The life or liberty of the President of the Republic;
- (b) The credit of or public confidence in the Union, the states, or the municipalities;
- (c) Federal, state or municipal property;
- (d) The public administration, if the offence is committed by a person holding public office.

## II. Offences:

(a) The prevention and punishment of which is a duty undertaken by Brazil by treaty or convention;

(b) Committed by Brazilian nationals.

*Section 1.* In the cases referred to in No. I above, the offender shall be liable to the penalty applicable under Brazilian law, even if he has been acquitted or convicted abroad.

*Section 2.* In the cases referred to in No. II above, Brazilian law shall not be applicable unless the following conditions are fulfilled, that is to say if:

(a) The offender enters national territory;

(b) The offence is also punishable in the country in which it was committed;

(c) The offence is one for which extradition is authorized under Brazilian law;

(d) The offender has not been acquitted abroad or has not served his sentence there;

(e) The offender has not been pardoned abroad or, for some other reason, has ceased to be liable to punishment, whichever is the more favourable law.

*Section 3.* Brazilian law shall also be applicable in the case of an offence committed by an alien against a Brazilian national outside Brazil, if, in addition to the fulfilment of the conditions enumerated in the preceding paragraph:

(a) No application has been made for extradition, or if extradition has been refused;

(b) A summons has been issued by the Minister of Justice.

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*Note.* The Brazilian Penal Code contains the following provisions with respect to crimes relating to vessels:

“*Article 261. Attempts against the safety of sea, river, or air transport.* Exposing any vessel or aircraft, whether the property of the offender or of a third party, to danger, or committing any act calculated to obstruct or impede maritime, river or air navigation:

“Penalty: two to five years’ reclusion (*reclusão*).

“*Section 1. Wrecking of maritime, river or air craft.* If the offence results in the wreck, sinking or stranding of the vessel, or the crash or destruction of the aircraft:

“Penalty: four to twelve years’ reclusion (*reclusão*).

“*Section 2. Offences committed for gainful purposes.* The offender shall, in addition, be liable to a fine of 5,000 to 15,000 cruzeiros if he acted with the object of obtaining some financial advantage either for himself or for another or others;

“*Section 3. Culpable negligence.* If the loss occurs and there is proof of culpable negligence:

“Penalty: six months’ to two years’ imprisonment (*detenção*).

“*Article 262. Attempts against the safety of other means of transport.* Exposing any other means of public transport to danger, or obstructing or impeding its operation:

“Penalty: one to two years’ imprisonment (*detenção*).

“*Section 1.* If the action results in a disaster, the penalty is two to five years’ reclusion (*reclusão*).

“*Section 2.* If a disaster occurs and there is proof of culpable negligence: “Penalty: three months’ to one year’s imprisonment (*detenção*).

“*Article 263. Aggravating circumstances.* If any of the offences enumerated in articles 260 to 262 leads to a disaster or loss involving bodily injury or death, the provisions of article 258 shall apply.” *Diario Oficial*, 31 December 1940, p. 23929; J. F. Marques, *Código Penal* (4th edition, 1949), pp. 175-176.

Article 258, mentioned in article 263, provides for increase of the penalty by half in case of bodily injury, and for doubling it in case of death; in addition, in case of culpable negligence, the penalty shall be increased by half, if bodily injury resulted therefrom, while the penalty for culpable homicide shall be increased by one-third if death was the result of a crime involving a common danger.

(b) CODE OF CRIMINAL PROCEDURE. LEGISLATIVE DECREE NO. 3689, 3 OCTOBER 1941. “DIARIO OFICIAL”, VOL. 80, NO. 238 (13 OCTOBER 1941), PP. 19699, 19702-19703. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 70.* Jurisdiction shall, as a rule, be determined by the place where the offence was committed, or, in the case of an attempted offence, by the place where the last preparatory act was committed.

§ 1. When the first preparatory act was committed on national territory and the offence was accomplished outside the territory, jurisdiction shall be determined by the place in Brazil in which the last preparatory act was committed.

§ 2. When the last preparatory act was committed outside national territory, the magistrate of the place where the crime, even though partially, produced or was intended to produce its effect, shall have jurisdiction.

When the territorial limits of two or more judicial districts are not clearly defined, or when the judicial district is uncertain because the offence was committed or attempted in the areas of two or more judicial districts, jurisdiction shall be vested in the court where the proceedings were started first.

*Article 71.* In the case of a continuing offence, or where an offence is persisted in within the territory of two or more judicial districts, jurisdiction shall be vested in the court where the proceedings were started first.

*Article 72.* When the place of the offence is unknown, jurisdiction shall be determined by the place where the accused is domiciled or resides.

§ 1. When the accused has more than one residence, jurisdiction shall be vested in the court where the proceedings were started first.

§ 2. When the accused has no known residence or his domicile is unknown, jurisdiction shall be vested in the judge who was the first to take cognizance of the offence.

*Article 73.* In private actions the complainant may bring his complaint before the court in whose district the accused is domiciled or resides, even when the place of the offence is known.

. . .

*Article 88.* The court of the capital of the State where the accused last resided shall have jurisdiction in proceedings connected with crimes committed outside Brazilian territory. If the accused has never resided in Brazil the court of the capital of the Republic shall have jurisdiction.

*Article 89.* Persons accused of crimes committed on board any vessel in the territorial waters of the Republic or on frontier rivers or lakes, and crimes committed on board Brazilian vessels on the high seas, shall be tried and judged by the magistrate of the first Brazilian port at which the vessel calls after the crime has been committed, or, if it has left the country, by the magistrate of the last Brazilian port of call.

*Article 90.* Crimes committed aboard Brazilian aircraft in the air space above Brazilian territory or above the high seas, or aboard a foreign aircraft in the air space above national territory, shall be tried and judged by the magistrate of the district in which the aircraft lands after the crime has been committed or by the magistrate at the place of departure of the aircraft.

*Article 91.* The court of the capital of the Republic shall have jurisdiction in cases where jurisdiction has not been established in accordance with articles 89 and 90.

. . .

(c) AIR CODE, APPROVED BY DECREE-LAW NO. 484, 8 JUNE 1938. "COLEÇÃO DAS LEIS", 1938, VOL. II, P. 220. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 4.* Military aircraft, wherever they may be, and aircraft of other types when over the high seas or territory not belonging to any State, are deemed to be territory of the State whose nationality they possess.

*Article 5.* Military aircraft, whether flying over or landing in the territory of any State, are considered as being in the territory of that State.

*Article 6.* Any act done on board aircraft deemed to be foreign territory shall be deemed to have been committed in Brazil, if it produces in Brazilian territory effects liable to give rise to penal proceedings or causes any damage in that territory.

*Sole paragraph.* If any such act occurs on board an aircraft deemed to be Brazilian territory, and produces effect in foreign territory, both the laws of Brazil and the laws of the foreign country concerned shall apply.

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## 7. Bulgaria

(a) PENAL CODE, 2 FEBRUARY 1896, AS AMENDED. "SBORNIK NA DEJSTVUVASHTITE SÜDEBNI ZAKONI" (1948), PP. 9-11. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 3.* Any crime or offence committed within the frontiers of the Bulgarian State shall be punished in accordance with this Code, except in the following cases:

1. When the offence is committed by an alien enjoying extra-territorial rights under international law;

2. When a person committing an offence is prosecuted and punished in accordance with the provisions of a law applying specially to him.

*Article 4.* Bulgarian nationals and aliens shall be prosecuted and punished according to this Code if they commit the following crimes outside the State: treason (*izmiana*), high treason (*predatelstvo*), espionage, or forgery of bank notes (volume II, part I, chapters I, II and VIII) issued by the Bulgarian State Treasury, and the same applies to a public officer of the Bulgarian State who commits an act constituting an official offence under this Code.

In such cases Bulgarian nationals or aliens shall be prosecuted and punished as they would have been in the country where the crime was committed; sentences already served shall be taken into account in awarding a new sentence in accordance with the procedure described in article 61.

*Article 5.* With the exception of the cases mentioned in article 4, the penalties referred to in this Code shall also apply to any Bulgarian national who commits outside the State any of the crimes referred to in this Code.

*Article 6.* The provisions of article 5 shall also apply to any alien who commits one of the crimes for which under this Code the least penalty is imprisonment, where an application for his extradition made by the foreign authorities is not accepted and the Ministry of Justice has instituted penal proceedings against him.

*Article 7.* The provisions of articles 5 and 6 shall not apply:

1. If the crime is not an offence known to the law of the foreign country;

2. If a final judgment of a foreign court has resulted in acquittal or pardon, or the sentence has been served;

3. If criminal proceedings or the enforcement of a sentence have been stayed in accordance with the law of a foreign State, or

4. If a request by the aggrieved person for prosecution for the act is required by the law of the foreign State and is not forthcoming.

*Note:* The provisions of article 7, paragraph 1, shall not apply to Bulgarian nationals committing the crimes governed by volume II, part I, chapters XIII and XIV, article 216.

*Article 8.* In the cases referred to in articles 5 and 6 the penalties shall be mitigated in accordance with article 61 if the law of the country

where the crime was committed prescribes a lesser penalty than does this Code.

*Article 9.* In the cases referred to in articles 5 and 6 any part of the sentence which has been served outside the State shall be taken into account in the award of the penalty by the Bulgarian Court. Moreover, if the foreign court has imposed a penalty of a kind not prescribed by this Code, such penalty shall be replaced by the penalty in this Code corresponding most closely thereto.

*Article 10.* If a Bulgarian national commits outside the State an act which under this Code entails deprivation of certain rights, an application for an additional penalty shall give rise to criminal proceedings even if the sentence has been served outside the State or a pardon has been granted by the competent foreign authority.

*Article 11.* No Bulgarian national shall be delivered to another State for prosecution or punishment.

Aliens shall not be handed over for political offences.

*Article 12.* Foreign sentences shall not be enforceable in the territory of the Bulgarian State.

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## 8. Canada

(a) SHIPPING ACT, AS REVISED TO 1927. "REVISED STATUTES OF CANADA", 1927, VOL. IV, PP. 3783-3786.

. . .

*Section 757.* A shipping casualty shall be deemed to occur:

(a) Whenever any ship is lost, abandoned, stranded or damaged in any of the inland waters of Canada or on or near the coasts of Canada, or on a voyage to a port in Canada;

(b) Whenever any ship causes loss or damage to any other ship in, on or near such inland waters or coasts;

(c) Whenever, by reason of any casualty happening to or on board any ship in, on or near such inland waters or coasts, loss of life ensues;

(d) Whenever any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witness thereof arrives or is found at any place in Canada;

(e) When any loss of life occurs by reason of any casualty happening to or on board any boat belonging to a fishing vessel or other vessel registered in Canada;

(f) When any British ship is lost or supposed to have been lost, and any evidence is obtainable in Canada as to the circumstances under which she proceeded to sea or was last heard of.

. . .

*Section 762.* The Minister may appoint any officer of the Government of Canada, or any judge of any court of record, or any local judge in admiralty of the Exchequer Court of Canada, or any stipendiary or police magistrate, to be a commissioner to hold formal investigations,



or any formal investigation, and a commissioner shall for that purpose be a court.

2. In any case arising before or after the passage of this Act, which the Minister considers to be of extreme gravity and special importance, he may appoint two or more fit persons to be commissioners to hold a formal investigation, and the commissioners so appointed shall for that purpose be a court and such court shall, in addition to its judgment, make a full and detailed report to the Minister upon the circumstances of the case, and may make such recommendations as may in its opinion be proper in the premises.

*Section 763.* A court so appointed is authorized to hold a formal investigation upon one being ordered by the Minister in the following cases:

(a) A shipping casualty;

(b) Where a master, mate, pilot or engineer has been charged with incompetency, misconduct or default while serving on board any British ship on or near the coasts of Canada or in the course of a voyage to a port in Canada;

(c) Where a master, mate, pilot, or engineer is charged with incompetency, misconduct or default while serving as an officer on board a British ship registered in Canada;

(d) Where a master, mate, pilot or engineer is charged with incompetency, misconduct or default while serving on board a British ship found in Canada;

(e) Where, in case of a collision, the master or certificated officer or pilot in charge of a vessel fails, without reasonable cause, to render to the other vessel, her master, crew and passengers, such assistance as is practicable and necessary to save them from any danger caused by the collision and to stay by the vessel until he has ascertained that she has no need of further assistance, and also to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound;

(f) Where the Minister has reason to believe that any master, mate, pilot or engineer is from any cause unfit or incapable to discharge his duties.

. . .

*Note.* Section 522 of the Criminal Code of Canada contains, in addition, the following provisions:

“Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully:

“(a) Casts away or destroys any ship, whether complete or unfinished;

“(b) Does any act tending to the immediate loss or destruction of any ship in distress; or

“(c) Interferes with any marine signal, or exhibits any false signal, with intent to bring a ship or boat into danger.” *Revised Statutes of Canada*, 1927, vol. I, p. 834.

(b) EXTRADITION ACT, WITH AMENDMENTS TO 1927. "REVISED STATUTES OF CANADA", 1927, VOL. I, PP. 1083, 1092.

. . .

Section 2. In this Act, unless the context otherwise requires,

. . .

(d) "Foreign State" includes every colony, dependency and constituent part of the foreign State; and every vessel of any such State shall be deemed to be within the jurisdiction of and to be part of the State;

. . .

FIRST SCHEDULE

*List of crimes*

. . .

20. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign State;

21. Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so;

. . .

**9. Chile**

(a) PENAL CODE, 12 NOVEMBER 1874. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, P. 1031. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

Article 5. Chilean penal law shall apply to all inhabitants of the Republic, including aliens. Offences committed in territorial or adjacent waters shall be subject to the provisions of this Code.

Article 6. Crimes or offences (*simples delitos*) committed outside the territory of the Republic by Chileans or aliens shall not be punished in Chile save in the cases specified by law.

. . .

Note: Article 480 of the Chilean Penal Code provides for the punishment of "any person who causes damage by sinking or stranding a vessel". *Ibid*, p. 1110.

(b) CODE OF PENAL PROCEDURE, 30 AUGUST 1944. "CÓDIGOS DE LA REPÚBLICA DE CHILE" (OFFICIAL EDITION, 1949), VOL. I, CÓDIGO DE PROCEDIMIENTO PENAL, P. 29. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

Article 1. The courts of the Republic shall have jurisdiction to try offences committed within the territory of the Republic, whether by a

Chilean citizen or an alien, with the exception of cases provided for in generally recognized rules of international law.

. . .

(c) CODE RELATING TO THE ORGANIZATION OF TRIBUNALS, ENACTED BY LAW No. 7421 OF 15 JUNE 1943, AS MODIFIED BY LAW No. 8987 OF 3 SEPTEMBER 1948. "CÓDIGOS DE LA REPÚBLICA DE CHILE" (OFFICIAL EDITION, 1949), VOL. II, CÓDIGO ORGÁNICO DE TRIBUNALES, PP. 8-9, 57. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 6.* The following categories of crimes and offences committed outside the territory of the Republic are subject to Chilean jurisdiction:

1. Those committed by a diplomatic or consular agent of the Republic in the exercise of his duties;

2. The misappropriation of public funds, fraud and illegal extortion, breach of trust in the custody of documents, violation of secrecy or bribery, when committed by Chilean public officials or aliens in the service of the Republic;

3. Offences against the sovereignty or the external security of the State, committed by Chilean citizens, whether nationals by birth or by naturalization ;

4. Offences committed by Chileans or aliens on board a Chilean vessel on the high seas or on board a Chilean warship at anchor in the territorial waters of another Power;

5. The counterfeiting of the State seal, of the national currency, of credit documents of the State, the municipalities or public establishments, committed by Chilean nationals or by aliens arrested on the territory of the Republic;

6. Offences committed by Chilean nationals against other Chilean nationals if the offender returns to Chile without trial by the authorities of the country in which the offence was committed;

7. Piracy;

8. Offences specified in treaties concluded with other Powers;

9. Offences punishable under title I of Decree No. 5839 of 30 September 1948, which established the definitive text of the Law for the Permanent Defence of Democracy, whether committed by Chilean nationals or by aliens in the service of the Republic.

. . .

*Article 167.* The crimes mentioned in article 6 shall be adjudged by the courts of Santiago.

. . .

*Note.* Article 6 of this Code is almost identical with article 21 of the Law for the Defence of Democracy, No. 8987 of 3 September 1948, as amended by Decree No. 5839 of 30 September 1948. Chile, *Diario Oficial*, No. 21,180 (18 October 1948), pp. 1854, 1857. The crimes mentioned in no. 9 of article 6 of this Code and punishable under title I of the Law for the Defence of Democracy are the following: crimes connected with attempts to establish a régime opposed to democracy, crimes against the exercise of the freedom of the press and crimes relating to the entry of certain foreigners into Chile.

Subparagraph (1) of article 18 of the revised Law for the Defence of Democracy provides that the "crimes punishable under this Law which have been committed outside the territory of the Republic by Chilean citizens, whether nationals by birth or by naturalization, shall come under the jurisdiction, in the first instance, of a judge of the Court of Appeals of Santiago, in accordance with a system of rotation to be established by the Court, and shall be judged, in the second instance, by the Court itself, with the exclusion of the above-mentioned judge". *Ibid.*, p. 1856.

- (d) LEGISLATIVE DECREE NO. 675, CONCERNING AIR NAVIGATION, 17 OCTOBER 1925, AS REVISED BY THE DECREE WITH FORCE OF LAW, OF 20 MAY 1931. "BOLETÍN DE LEYES Y DECRETOS DEL GOBIERNO" VOL. 100 (1931), PP. 1215, 1231-1232.

*Article 47.* Juridical acts occurring on board an aircraft in the course of a journey shall be governed by Chilean law if the aircraft is travelling over national territory or territorial waters . . .

*Article 48.* The legislation relating to shipwreck and to saving of life [at sea] and to the duty to render assistance to ships in distress shall apply to aircraft, whether this happens at sea or on land.

Persons who render assistance and services in the circumstances described above shall be entitled to reasonable compensation.

## 10. China

- (a) CRIMINAL CODE, 1 JANUARY 1935. TRANSLATION BY THE LEGAL DEPARTMENT OF THE SHANGHAI MUNICIPAL COUNCIL (1935), PP. 2-3.

*Article 3.* This Code shall apply to any offence committed within the territorial limits of the Republic of China. Offences committed on any Chinese vessel or aircraft beyond the territorial limits of the Republic of China shall be deemed to have been committed within the territorial limits of the Republic of China.

*Article 4.* An offence which is committed or the effect of which takes place within the territorial limits of the Republic of China shall be deemed to have been committed within the territorial limits of the Republic of China.

*Article 5.* This Code shall apply to any one of the following offences committed beyond the territorial limits of the Republic of China:

- (1) Offences against the internal security of the State;
- (2) Offences against the external security of the State;
- (3) Offences relating to counterfeit currency;
- (4) Offences relating to counterfeiting of valuable securities, as specified in articles 201 and 202;
- (5) Offences relating to false documents and seals, as specified in articles 211, 214, 216 and 218;
- (6) Offences against personal liberty, as specified in article 296;
- (7) Piracy, as specified in articles 333 and 334.

*Article 6.* This Code shall apply to any one of the following offences committed by any public officer of the Republic of China beyond the territorial limits of the Republic of China:

- (1) Offences relating to malfeasance in office, as specified in articles 121 to 123, 125, 126, 129, 131, 132 and 134;
- (2) Offences relating to escape, as specified in article 163;
- (3) Offences relating to false documents, as specified in article 213;
- (4) Offences relating to misappropriation as specified in section I of article 336.

*Article 7.* This Code shall apply to all offences not mentioned in the last two preceding articles which are committed by any citizen of the Republic of China beyond the territorial limits of the Republic of China and for which the minimum principal punishment is imprisonment for not less than three years, except those offences which are not punishable according to the law in force at the place where the offence was committed.

*Article 8.* The provisions of the last article shall apply to any person who, not being a citizen of the Republic of China, commits beyond the territorial limits of the Republic of China any offence against any citizen of the Republic of China.

*Article 9.* A final decision of any court in a foreign country shall be no bar to any criminal proceedings under this Code for one and the same act;

*Provided,* that where sentence has been entirely or partly enforced in the foreign country, enforcement of the sentence may be entirely or partly remitted.

. . .

(b) CODE OF CRIMINAL PROCEDURE, 1 JANUARY 1935. TRANSLATION BY THE LEGAL DEPARTMENT OF THE SHANGHAI MUNICIPAL COUNCIL (1936), p. 3.

. . .

*Article 5.* (1) The courts of the place where the offence was committed or where the accused is domiciled, resides, or is found, shall be competent.

(2) When an offence is committed on a vessel or aircraft of the Republic of China while such vessel or aircraft is beyond the territorial limits of the Republic of China, the court of the place where the vessel was registered or the place where the aircraft started, or first stopped after the commission of the offence, shall also be competent.

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## 11. Colombia

- (a) PENAL CODE, 14 SEPTEMBER 1936. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, PP. 683-684. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 4.* Subject to the exceptions recognized under international law, Colombian penal law shall apply to all offenders inhabiting the national territory.

An offence commenced abroad and completed or frustrated in the territory of Colombia shall be deemed to have been committed in Colombia.

*Article 5.* Colombian penal law shall apply both to nationals of Colombia and to aliens who commit outside the territory of the Republic offences against the internal or external security thereof, or who counterfeit currency having legal tender in Colombia, or Colombian public securities, sealed paper or national stamps.

Where foreign currency having legal tender in Colombia is counterfeited with the intent to introduce it into the national territory, Colombian law shall apply.

*Article 6.* Colombian law shall apply in conformity with the provisions of the foregoing article to any national of Colombia or alien who has been judged abroad and acquitted or sentenced to a lesser penalty than that to which he would be liable under Colombian law.

Where the penalty served abroad is less than the penalty fixed for the offence in Colombia, it shall be deducted from the latter penalty.

*Article 7.* Colombian penal law shall apply:

1. To a national of Colombia who, otherwise than in the cases referred to in article 5, is found in Colombia after committing on foreign territory an offence punishable under Colombian law by restriction of personal liberty for not less than two years.

If the offence is punishable by a lesser penalty, proceedings shall be instituted only on private prosecution or at the request of the chief law officer (*procurador general*) of the nation.

The restrictions specified in the foregoing paragraphs shall in no circumstances apply to the diplomatic and consular agents of Colombia, or to other public officers who commit offences in the performance of their duties.

2. To an alien who, save in the cases referred to in article 5, is found in Colombia after having committed abroad an offence directed against the Colombian State or a national of Colombia and punishable under Colombian law by restriction of personal liberty for not less than two years.

3. To aliens who have committed abroad offences against aliens, subject to the following conditions:

- (a) The offender must be found in the territory of Colombia;
- (b) The offence must be punishable by restriction of personal liberty for not less than four years;

(c) The offence must not be of a political or social character, and

(d) Extradition must not have been applied for or, if offered, must not have been accepted by the government of the country having jurisdiction over the offender.

In the cases referred to in the foregoing paragraphs proceedings shall be instituted only on private prosecution or at the request of the chief law officer (*procurador general*) of the nation.

*Article 8.* In the cases referred to in the foregoing article proceedings shall not be instituted against a person who has been judged abroad.

. . .

*Note.* Article 253 of the Colombian Penal Code provides that "a person who causes the burning, sinking or shipwreck of a ship or other vessel or causes an aircraft owned by another person to fall or to suffer damage shall be punished by imprisonment (*prisión*) for not less than one or more than seven years and by a fine of not less than fifty or more than 5,000 pesos". L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, pp. 715.

When a murder has been committed by means of sinking, shipwreck, etc., article 362, paragraph 8, provides for its punishment by imprisonment from fifteen to twenty-four years. *Ibid.*, p. 728.

(b) CODE OF CRIMINAL PROCEDURE, 13 JUNE 1938. REPÚBLICA DE COLOMBIA, "CÓDIGO DE PROCEDIMIENTO PENAL" (1938), p. 11. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 57.* If the place where the offence was committed is unknown, or if the offence was committed abroad, or in two or more places, jurisdiction shall be exercised by the court which, according to the nature of the act, is competent in the place where the complaint was first made, or where the investigation was first begun, and, *ceteris paribus*, the court of the place where the accused was first apprehended.

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## 12. Costa Rica

(a) PENAL CODE, 21 AUGUST 1941. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, PP. 743-744. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 3.* Costa Rican penal law shall apply to any person committing a punishable act in the national territory, which includes the air space and territorial waters, Costa Rican legations, naval vessels and military aircraft as well as Costa Rican merchant vessels and aircraft on the high seas or in free air space, subject to the exceptions with respect to immunity and extra-territoriality recognized by international law.

*Article 4.* Costa Rican law shall likewise apply:

1. To diplomatic agents and other officials of the Republic enjoying extra-territoriality, with respect to punishable offences committed by them abroad.

2. To officials and employees in the service of the Republic committing abroad offences arising out of and in the course of their duties.

3. To nationals and aliens who commit outside the territory of the Republic punishable acts detrimental to the political or economic interests of the nation.

4. To offences committed abroad, whatever the nationality of the offender, if any of the acts constituting the offence was committed in Costa Rica or all or some of its consequences take effect in the national territory.

5. To nationals of Costa Rica in respect of all punishable acts of any nature committed abroad, and to aliens in respect of offences committed outside the territory of the Republic to the detriment of the State or of a national of Costa Rica, provided in either case that the act is punishable under Costa Rican law by deprivation of liberty for not less than one year, and that it is punishable in the country in which it was committed.

*Article 5.* In the cases specified in the foregoing article proceedings shall be instituted only where charges are preferred against the offender, or at the request of the chief law officer (*Jefe del Ministerio Público*). In the cases specified in paragraphs 4 or 5 of that article proceedings shall be instituted only if the offender is found in the national territory.

*Article 6.* In cases of piracy the rules of international law respecting jurisdiction shall be observed.

*Article 7.* A national of Costa Rica or an alien may not be judged in Costa Rica under the provisions of the foregoing articles for an offence or infraction committed outside Costa Rica if he has already been judged in the territory in which the offence was committed and has suffered the penalty, or if he was acquitted or the penalty was suspended, or if, in conformity with the rules of Costa Rican law, criminal proceedings or the penalty awarded are barred by lapse of time.

If the offender has suffered part of the penalty abroad, due allowance shall be made therefor when he is judged in Costa Rica.

. . .

*Note.* Article 314 of the Costa Rican Penal Code provides for the punishment of a person causing "damage by sinking or stranding a ship or other vessel or by causing an aircraft to fall" by imprisonment from six to thirty years. In addition, article 318 provides that "a person who causes an accident in a means of transport by land, air or sea shall be punished by imprisonment for three to six years". If as a result of such accident one or more persons suffer any injuries, the penalty is increased to imprisonment for four to ten years, or even six to twelve years, depending on the character of the injuries. "If the act results in the death of one or more persons the penalty shall be imprisonment for twelve to twenty-four years." *Ibid*, pp. 793-794.

(b) POLICE CODE, 21 AUGUST 1941. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, P. 819. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 3.* In police cases Costa Rican law shall apply solely to offences committed in the national territory, which includes the air space and



territorial waters, Costa Rican legations, naval vessels and military aircraft as well as Costa Rican merchant vessels and aircraft on the high seas or in free air space, subject to the exceptions with respect to immunity or extra-territoriality recognized by international law.

- . . . .
- (c) CODE OF CRIMINAL PROCEDURE OF 3 AUGUST 1910, AS AMENDED BY LEGISLATIVE DECREE No. 8, 29 NOVEMBER 1937. "LA GACETA", VOL. 59, NO. 270 (1 DECEMBER 1937), PP. 2751, 2805. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 29.* An offence committed abroad by a Costa Rican citizen or by an alien shall, in the cases provided for in the Penal Code, be tried in Costa Rica, and even if the offender is not in the national territory, proceedings may be instituted against him, if necessary, with the object of securing his extradition.

- . . . .
- (d) ORGANIC ACT OF THE JUDICIAL POWER, ENACTED BY LEGISLATIVE DECREE No. 8, 29 NOVEMBER 1937, AS AMENDED BY LEGISLATIVE DECREE No. 372, 22 AUGUST 1941. "LA GACETA", VOL. 59, NO. 270 (1 DECEMBER 1937), PP. 2751, 2763; "COLECCIÓN DE LEYES, DECRETOS, ACUERDOS Y RESOLUCIONES", 1941, P. 527. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 193.* The judge in whose territory a crime has been committed shall be competent to deal with it.

. . . .

*Article 196.* When the jurisdiction cannot be determined according to the territory or place in which the act was wholly or partly committed, or according to the nature of the offence, the judge in whose area the offender is found or was arrested or, if he is outside the territory of the Republic, the criminal judges of the capital, shall be competent to hear the case.

### 13. Cuba

- . . . .
- (a) CODE OF SOCIAL DEFENCE, 4 APRIL 1936. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, PP. 856-858. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 7. (A)* The provisions of the present Code shall apply to all crimes and offences committed in the territory of the Republic and in Cuban territorial waters or air space, or on board Cuban ships or aircraft, wherever they may be, subject to the exceptions established by international law and treaties.

(B) The provisions shall likewise apply to crimes committed on board foreign ships or aircraft in Cuban territorial waters or air, whether committed by Cubans or aliens, other than offences committed by one foreign member of the crew against another, unless in the latter case the assistance of the authorities of the Republic is requested by the victim, the captain of the ship or the consul of the country concerned.

(C) Notwithstanding the provisions of the last portion of the preceding sub-paragraph, the foreign nation may claim jurisdiction over the case instituted before the Cuban courts, and the surrender of the offender in accordance with any relevant provisions of treaties in force.

(D) For the purposes of this Code, territorial waters shall be taken to mean the waters surrounding the coasts of the Republic to a distance of three nautical miles therefrom reckoned from the lowest low-watermark on the most distant adjacent key or island, following the coastline of the national territory and of its keys or islands.

(E) The Cuban territorial air space shall be deemed to mean the air space situated above Cuban territory or territorial waters.

*Article 8.* Any citizen committing an offence in the national territory shall be tried by the courts of the Republic, even if he has been tried abroad; in the like case, an alien or stateless person may not be tried except on the application of the Government.

*Article 9.* The provisions of this Code shall apply both to citizens and to aliens who have committed any of the following crimes outside the Cuban national territory, territorial air space or territorial waters:

(A) Crimes against the integrity and stability of the nation and the peace of the State.

(B) Crimes against diplomatic or consular officials, agents, representatives, or delegates of the Republic abroad, committed by Cubans.

(C) Crimes involving counterfeiting, provided that they relate exclusively to one of the following categories:

1. Forgery of the seal of State, the signatures of the President of the Republic and of the Ministers, and official seals and marks.

2. Counterfeiting of national coinage or paper money and of coins or bank-notes which are legal tender in the Republic; or counterfeiting of coins circulating in the Republic, provided that such coins have been introduced into the Republic.

3. Forgery of bearer securities, scrip, bonds, certificates of indebtedness, promissory notes or any other document representing State, provincial or municipal securities or credits.

4. Forgery of postal or telegraphic stamps, national stamps or State, provincial or municipal stamped paper of any kind.

5. Forgery of paper, printed forms or official documents of the State.

(D) Crimes committed by diplomatic or consular officials or other agents, representatives or delegates in the service of the Republic abroad, in the exercise of their duties.

(E) Crimes committed by aliens or Cubans, whether or not they have accomplices in Cuba, if the crimes so committed abroad are likely to have consequences in the Republic of Cuba.

(F) Both imprisonment or preventive detention and any penalty or part thereof which may have been served by the criminal shall be fully taken into account by the courts of the Republic.

*Note.* Article 472 of the Cuban Code of Social Defence provides that:

“(A) Any person who by any means other than fire or explosion or for any purpose other than that stated in article 168 (E) shall cause the wreck, stranding or destruction of a ship having any person on board, shall be punished by deprivation of liberty for a term of not less than ten and not more than twenty years.

“(B) If the death of any person occurs as a consequence of the damage caused, the penalty shall be deprivation of liberty for a term of twenty years or for life.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, p. 956.

Article 168 of the Code, which is mentioned above, deals with wrecking a ship in order to rob it.

- (b) LAW OF CRIMINAL PROCEDURE, 14 SEPTEMBER 1882, AS AMENDED.  
E. R. NÚÑEZ Y NÚÑEZ, “LEY DE ENJUICIAMIENTO CRIMINAL” (1936),  
P. 94. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 15.* When the place where a misdemeanour or crime has been committed is not known, the following judges and courts shall have jurisdiction, in a proper case, of the cause or trial:

1. That of the municipal or judicial district or circuit where material proofs of the crime have been found.
2. That of the municipal or judicial district or circuit in which the presumed criminal may have been apprehended.
3. That of the place of residence of the presumed criminal.
4. Any judge or court receiving notice of the crime.

If a question of jurisdiction shall arise between these judges or courts, the decision shall be rendered in accordance with the order of preference mentioned in the preceding numbers.

As soon as the place where the crime was committed is known, the proceedings shall be transferred to the judge or court within whose district such place is situated, the persons arrested as well as the effects seized being held subject to the orders of the said judge or court.

. . .

- (c) LEGISLATIVE DECREE NO. 108, ON MARITIME JURISDICTION, 8 JANUARY 1934. “GACETA OFICIAL”, VOL. 32, NO. 7 (9 JANUARY 1934), PP. 307, 309. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 9.* Naval courts shall have jurisdiction over all crimes and offences committed by members of the merchant marine in the exercise of their duties on board ship, or on the occasion of any shipwreck, collision, damage or accident at sea, or in connexion with operations relating to the navigation or internal services of ships.

The courts shall be composed of naval officers and shall apply the provisions of the Code of Criminal Procedure as a supplement to the Code of Military Procedure.

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#### 14. Czechoslovakia

- (a) PENAL CODE, 12 JULY 1950. "SBIRKA ZAKONU", 1950, NO. 39, C. 86, PP. 214-215; "BULLETIN DE DROIT TCHÉCOSLOVAQUE", VOL. 8, NO. 4 (DECEMBER 1950), PP. 457, 459-460. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 13.* (1) Offences committed in the territory of the Czechoslovak Republic shall be tried according to Czechoslovak law.

(2) An offence shall be deemed to have been committed in the territory of the Czechoslovak Republic:

(a) If the offender has committed in the said territory an act with intent to produce an effect defined as punishable by statute, even if the effect was produced or was intended to be produced wholly or partly abroad; or

(b) If the effect defined as punishable by statute is produced or is intended to be produced in the said territory, even if the act with intent to produce this effect is committed abroad by the offender.

*Article 14.* (1) Czechoslovak law shall likewise be applicable for the purpose of determining the conditions governing the punishment of Czechoslovak citizens or stateless persons resident in the Czechoslovak Republic who commit offences abroad.

(2) Czechoslovak law shall be applicable for the purpose of determining the conditions governing the punishment of persons who commit any of the following offences: high treason (article 78), conspiracy against the Republic (articles 79 and 80), sabotage (article 84), espionage (articles 86 and 87), sedition (article 93), obstruction of the war effort (article 99), murder of a person in constitutional authority (article 104), attempt to cause bodily injury to a person in constitutional authority (articles 105 and 106), conspiracy to attack a person in constitutional authority (article 107), violence against a person in constitutional authority (article 108), usurpation of the powers of a person in constitutional authority (article 109), endangering economic and administrative secrets (article 112), counterfeiting and falsification of currency (article 139), circulation of illegal or falsified currency (article 140), depreciation of currency and circulation of depreciated currency (article 141), manufacture or possession of instruments for falsification (article 142), violence against a person in public authority (article 177), attempt to interfere with the operation of installations operating in the public interest (article 194, paragraph 1 [b]), manufacture and unlawful possession of narcotic drugs and poisonous substances (article 197), denial of personal freedom (article 230), abduction abroad (article 231), and traffic in women (article 243), even if these offences are committed abroad by aliens or stateless persons not resident in the territory of the Czechoslovak Republic. The same rules shall apply with respect to the punishment of conspiracies (article 166) to commit these offences.

*Article 15.* (1) If offences other than those referred to in article 14, paragraph 2, are committed abroad by aliens or stateless persons not resident in the territory of the Czechoslovak Republic, Czechoslovak law shall only be applicable if:

(a) The act is also punishable under the laws in force in the territory where it was committed; and

(b) The offender is apprehended in the territory of the Czechoslovak Republic and is not extradited abroad for prosecution.

(2) If the law of the State in the territory of which the offence was committed is less severe than Czechoslovak law, the offender shall not be liable to punishment which is more severe than that applicable under the aforesaid law.

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*Note.* Article 190 of the Czechoslovak Penal Code provides for the punishment of persons who intentionally expose other persons to danger of death or of serious injury or expose the property of others to great danger.

(b) CODE OF CRIMINAL PROCEDURE, 12 JULY 1950. "SBIRKA ZAKONU", 1950, NO. 39, C. 87; "MINISTERSTVO SPRAVEDLNOSTI, TRESTNI ZÁKON A TRESTNI RÁD" (1950), PP. 151, 157-159. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 15.* 1. Preliminary proceedings shall be conducted by the district prosecutor in whose district the offence has been committed. If the offence has been committed in more than one district, the preliminary proceedings shall be conducted by the district prosecutor who first took measures to prosecute the accused.

2. If the offence has been committed abroad, or if the place where it was committed cannot be ascertained, the preliminary proceedings shall be conducted by the district prosecutor in whose district the accused resides or works or is staying, or, if he is not in the Czechoslovak Republic or cannot be found, by the district prosecutor in whose district the offence was discovered. If more than one district prosecutor is empowered as aforesaid, the preliminary proceedings shall be conducted by the prosecutor who first took measures to prosecute the accused.

3. If, in the case referred to in paragraph 2, an additional place connected with the crime is ascertained in the Czechoslovak Republic, the case may be referred to the district prosecutor at the place of the crime.

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*Article 20.* 1. The first stage of the proceedings shall be conducted, unless otherwise laid down by law, in the court served by the prosecutor who brought the charge or made some other motion.

2. The court may, in order to expedite the proceedings or for any other valid reason, sever the proceedings in respect of one of the offences or against one of the accused from the rest of the proceedings; and the competence of the court (paragraph 1) shall not be affected thereby.

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## 15. Denmark

(a) PENAL CODE, 24 JUNE 1939. "DANMARKS LOVE, 1665-1946", PP. 1924, 1925. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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6. (1) Danish criminal jurisdiction shall extend to an offence committed

- (i) On Danish soil;
- (ii) On a Danish vessel outside the internationally-recognized territory of a State;
- (iii) On a Danish vessel within foreign internationally-recognized territory by a member of the crew or a passenger.

(2) The Minister of Justice shall decide which offences committed on board a foreign vessel in Danish territory by or against a member of a crew or a passenger shall be prosecuted.

7. Danish criminal jurisdiction shall henceforward extend to the following offences committed outside the territory of the Danish State by a person having Danish nationality or domiciled within that territory:

(1) An offence committed outside the internationally-recognized territory of a State and of a kind punishable by a severer penalty than detention;

(2) An offence committed within such territory and punishable also under the law which is in force there.

8. (1) Danish criminal jurisdiction shall also comprehend an offence committed outside the Danish State, irrespective of the domicile of the offender:

(i) If the offence is prejudicial to the independence, security, constitution or public authorities of the Danish State, or constitutes a breach of an official duty or interests protected by law in the Danish State by reason of their special relationship thereto;

(ii) If the offence constitutes a breach of a duty which the offender is required by law to perform abroad, or of a duty respecting a Danish vessel and arising out of his employment;

(iii) If the offence is committed outside the internationally-recognized territory of a State and injures a person having Danish nationality or domiciled within the Danish State (and is of a kind punishable by a severer penalty than detention).

(2) The Chief Public Prosecutor shall decide whether charges shall be preferred in any of the cases referred to in paragraph (iii) above.

9. An offence constituted by, or the penalty for which is affected by, its actual or intended effects shall be deemed to have been committed in the place in which its effects occurred or were intended to occur.

10. (1) Where in conformity with the foregoing provisions charges are preferred in Denmark, the sentence and all other legal consequences of the act shall be determined in accordance with Danish law.

(2) In the cases specified in section 7 a person committing an offence within the internationally-recognized territory of a foreign State shall not be sentenced to a severer penalty than that prescribed by the law of the place in which the offence was committed.

(3) In the cases specified in section 7 charges shall not be preferred in Denmark if the accused person has been finally acquitted in the State in which the offence was committed, or if he has suffered the penalty awarded, or it is barred by lapse of time under the law of the State in which the offence was committed.

(4) In other cases in which a person about to be sentenced in Denmark for an offence has already undergone a penalty therefor elsewhere, due account shall be taken thereof and the penalty shall be reduced or remitted accordingly.

11. Where a person having Danish nationality or domiciled in the Danish State is punished in a foreign State for an offence which under Danish law may entail revocation or loss of the right to practise a profession or occupation or some other right, such revocation may be imposed in public proceedings instituted by the Chief Public Prosecutor.

12. The rules prescribed in sections 6 to 8 shall be subject in their application to the exceptions recognized by international law.

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## 16. Dominican Republic

(a) CODE OF CRIMINAL PROCEDURE, 27 JUNE 1884, AS AMENDED BY THE ACT OF 28 JUNE 1911. "GACETA OFICIAL No. 2208; CÓDIGO DE PROCEDIMIENTO CRIMINAL DE LA REPÚBLICA DOMINICANA" (1927), PP. 84-85. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 5.* A citizen of the Dominican Republic, who commits a crime abroad punishable under the law of the Dominican Republic, may be prosecuted and tried in the Republic.

A citizen of the Dominican Republic, who commits abroad an act which is an offence under Dominican law, may be prosecuted and tried in the Republic if the act is punishable under the law of the State where it was committed.

Prosecution proceedings shall not, however, be taken when the offender proves that he has been tried for a crime or offence committed abroad. If he has committed an offence against a Dominican citizen or an alien, prosecution proceedings shall only be instituted at the request of the Public Prosecutor and must be preceded by a complaint made by the injured party or an official accusation lodged with the Dominican authorities by the authorities of the State where the offence was committed.

No proceedings shall be taken prior to the return of the offender to the Republic, except in case of the crimes listed in article 7.

*Article 6.* In the cases referred to in the preceding article proceedings shall be instituted at the request of the Public Prosecutor of the place where the offender lives or may be found. At the request of the Public Prosecutor or of the parties concerned, the High Court of Justice may, however, rule that the case shall be heard by the court situated nearest to the place where the offence or crime was committed.

*Article 7.* An alien who has committed abroad, as principal or accessory, a crime against the security of the State, or a crime involving the

counterfeiting of the seal of the State or of national currency which serves as legal tender, or of credit documents issued under seal by the public treasury or bank notes duly authorized by law, may be prosecuted and tried in accordance with the laws of the Dominican Republic, if arrested in the Republic or if the Executive Power has obtained his extradition.

## 17. Ecuador

(a) PENAL CODE, 22 MARCH 1938. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. I, PP. 1203-1204. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 5.* Every offence committed within the territory of the Republic, whether by an Ecuadorian or an alien, shall be tried and punished in conformity with the law of Ecuador.

The following offences shall be deemed to be committed within the territory of the Republic:

Offences committed on board Ecuadorian naval or merchant vessels or aircraft, except where a merchant vessel is subject to foreign criminal jurisdiction in accordance with international law; and offences committed within the precincts of an Ecuadorian legation abroad.

An offence shall be deemed to have been committed within the territory of Ecuador if the act or omission which constitutes it were intended to take effect in Ecuador or in any place subject to Ecuadorian jurisdiction.

A national of Ecuador or an alien committing any of the following offences outside the territory of Ecuador shall be punished in conformity with the Ecuadorian law:

1. Offences against the integrity of the State.
2. Counterfeiting State seals or using counterfeit seals.
3. Counterfeiting coins or banknotes of legal tender in Ecuador, or sealed securities, or Ecuadorian State bonds.
4. Offences committed by public officers in the service of the State in abuse of their powers or in breach of the duties of their office.
5. Crimes against international law; and
6. Any other offence brought within the jurisdiction of Ecuadorian law by special statutory provision or by international convention.

An alien committing any of the offences enumerated above shall be tried and punished in conformity with Ecuadorian law if apprehended in Ecuador or extradited thereto.

*Article 6.* An Ecuadorian who, otherwise than in accordance with the foregoing article, commits abroad an offence punishable under Ecuadorian law by special rigorous imprisonment (*reclusión mayor extraordinaria*) shall, if found in the territory of Ecuador, be punished in conformity with the criminal law of Ecuador.

Trial in Ecuador shall be barred if the country in which the offence was committed procures the extradition of the offender.



*Note.* The Ecuadorian Penal Code contains also the following special provisions with respect to maritime transport:

“*Article 395.* A person who commits any act capable of endangering a ship, aircraft or vessel, or of obstructing or hindering navigation, shall be punished by detention (*prisión*) for not less than one or more than five years and by a fine of not less than fifty or more than 1,000 sucres.

“If the act causes shipwreck, damage, stranding or any other serious accident, the penalty shall be imprisonment (*reclusión menor*) for not less than three or more than six years; if it causes a wound or injury to any person, the penalty shall be rigorous imprisonment (*reclusión mayor*) for not less than four or more than eight years; and if it causes loss of life, the penalty shall be special rigorous imprisonment (*reclusión mayor extraordinaria*).

“*Article 396.* A guard, captain, pilot, engineer or any other employee on a train, vessel or aircraft who abandons his post while on duty and before reaching the port, railway terminus or airport shall be punished by detention for not less than six months or more than two years and by a fine of not less than fifty or more than 500 sucres, unless the offence is punishable by a severer sentence.

“The penalty for a driver of an automobile used for international, inter-provincial or inter-cantonal transport shall be detention for not less than three months nor more than one year.

“*Article 397.* A person who through imprudence or neglect, or lack of skill in his trade or profession, or failure to comply with rules or regulations, causes shipwreck, derailment or any other transport accident shall be punished by detention for not less than two months or more than two years and by a fine of not less than fifty or more than 300 sucres. If the offence results in the wounding, injury or death of any person the penalty shall be detention for not less than six months or more than five years according to the seriousness of the act and its consequences.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, p. 1258.

(b) CODE OF CRIMINAL PROCEDURE, 25 MARCH 1938. MINISTERIO DE GOBIERNO, “LEYES DE LA REPÚBLICA”, NO. 8, CÓDIGO DE PROCEDIMIENTO PENAL (1938), PP. 1-3. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 3.* The following persons shall be subject to the criminal jurisdiction of Ecuador:

1. Ecuadorians and aliens committing offences in the territory of the Republic;

In accordance with international law, the foregoing provision shall not apply to a diplomatic officer resident in Ecuadorian territory nor to a diplomatic officer of a friendly Power in transit through that territory, nor to the wife, children or suite of a diplomatic officer, provided that he has officially informed the Ministry of Foreign Affairs of the staff employed at the legation; but it shall apply to a domestic servant engaged in Ecuador and committing an offence outside the residence of the diplomatic officer by whom he is employed;

2. Diplomatic officers of Ecuador, their families and suite, committing offences abroad, and Ecuadorian consular officials similarly committing offences in the exercise of their consular functions;

3. Ecuadorians or aliens committing offences aboard Ecuadorian vessels on the high seas or in the waters of the Republic;
4. Ecuadorian nationals or aliens committing offences aboard Ecuadorian warships in the waters of other nations;
5. Ecuadorian nationals or aliens committing offences aboard foreign vessels other than warships in Ecuadorian waters;
6. Pirates who have not been tried in any other country; and
7. Ecuadorians or aliens covered by one or more of the other cases mentioned in article 5 of the Penal Code.

*Article 4.* The following shall exercise criminal jurisdiction in the manner and matters provided by law: local magistrates (*tenientes políticos*), police officials (*intendentes y comisarios de policía*), criminal judges, the Criminal Tribunal, the higher courts and the Supreme Court.

*Article 5.* The following rules shall govern the competence of judges and courts in criminal cases:

1. The judge or court in whose jurisdictional area the offence has been committed shall be competent to try the case.

Where there is more than one judge or court, the first to take cognizance of the case shall continue to deal with it;

2. If the offence was committed abroad, the offender shall be tried by a judge or magistrate, as the case may be, having jurisdiction in the capital of the Republic, or by a judge or magistrate of the province where he was arrested;

3. When a person has committed offences of the same nature in different places, the judge of any of those places first taking cognizance of the case shall be competent to deal with it.

If the offences are of different gravity, the judge of the district in which the most serious offence was committed shall take cognizance of the case;

4. If the offence was committed near the boundary between two jurisdictional areas, the judge first taking cognizance of the case shall be competent to deal with it.

In a case referred to in the first paragraph of the preceding rule and of this rule, if several judges have taken cognizance of the case at the same time, the judge having jurisdiction in the canton nearest to that where the respective higher court sits shall continue to deal with the case;

5. If one of several offenders is entitled to trial in a special court, the special judge shall be competent to try them all;

6. If the place where the offence was committed is not known, the judge or court within whose jurisdiction the offender is arrested shall be competent to try the case, unless the judge of the district of residence of the accused has already taken cognizance; and

7. If the offence was prepared or commenced in one place and completed in another, the judge of the latter place shall take cognizance.

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## 18. Egypt

- (a) PENAL CODE, PROMULGATED BY ACT NO. 58, 31 JULY 1937. "JOURNAL OFFICIEL", 5 AUGUST 1937, NO. 71; U. PACE AND V. SISTO, "RÉPERTOIRE PERMANENT DE LÉGISLATION ÉGYPTIENNE" (1948), TRIBUNAUX MIXTES, VI, P. 3. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 1.* The present Code applies to all persons who commit in Egypt the offences covered by its provisions.

*Article 2.* It also applies to:

1. Any person who, by acts committed abroad, participates either as a principal or as an accomplice in an offence committed wholly or partly in Egypt;

2. Any person who is guilty abroad of:

(a) A crime against the security of the State provided for in chapters I and II of part II of the present Code;

(b) One of the crimes of forgery provided for in article 206 of the present Code;

(c) One of the counterfeiting offences provided for in articles 202 and 203 of the present Code, when it involves currency which is legal tender in Egypt.

*Article 3.* Any Egyptian who is guilty abroad of an act considered as a crime or offence under the present Code, is punishable under its provisions upon his return to Egypt, provided the act is punishable under the laws of the country where it was committed.

*Article 4.* In the event of offences or acts committed abroad, legal action may be instituted by the Public Prosecutor's Office only.

No legal action shall be taken if the accused proves that he was acquitted abroad, or that, if he was convicted, the sentence was carried out.

- (b) CODE OF CRIMINAL PROCEDURE, PROMULGATED BY ACT NO. 57, 31 JULY 1937. "JOURNAL OFFICIEL", 5 AUGUST 1937, NO. 71; U. PACE AND V. SISTO, "RÉPERTOIRE PERMANENT DE LÉGISLATION ÉGYPTIENNE" (1948), TRIBUNAUX MIXTES, VII, P. 32. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 288.* Jurisdiction to investigate or to try an offence is determined by the place where the offence was committed.

In the case of an attempt to commit an offence, jurisdiction shall rest with the judge of the place where the last act in contemplation thereof was committed.

In the case of a continuing offence, jurisdiction shall rest with the judge of the place where the continuance ceased.

*Article 289.* If jurisdiction cannot be determined in accordance with the provisions of the preceding article, it shall rest with the judge of the

place where the accused was arrested, and in default thereof, of his place of residence.

*Article 290.* If the offence was committed abroad, jurisdiction shall rest with the Cairo judge if the preceding provisions are not applicable.

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- (c) ACT NO. 132, CONCERNING THE MAINTENANCE OF ORDER AND DISCIPLINE ABOARD SHIPS, 4 DECEMBER 1939. "JOURNAL OFFICIEL", 1939, No. 142; U. PACE AND V. SISTO "RÉPERTOIRE PERMANENT DE LÉGISLATION ÉGYPTIENNE" (1948), MARINE MARCHANDE, PP. 21-22. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 2.* Crimes and offences committed aboard ships flying the Egyptian flag are considered as having been committed on Egyptian territory. Any captain, member of the crew or embarked person who has committed outside Egyptian territory one of the crimes and offences covered by the present law may be prosecuted in Egypt.

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*Article 17.* The assize courts or courts of summary jurisdiction of the ship's home port shall be competent to deal with crimes or offences covered by the present law.

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*Note.* Article 9 of this law provides that "any person who attempts to sink a ship, to set fire to it or incapacitate it from proceeding on its voyage shall be punished with penal servitude for life or a specified period."

## 19. El Salvador

- (a) CODE OF CRIMINAL PROCEDURE, 1904, AS AMENDED, R. B. COLINDRES, "CÓDIGO DE INSTRUCCIÓN CRIMINAL DE LA REPÚBLICA DE EL SALVADOR" (1917), PP. 7-8; "CONSTITUCIÓN Y CÓDIGOS DE LA REPÚBLICA DE EL SALVADOR" (1947), P. 851. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 18.* All Salvadorians shall be prosecuted and punished in accordance with the law of El Salvador for any of the following offences, even if committed abroad:

- (1) Offences against the internal or external security of the Republic;
- (2) Counterfeiting Salvadorian currency;
- (3) Counterfeiting official seals;
- (4) Counterfeiting public credit documents or other State-guaranteed papers.

*Article 19.* The preceding article shall also apply to aliens who commit the aforesaid offences or who are accessories before or after the fact and are apprehended in the territory of the Republic or are extradited under treaties by their own Government or by the government in whose territory they are domiciled.

*Article 20.* Salvadorians committing any offence against other Salvadorians abroad shall also be prosecuted and punished in accordance with the law of El Salvador.

*Article 21.* In the cases specified in articles 18, 19 and 20 and in any other case in which a Salvadorian commits an offence abroad and should be tried under the law of El Salvador by a Salvadorian court, the Treasury Judge (*Juez de Hacienda*) or the military or civil authorities of the accused person's place of domicile shall try the case, always provided that he has not been previously tried before the courts of another country. If the accused has not been domiciled in El Salvador, he shall be tried before a judge designated by the Supreme Court.

*Note.* Article 515 of the Penal Code of El Salvador of 14 October 1904 provides for the punishment of those who cause a disaster by means of "sinking or stranding a ship." L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, p. 711.

## 20. Finland

(a) PENAL CODE, 19 DECEMBER 1889. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS, BASED ON THE FRENCH TRANSLATION IN L. BEAUCHET, "CODE PÉNAL DE FINLANDE" (1890), PP. 3-5.

### *Chapter I. Persons subject to the penal legislation of Finland*

*Article 1.* All Finns shall be tried in accordance with Finnish law for offences committed by them in Finland, or on board a Finnish ship, or against Finland, or against a Finnish subject outside Finnish territory, as well as for any other offence committed outside that territory if the Emperor and Grand Duke orders that they shall be prosecuted in Finland.

*Article 2.* A person who is not a Finnish subject but who is in Finland shall be tried in accordance with Finnish law and by the Finnish courts for any offence committed by him in Finland or on board a Finnish ship abroad.

The same shall apply if such a person has committed outside Finland an offence against Finland or against a Finnish subject and if the Emperor and Grand Duke orders that he shall be prosecuted in the Grand Duchy.

Finnish law shall also apply if such a person, having committed an offence outside Finland, subsequently acquires Finnish nationality and if the Emperor and Grand Duke orders that he shall be prosecuted in Finland.

*Article 3.* A person who is at the service of the State and who commits an offence while engaged in his official duties shall be tried according to Finnish law and by Finnish courts whether the offence has been committed in Finland or abroad.

*Article 4.* If an offence under chapters 41, 42, 43 or 44, or any other similar offence, has been committed outside Finland, no sentence shall be pronounced unless specifically provided for by law or under a treaty.

*Article 5.* If a person prosecuted for an offence has served a part or the whole of the sentence pronounced against him abroad for that offence, the sentence he has already served shall after examination be deducted from the sentence to which he is liable in Finland for that offence or shall be deemed to be equivalent to such a sentence. Nevertheless, if under Finnish law the offence is punishable by dismissal, ineligibility for public office, temporary removal from office or loss of civic rights, such sentences shall be pronounced against the offender in Finland.

Foreign sentences in criminal matters cannot be executed in Finland.

. . .

*Note.* Chapters 41-44 of this Code, which are mentioned in article 4, above, deal with the following crimes: violations of rules concerning religion; violations of rules relating to the safety of the State and to the maintenance of public order; violations of rules concerning morality; violations of rules for the protection of life, health, and property.

Chapter 12 of the Finnish Code provides for the punishment of treason and other crimes against the safety of Finland, if the offender is a Finnish national or a resident of Finland, or if he is in the public service of Finland.

Article 13 of chapter 24 of the Code contains provisions relating to the sinking or stranding of a ship, the punishment—imprisonment from one to eight years—depending on the intention of the offender.

## 21. France

(a) CODE OF CRIMINAL PROCEDURE, 17 NOVEMBER 1808, AS REVISED. PETITS CODES DALLOZ, "CODE D'INSTRUCTION CRIMINELLE" (43RD EDITION, 1951), PP. 5-7. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 5.* A French national who, being outside French territory, commits a crime punishable under French law may be prosecuted and judged in France.

A French national who, being outside French territory, commits an act termed in French law a misdemeanour (*délit*), may be prosecuted and judged in France if the act is punishable under the legislation of the country in which it was committed.

It shall be immaterial that the accused person has acquired French nationality only after committing the crime or misdemeanour.

Nevertheless, a person accused either of a crime or of a misdemeanour shall not be prosecuted if he proves that he has been finally judged abroad and, if convicted, that he has served his sentence, or been exempted therefrom under a statute of limitations, or pardoned.

Where an offence is committed against a private person of French or foreign nationality, proceedings may be taken only on the application of the public prosecutor and after a charge has been preferred by the aggrieved party or a French authority has been officially notified by an authority of the country where the offence was committed.

No proceedings may be taken before the accused returns to France, save for the crimes set forth in article 7 hereunder.

. . .

*Article 6.* Legal proceedings shall be instituted on the application of the public prosecutor of the place where the accused resides or is to be found.

Nevertheless, the Court of Cassation may, at the request of the public prosecutor or of the parties, refer the case for hearing to a court or tribunal nearer to the place of the crime or misdemeanour.

*Article 7.* An alien who, being outside French territory, commits either as principal or accessory a crime against the security of the State, or counterfeits the seal of the State, national currency or legal tender, national papers, or bank notes authorized by law, may be prosecuted and judged according to the provisions of French law if he is arrested in France or the Government secures his extradition.

No proceedings may be taken against an alien for a crime or misdemeanour committed in France if the accused proves that he has been finally judged abroad and, if convicted, that he has served his sentence, or been exempted therefrom under a statute of limitations, or pardoned.

*Note.* The above text includes the following revised versions of the 1808 text: (1) Article 5—text revised by Act of 26 February 1910; (2) Article 6—text revised by Act of 27 June 1866; (3) Article 7—text revised by Acts of 27 June 1866 and 3 April 1903.

The prior texts of *article 5* were as follows:

Text of 1808: "A French national who commits outside French territory a crime against the security of the State, or counterfeits the seal of the State, national currency or legal tender, national papers, or bank notes authorized by law, may be prosecuted, judged and punished in France according to the provisions of French law."

Text revised by the Act of 27 June 1866: "A French national who, being outside French territory, commits a crime punishable under French law may be prosecuted and judged in France."

"A French national who being outside French territory commits an act termed in French law a misdemeanour (*délit*), may be prosecuted and judged in France if the act is punishable under the legislation of the country in which it was committed."

"Nevertheless, a person accused of either a crime or a misdemeanour shall not be prosecuted if he proves that he has been finally judged abroad."

"Where an offence is committed against a private person of French or foreign nationality, proceedings may be taken only on the application of the public prosecutor and after a charge has been preferred by the aggrieved party or a French authority has been officially notified by an authority of the country where the offence was committed."

"No proceedings may be taken before the accused returns to France, save for the crimes set forth in article 7 hereunder."

Paragraph 3 of the 1866 Act was further amended by the Act of 3 April 1903 which added the following phrase at the end of that paragraph: "and, if convicted, that he has served his sentence, or been exempted therefrom under a statute of limitations, or pardoned".

The 1808 text of *article 6* was as follows: "This provision may be extended to cover aliens who, as principals or accessories to any of the said crimes, have been arrested in France or whose extradition has been secured by the Government."

The 1808 text of *article 7* was as follows: "A French national who commits outside the territory of the realm a crime against a French national may, on his return to France, be prosecuted and judged there, provided that he has not been prosecuted and judged abroad and that the aggrieved French national prefers a charge against him."

- (b) PENAL AND DISCIPLINARY CODE OF THE MERCHANT MARINE, 17 DECEMBER 1926. DALLOZ, "RECUEIL PÉRIODIQUE ET CRITIQUE MENSUEL", 1927, PART 4, P. 270; DALLOZ, "CODE DE COMMERCE" (47TH EDITION, 1951), PP. 317-318, 322-323, 330-331. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 1.* The provisions of this Act shall apply in their entirety, regardless of the whereabouts of the ship, and save as otherwise provided in the Code of Military Justice for the Naval Forces (*Code de justice militaire pour l'armée de mer*), to:

(1) All persons, irrespective of nationality, entered on the list of the crew of a French ship, other than a warship, which is registered in France or Algeria and has retained its home port there, the said persons to be subject to these provisions from the day on which their names are entered on the ship's books (*embarquement administratif*) up to and including the day on which their names are removed therefrom;

(2) All persons, irrespective of nationality, who are physically present on board any ship, as defined in sub-paragraph (1) above, either as *bona fide* passengers or with the object of making the voyage, these provisions to be applicable to them throughout the time of their presence on board.

Members of the crew and seamen who, as a result of shipwreck or absence without leave or abandonment, are travelling on board as passengers for the purpose of repatriation, shall continue to be subject to the provisions of this Act, in the event of the loss of the ship, until they can be handed over either to a French authority or to a local foreign authority. The same shall apply to all other persons on board if they have asked to be given the same treatment as the crew.

The above provisions notwithstanding, members of the armed land or naval forces who are embarked in any capacity whatsoever on any of the ships covered by sub-paragraph (1) above, shall remain subject to the jurisdiction of the military tribunals of the Army or Navy so far as any offence or crime referred to in this Act is concerned.

The procedure to be followed in the investigation of and the inquiry into the offences or crimes referred to in the preceding paragraph, as well as the conditions governing the punishment of any breaches of discipline which are punishable under this Act and which are committed by members of the armed land or naval forces, shall be laid down in a decree countersigned by the Minister of the Merchant Marine, the Minister of War, the Minister of the Navy and the Minister of Colonies.

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*Article 34.* If the crime or offence is committed by or in complicity with the master of the vessel, the maritime registrar (*administrateur de l'inscription maritime*) or, in his absence, the officer commanding the nearest warship, if the crime or offence is committed outside France, Algeria or any of the French colonies, shall, as soon as he is informed of the offence, institute a preliminary inquiry in conformity with articles 32, 33, 35 to 39, 43 and 44 of the Code of Criminal Procedure.

*Article 35.* (As amended by the Legislative Decree of 29 July 1939, article 1 of the Act of 26 October 1940, and the Act of 5 June 1943.) If



the offence or crime referred to in article 34 is committed outside France, Algeria, Morocco, Indo-China or the West Indies, the maritime registrar or, in his absence, the officer commanding the warship, shall communicate the documents in the case, in a sealed envelope, to the Minister of the Merchant Marine who shall refer the matter to the judicial authority mentioned in paragraph 2 of article 37.

In similar circumstances and where required by the gravity of the offence or the safety of the ship or passengers, the maritime registrar or, in his absence, the officer commanding the warship, may order the master to be temporarily detained or returned to a French port and shall, in that case, acting so far as possible in concert with the shipowners, take the necessary steps to replace the master.

If the offence or crime is committed in France, Algeria or Morocco the maritime registrar shall, as prescribed in article 33, refer the matter to the Procurator of the Republic or to the president of the commercial maritime tribunal.

*Article 36.* (As amended by the Legislative Decree of 29 July 1939.) The Procurator of the Republic shall, if necessary, institute proceedings for the prosecution of crimes committed on French ships as described in article 1 as well as of the offences referred to in articles 46, 49, 50 to 53, 58 and 68 to 78.

In the case of offences covered by articles 46, 51 (paragraph 1), 52, 69 to 72, 74 (paragraphs 1 and 3) and 75 to 78, the Public Prosecutor (*ministère public*) may not institute proceedings except with the concurrence of the maritime registrar.

In the case of offences covered by articles 49, 50, 51 (paragraph 2), 53, 58, 68 and 73, the Public Prosecutor may institute proceedings only on the basis of the findings of the maritime registrar or after a time-limit of eight days has expired since he formally asked for these findings by registered letter.

The maritime registrar shall on his request be heard by the tribunal.

*Article 36 bis.* (Added by the Legislative Decree of 29 July 1939 and amended by article 1 of the Act of 26 October 1940 and by the Act of 5 June 1943.) The offences referred to in articles 39 to 43, 45, 54 to 57, 59, 62 to 67, 80 to 85, 87 and 87 *bis* shall be dealt with by the commercial maritime tribunals established under title IV of the present Act.

The provisions of the preceding sub-paragraph notwithstanding, jurisdiction to deal with offences covered by articles 80 to 85 and 87 shall be vested in the commercial maritime tribunals sitting in France and Algeria, to the exclusion of similar tribunals sitting in Morocco, Indo-China and the West Indies.

*Article 36 ter.* (Added by the Act of 20 August.) The maritime registrars and investigating officers (*commissaires rapporteurs*) shall be responsible for the investigation of offences within the competence of the commercial maritime tribunal and shall, in that capacity, possess the powers conferred on examining magistrates by the Code of Criminal Procedure, including the power to issue orders to appear (*mandats de comparution*), subpoenas (*mandats d'amener*), detention orders (*mandats de dépôt*) and warrants for arrest (*mandats d'arrêt*).

Likewise, any maritime registrar who is called upon to preside over a commercial maritime tribunal competent to try an accused, may issue

an order to appear, subpoena, detention order or warrant for arrest against the accused.

The provisions of the Code of Criminal Procedure relating to detention pending trial are applicable to persons accused of offences within the competence of the commercial maritime tribunals.

*Article 37.* (As amended by the Legislative Decree of 29 June 1939.) In the case of any crime or offence the injured party has the right to associate himself as a private complainant (*partie civile*) with the proceedings before the ordinary courts, in conformity with the provisions of the Code of Criminal Procedure. Article 183 of the said Code notwithstanding the injured party may not summon the accused directly before the criminal court (*tribunal correctionnel*) but must bring the case before the examining magistrate.

The competent jurisdiction is either that of the offender's residence, his port of debarkation, the place of his arrest, or else the port where the ship is registered.

*Article 38.* In an emergency, if the circumstances are as described in articles 63 (paragraph 1) and 80 to 83 of this Act and the offences are chargeable to one or more members of the crew of a foreign ship, the maritime registrar may, without prejudice to any measures which may be taken under ordinary law, detain the ship until a sum, the amount of which shall be fixed by him, has been deposited with the Seamen's Fund as a guarantee of the enforcement of the sentence. If the sentence is final and not executed, the said sum, after deduction of costs and civil damages, shall become the property of the Disabled Seamen's Fund.

For the purpose of ensuring the enforcement of these decisions the maritime registrar may apply to the port authorities to prevent the ship from leaving the port, or may himself order such physical measures as may be necessary to prevent its departure.

*Article 79.* If in circumstances other than those described in the Code of Military Justice for the Naval Forces, any person, by employing any means whatsoever, wilfully and with criminal intent causes any ship whatsoever to run aground or to be lost or destroyed, then that person shall be liable to the penalties prescribed in articles 434 and 435 of the Penal Code.

If the offender is in any capacity whatsoever responsible for the navigation of the ship or is acting as its pilot, he shall be liable to the maximum penalty applicable.

*Article 80.* Any master and any officer of the watch who violates the rules prescribed in the Maritime Regulations respecting lights to be shown at night or fog signals, or respecting the course to be followed or the manoeuvres to be executed on meeting another ship, shall be liable to imprisonment for a term of six days to three months, and to a fine of 2,000 to 12,000 francs or to one of these two penalties only.

Any pilot who violates the rules respecting the course to be followed shall be liable to the same penalty.

*Article 81.* If any of the offences referred to in article 80 or any other act of negligence attributable to the master, officer of the watch or pilot,

involves the ship or another ship in a collision or causes it to run aground or into a visible or known obstruction, or causes serious damage to the ship or its cargo, the offender shall be liable to imprisonment for a term of six days to three months and to a fine of 2,000 to 60,000 francs, or to one of these two penalties only.

If the offence leads to the loss of the ship or renders it totally unnavigable or causes the loss of a cargo, or causes serious bodily injury to or the death of one or more persons, the offender shall be liable to imprisonment for a term of three months to two years and to a fine of 6,000 to 72,000 francs, or to one of these two penalties only.

*Article 82.* If any member of the crew while on duty and not being the master, the officer of the watch or the pilot, commits any act of culpable negligence, or is remiss in his vigilance, or commits any other act of dereliction of duty, then, if owing to such act or remissness any ship is involved in a collision or runs aground or into a visible or known obstruction, or a ship or its cargo suffers serious damage, the person concerned shall be liable to imprisonment for six days to two months and to a fine of 2,000 to 12,000 francs, or to one of these two penalties only.

If the offence leads to the loss of the ship or renders it totally unseaworthy or causes the loss of a cargo, or causes serious bodily injury to or the death of one or more persons, the offender shall be liable to imprisonment for a term of six days to eight months and to a fine of 2,000 to 24,000 francs, or to one of these two penalties only.

*Article 83.* If after a collision has occurred any master fails to employ all the means at his disposal (to the extent compatible with the safety of his own ship, its crew and its passengers) to save the other vessel, its crew and its passengers from the peril created by the collision, then in such circumstances he shall be liable to a fine of 24,000 to 360,000 francs and to a term of imprisonment of one month to two years, or to one of these two penalties only.

If any master, not being compelled to do so by *force majeure*, leaves the scene of the disaster before assuring himself that assistance is no longer needed by the other vessel, its crew or passengers, or, the other vessel having sunk, leaves before he has done everything in his power to pick up the survivors, then the said master shall be liable to the same penalties as aforesaid. If one or more persons perish through the non-observance of the obligations referred to in this paragraph, the penalty may be increased to twice the amount stated.

If, after a collision has occurred and provided that it is possible without danger to the ship, crew or passengers, the master of either of the ships involved in the collision fails to give the master of the other ship the names of his own ship, its home port and its ports of departure and destination, then the said master shall be liable to a fine of 6,000 to 60,000 francs and to imprisonment for a term of six days to three months, or to one of these two penalties only.

*Article 84.* Any master who abandons his ship during a voyage, in case of danger, without first consulting the officers and leading members of the ship's crew, shall be liable to imprisonment for a term of six days to six months.

If any master fails to organize the rescue of the crew and passengers and to salvage the ship's papers, mail and the most valuable goods among its cargo, before abandoning ship in case of danger, he shall be liable to imprisonment for a term of one to two years.

Any master who, when forced to abandon ship, is not the last to leave, shall be liable to the penalty stated in the preceding paragraph.

*Article 85.* If any master who is able without serious danger to his ship, crew or passengers, to render assistance to any person, even an enemy, found at sea in danger of drowning, fails to render such assistance, he shall be liable to a fine of 6,000 to 36,000 francs and to imprisonment for a term of one month to two years, or to one of these two penalties only.

*Article 86.* (As amended by the Legislative Decree of 29 July 1939.) So far as the offences referred to in articles 80 to 85 are concerned, the maritime registrar may not refer any case to the President of the Maritime Tribunal unless an inquiry in which both sides shall be heard has first been conducted by him in accordance with conditions to be prescribed by decree.

*Article 87.* The provisions of articles 80 to 83 shall apply to all persons, including aliens, present on a foreign ship, if the offence is committed in French coastal waters and within the limits of French territorial waters.

The same provisions, as well as the provisions of article 78, shall also apply to any persons present on any ship or holding a navigation permit. In this case, the person steering the ship or vessel shall be deemed to be the master.

If any of the offences referred to in articles 80, 81 and 83 to 85 is committed by a person in command in irregular circumstances, as defined in article 70, the penalty shall be doubled.

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(c) AIR NAVIGATION ACT, 31 MAY 1924. "JOURNAL OFFICIEL", 3 JUNE 1924; "RECUEIL DALLOZ", 1925, IV, P. 41. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 10.* The juridical relationships between persons on board an aircraft in flight are governed by the laws of the country under whose flag that aircraft flies in all cases in which territorial legislation would normally be applicable.

Nonetheless, in the case of a crime or offence committed on board a foreign aircraft, the French tribunals shall be deemed competent if the offender or the victim is of French nationality or if the aircraft has landed in France after the commission of the crime or offence.

The jurisdiction in such cases shall belong to the tribunal of the place of landing, if prosecution is initiated at the time of landing, or to the tribunal of the place of arrest if the offender is subsequently arrested in France.

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- (d) EXTRADITION ACT, 10 MARCH 1927. "JOURNAL OFFICIEL", VOL. 59 (1927), P. 2874; "RECUEIL DALLOZ", 1927, IV, P. 265. TRANSLATION FROM "AMERICAN JOURNAL OF INTERNATIONAL LAW", VOL. 29 (1935), SPECIAL SUPPLEMENT, P. 381.

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*Article 3.* The French Government may deliver to foreign governments, at their request, every person not French or French *ressortissant*, who, being the object of prosecution initiated in the name of the requesting State or convicted by its tribunals, is found in the territory of the Republic or of its colonial possessions.

Nevertheless, extradition is granted only if the offence which is the basis of the request has been committed:

Either within the territory of the requesting State by a subject of that State or by an alien;

Or outside of its territory by a subject of that State;

Or outside of its territory by a person, an alien to that State, when the offence is one of the number of those of which the French law authorizes prosecution in France, even though they have been committed by an alien abroad.

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- (e) MOROCCO: DAHIR REGULATING SEA-FISHING, 31 MARCH 1919, AS AMENDED BY DAHIR OF 26 MAY 1937. P. L. RIVIÈRE, "TRAITÉS, CODES ET LOIS DU MAROC", SUPPLEMENT FOR 1938, P. 124. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 42 . . .* If the offence is committed at sea, proceedings shall be instituted either in the court nearest to the place of the commission of the offence, or in the court nearest to the port to which the offender is brought, or, in the case of Moroccan vessels, in the court within the jurisdiction of which the port of registry of the said vessels is located.

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## 22. Germany

- (a) CRIMINAL CODE, 15 MAY 1871, AS REVISED ON 6 MAY 1940. "REICHSGESETZBLATT", 1940, I, P. 754. TRANSLATION FROM U.S. LIBRARY OF CONGRESS, "THE STATUTORY CRIMINAL LAW OF GERMANY" (1947), PP. 7-8.

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§ 3. The German Criminal Law shall apply to any act of a German national regardless of whether it was committed in Germany or abroad.

The German Criminal Law shall not apply to an act committed abroad and not punishable under the law of the place of commission if such act does not appear to be a wrong deserving punishment when judged according to the sound sentiment of the German people, in view of the particular circumstances of the place where it is committed.

The act is considered to have been committed at the place where the offender acted and, in case of an omission, where he should have acted, or where the criminal effect of the offence took place or should have taken place.

§ 4. The German Criminal Law shall apply also to acts committed in Germany by aliens.

The German Criminal Law shall apply to an alien for an offence committed abroad, if it is a punishable offence under the law of the place where the offence was committed or if such place is subject to no criminal authority:

(1) Provided the offender acquired German nationality after the commission of the act, or

(2) Provided the offence was directed against the German nation or a German national, or

(3) Provided the offender was apprehended in Germany and is not to be extradited, although extradition would be possible in view of the kind of offence committed.

Regardless of what the law of the place of commission of the act is, the German Criminal Law shall apply to the following offences committed by an alien while in a foreign country:

(1) Offences which he committed while holding a German government office, or as a German soldier, or as a member of the Reich's Labour Services or offences which he has committed against someone holding a German government office, or an office of the Party, against a German soldier, or against members of the Reich's Labour Services while they are exercising their duties or in connexion with their exercise of such duties;

(2) Acts of high treason (*Hochverrat*) or treason (*Landesverrat*) against the German Reich;

(3) Major crimes with reference to the handling of explosives;

(4) Traffic in children or women;

(5) Unauthorized divulging of trade or business secrets of a German enterprise;

(6) Perjury in a proceeding which took place before a German court or other German authority competent for the administration of the oath;

(7) Major and minor crimes of counterfeiting;

(8) Unauthorized traffic in narcotics;

(9) Commerce in immoral publications.

§ 5. The German Criminal Law shall apply to acts committed on a German ship or German aircraft regardless of the law of the place of commission.

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*Note.* The text reproduced above does not take into account amendments introduced by the Law of 24 April 1934 (*Reichsgesetzblatt*, 1934, I. p. 341), which was repealed by the Law No. 1 of the Control Council for Germany (*Official Gazette of the Control Council for Germany*, no. 1, p. 6). With respect to the phrase "according to the sound sentiment of the German people" in article 3, see Proclamation No. 3, of the Control Council for Germany (*Official Gazette*, no. 1, pp. 22-23), which prohibited the determination by any court of any crime "by so-called 'sound popular instinct'."

Prior to 6 May 1940, articles 3-5 read as follows:

"3. The Criminal Law of the German Reich shall apply to all offences committed in the territory of the Reich, even if the offender is an alien.

"4. No prosecution, as a rule, shall be instituted for major and minor crimes committed abroad.

"However, a prosecution under the criminal laws of the German Reich may be instituted:

"(1) Against a German or an alien who committed abroad an act of high treason (*Hochverrat*) against the German Reich or a German state (*Bundesstaat*); or a major or a minor crime of counterfeiting, or who as an official of the German Reich or a German state has committed an act which is regarded by the laws of the German Reich as a major or minor crime in the discharge of official duties;

"(2) Against a German who committed abroad an act of treason (*Landesverrat*) against the German Reich or is guilty of insulting the prince of a federal German state;

"(3) Against a German who committed abroad an act which is regarded as a major or a minor crime by the laws of the German Reich and is also a punishable offence under the laws of the place where it was committed.

"Prosecution may take place, even though at the time of the offence the offender was not yet a German national. In this case the prosecution requires an application (*Antrag*) by a competent authority of the country in which the offence was committed, and the foreign criminal law is applicable if it is more lenient.

"5. In regard to section 4, sub-section 3, no prosecution may be instituted:

"(1) If a foreign court has rendered a final sentence concerning the act and either an acquittal has been pronounced or the penalty imposed has been fulfilled;

"(2) If the prosecution or execution of the punishment was barred by lapse of time or pardoned under the foreign law;

"(3) If according to the foreign law, prosecution is instituted only upon the application (*Antrag*) of the person injured and such a motion has not been made." (Translation from U.S. Library of Congress, *The Statutory Criminal Law of Germany*, 1947, pp. 6-7.)

It seems that the above-quoted provisions of articles 3-5 which were in force prior to 6 May 1940, while no longer in force in the Federal Republic of Germany, are still in force in the German Democratic Republic. The official edition of the Criminal Code of the German Democratic Republic notes, however, that the provisions of article 4 about treason and insulting the head of state have now become obsolete. *Ministerium der Justiz der Deutschen Demokratischen Republik, Strafgesetzbuch* (1951), pp. 18-20.

(b) CODE OF CRIMINAL PROCEDURE, 1 FEBRUARY 1877, AS AMENDED BY THE LAW TO RESTORE LEGAL UNITY IN THE FIELD OF JUDICIAL ORGANIZATION AND CIVIL AND CRIMINAL PROCEDURE, 12 SEPTEMBER 1950. "BUNDESGESETZBLATT", 1950, P. 455; O. SCHWARZ, "STRAF-PROZESSORDNUNG" (13TH EDITION, 1950), PP. 20-24, 164. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

§ 7. (1) Jurisdiction shall be vested in that court in the judicial district of which the punishable act was committed.

(2) If proof of the punishable act is based upon the contents of printed matter published within the country, only the court in the judicial district of which the printed matter was published shall be considered the competent court within the meaning of sub-paragraph (1). However, in libel cases in which proceedings are taken on the basis of an individual's

complaint, the court in the judicial district of which the printed matter was circulated shall also be competent, provided that the aggrieved party has his fixed abode or customary domicile in the same judicial district.

§ 8. (1) Jurisdiction shall be vested also in the court in the judicial district of which the accused has his domicile at the time a complaint is filed.

(2) If the accused has no fixed abode in the area to which this Federal law is applicable, jurisdiction shall also be determined by his customary residence, or, if such be unknown, by his last domicile.

§ 9. (1) If the punishable act was committed outside the area to which this Federal law is applicable and jurisdiction is not vested in a court in conformity with § 8, the court in the judicial district of which the arrest is made shall be the competent court. If no arrest has taken place, the competent court shall be determined by the Federal court.

(2) The same shall apply in the case of a punishable act committed in the area to which this Federal law is applicable whenever jurisdiction on the basis either of the act committed or of domicile cannot be ascertained.

§ 10. If the punishable act was committed on board a German vessel outside the area to which this Federal law is applicable (or on the high seas), the competent court shall be that within whose jurisdiction lies the home port or the port within the area to which this law is applicable, which is the first to be reached by the vessel after the commission of the act.

§ 11. (1) German citizens who enjoy extra-territorial rights, as well as officials of the Federal Government and of state governments employed abroad, shall retain in respect of jurisdiction the domicile they possessed at home. If they have no such domicile, the seat of the Federal Government shall be considered as their domicile.

(2) These provisions are not applicable to honorary consuls.

§ 12. (1) If more than one court is competent according to the provisions of paragraphs 7 to 11, the court that first inquired into the case shall have precedence.

(2) Nevertheless, the judicial inquiry and trial may be transferred to one of the other competent courts by the joint superior court.

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§ 153 (a) The State Prosecutor's Office may refrain from prosecuting in respect of an offence

(1) Committed by a German citizen abroad,

(2) Committed by a foreign citizen abroad or within the country while on board a foreign vessel or aircraft,

(3) If the offender has already been punished for the offence abroad to an extent that equals or exceeds the punishment he could expect to receive within the country.

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### 23. Greece

- (a) PENAL CODE, 17 AUGUST 1950. "EPHIMARIS TIS KYVERNISSEOS", 17 AUGUST 1950, NO. 182, ACT NO. 1492, PP. 963-964. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 5. Breaches of the law committed in Greek territory.* (1) Greek penal law applies to all acts committed in the territory of the State, including those committed by aliens.

(2) Greek vessels and aircraft are considered to be part of the territory of the State, wherever they may be, except when they are subject to the law of a foreign country in accordance with international law.

*Article 6. Breaches of the law committed by nationals abroad.* (1) Greek penal law also applies to any act which it regards as a crime or an offence, committed by a national abroad, if the act is also punishable under the legislation of the country in which it was committed, or if it was committed in a territory which is not organized politically.

(2) Criminal proceedings may also be instituted against an alien if he was a Greek citizen when the act was committed, or against an alien having acquired Greek nationality since committing the breach of law.

(3) With regard to the offences covered by the provisions of paragraphs (1) and (2) above, proceedings may be instituted only on the complaint of the injured party or on demand of the government of the country in which the offence was committed.

(4) Contraventions committed abroad are punished only in the cases expressly prescribed by law.

*Article 7. Breaches of the law committed by aliens abroad.*

(1) Greek penal law also applies to an alien who commits abroad an act which it regards as a crime or an offence, if the act was committed against a Greek citizen and is punishable under the legislation of the country in which it was committed, or if it was committed in a territory which is not organized politically.

(2) The provisions of paragraphs (3) and (4) of the preceding article also apply to breaches of the law covered by the present article.

*Article 8. Breaches of the law committed abroad which are always punishable under Greek law.* Greek penal law applies, independently of the laws of the place where the offence was committed, to nationals and aliens who commit one of the following offences abroad:

- (a) High treason or treason against the Greek State;
- (b) Offences relating to military service or military obligations (book two, chapter VIII);
- (c) A punishable act committed by an official of the Greek State in the performance of his duties;
- (d) An offence directed against a Greek official in the performance or in the course of his duties;
- (e) Perjury in proceedings before Greek authorities;
- (f) Piracy;
- (g) An offence relating to currency (book two, chapter IX);
- (h) Slave trade or traffic in women and children for immoral purposes;

- (i) Illicit traffic in narcotic drugs;
- (j) Illegal distribution and sale of obscene publications;
- (k) Any other offence in regard to which the application of Greek penal law is prescribed by special provisions or international conventions signed and ratified by the Greek State.

*Article 9. Breaches of the law committed abroad in respect of which proceedings may not be instituted.* (1) No criminal proceedings may be instituted in respect of an act committed abroad:

(a) If the accused, having been tried for that act abroad, was acquitted or was sentenced and served the penalty;

(b) If, under the foreign law, proceedings are barred by time limitation, or if the penalty has lapsed, or if the offender has been pardoned;

(c) If the foreign law makes proceedings subject to the laying of a complaint and no complaint has been laid or the complaint has been withdrawn.

(2) The above provisions do not apply to the acts referred to in article 8.

*Article 10. Deduction of penalties served abroad.* If the same act leads to a sentence in Greece, the penalty served abroad, in whole or in part, is deducted from the penalty inflicted by the Greek court.

*Article 11. Recognition of judgments of foreign courts in penal matters.*

(1) When a Greek has been sentenced abroad for an act which, under the terms of Greek law, entails subsidiary penalties, the competent penal court may impose such subsidiary penalties.

(2) The competent penal court may also order the application of the security measures provided by Greek law to a person sentenced or acquitted abroad.

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- (b) CODE OF CRIMINAL PROCEDURE, 17 AUGUST 1950. "EPHIMARIS TIS KYVERNISSEOS", 17 AUGUST 1950, No. 182, ACT No. 1493, pp. 1016-1017. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 122. How territorial jurisdiction is determined.* (1) The jurisdiction is determined by the place where the crime was committed or where the accused is domiciled or temporarily resides at the time criminal proceedings are instituted.

(2) In regard to a crime in which publication in printed form is a constituent element, if issued within the State, the court of the place where the publication took place and the court of the domicile or temporary residence of the accused have concurrent jurisdiction. In regard to the crimes of slander or libel, the court of the place where the defamatory matter was subsequently put into circulation also has jurisdiction, provided that the defamed person is domiciled or permanently resides within the territorial limits of the jurisdiction of said court. In the event that the publication takes place outside the State, jurisdiction may be exercised by the court of the place where the publication was originally put into circulation or, if such a place cannot be determined, by the court of the place where the aggrieved person is domiciled or temporarily

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resides. The court of the capital city of the nation acquires jurisdiction in any other case.

*Article 123. Crimes committed abroad.* In a case where a crime was committed outside the State, but is punishable within the State, the jurisdiction is determined successively by the domicile or temporary residence of the accused within the State, or by the place (within the State) where he was apprehended or surrendered. If said place is not known or if the accused was never domiciled or never resided in the State, or if he was never apprehended in the State, or if he is a public servant in the employ of the Greek Government stationed abroad, the court of the capital city of the nation has jurisdiction. The Supreme Court, acting in special session and upon the request of one of the parties or of the Minister of Justice, may, however, designate as competent one of the courts which is near the place where the act was committed.

*Article 124. Crimes committed on board a vessel or an aircraft.* (1) In regard to crimes committed on board a vessel flying the Greek flag, such vessel being abroad or on the high seas, the jurisdiction of the court is determined by the port of registration of the vessel or by the first port at which it calls after the commission of the act.

(2) If the crime is committed on board a flying aircraft, the jurisdiction of the court is determined by the place from which the plane took off before the commission of the crime, or by the place where the plane landed after the commission of the crime. In the case of foreign aircraft, the investigating officers and tribunals named in article 123 have concurrent jurisdiction.

(3) In both instances provided by paragraphs (1) and (2) the court of the domicile or temporary residence of the accused also has jurisdiction.

*Article 125. Preference.* Among various competent tribunals or investigating officers having concurrent jurisdiction, the tribunals or the investigating officers of the place where the crime was committed have preference, and if that place is unknown, those who have first interrogated the accused or have ordered his arrest or imprisonment take preference. The Arraigning Chamber of the Appellate Court or the Supreme Court may decide, pursuant to the provisions of article 132, which one of the competent courts shall investigate and try the case.

*Article 126. Objection to territorial jurisdiction.* (1) Objection to territorial jurisdiction may be raised at any stage of the investigation and at any time prior to the commencement of the trial. The court or, during the investigation, the Arraigning Chamber, or, during the preliminary investigation, the district attorney, having decided on its own lack of jurisdiction shall remit the case to the court or district attorney having jurisdiction pursuant to the provisions of the previous articles. Even after such remittance is effected, the tribunals or officers which decided that they are not competent must attend to all urgent and immediately necessary investigation acts.

(2) If the motion to dismiss because of lack of territorial jurisdiction has been made at the appropriate time, it can be taken, if denied, to the Appellate Court and if entertained shall result in the reversal of the judgment appealed from, in which case the cause of action shall be remitted to a competent court for a new trial, if such a court is not situated within the territorial jurisdiction of the Appellate Court; other-

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

in legal tender, national papers, or bank notes authorized by law, shall, immediately upon being apprehended, be prosecuted, tried and punished in Haiti, according to the provisions of Haitian laws.

*Article 6.* This provision shall extend to aliens who, being principals or accessories in the same crimes, are arrested in Haiti, or whose extradition has been obtained by the Haitian Government.

*Article 7.* Any Haitian who commits, outside the territory of the Republic, a crime against a Haitian, shall, upon his return to Haiti, be prosecuted and tried, if he has not already been prosecuted and tried abroad, and if the Haitian against whom the offence was committed, lays a complaint against him.

. . .

*Article 15.* These functions,<sup>1</sup> in the case of crimes or offences committed outside Haitian territory, as set forth in articles 5, 6 and 7 above, shall be carried out by the public prosecutor of the place in which the accused resides, or the prosecutor of the place in which he is found, or of his known place of residence.

. . .

## 26. Honduras

(a) LAW CONCERNING THE ORGANIZATION AND POWERS OF COURTS, 8 FEBRUARY 1906. HONDURAS, "LEY DE ORGANIZACIÓN Y ATRIBUCIONES DE LOS TRIBUNALES" (1906), PP. 41-43. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 163.* When the place of an offence or petty offence (*falta*) is unknown, the following judges and courts shall be competent to investigate and try the case:

1. The judge or court of the district in which material evidence of the offence was discovered;
2. The judge or court of the district in which the person accused of the offence was arrested;
3. The judge or court of the district of residence of the person accused of the offence;
4. Any judge or court that has been notified of the offence.

If there is any dispute as to which of these judges or courts shall have jurisdiction, the matter shall be decided in accordance with the above order of priority.

As soon as the place in which the offence was committed is on record, all the documents of the case shall be transmitted to the judge or court of that district, the arrested persons and impounded objects being placed at the disposal of the judge or court.

. . .

*Article 170.* Aliens who commit offences or minor offences in Honduras shall be tried by the competent authorities.

<sup>1</sup> The investigation and prosecution of all the offences or crimes which fall within the jurisdiction of the correctional or criminal civil courts (article 13).

*Article 171.* The provisions of the preceding article shall not apply in the case of offences committed by Heads of other States, and their deputies, ministers plenipotentiary, resident ministers, chargés d'affaires and aliens employed on the permanent staff of legations, who shall in such cases be placed at the disposal of their respective governments.

*Article 172.* Offences the commission of which was begun in Honduras, but which were accomplished or thwarted abroad, shall fall within the cognizance of Honduran judges and courts only in so far as the acts committed in Honduras constitute offences, and only with respect to them.

*Article 173.* Judges and courts of the Republic, in the order prescribed in article 163, shall be competent to try Honduran or foreign nationals who have committed any of the following offences outside Honduran territory:

- Offences against the internal or external security of the State.
- Offences against the President of the Republic.
- Rebellion.
- Forging the signature or counterfeiting the personal seal of the President of the Republic.
- Forging the signatures of ministers.
- Counterfeiting public seals.
- Forgeries directly prejudicial to the credit or interests of the State, and the introduction or circulation of such forgeries.
- Counterfeiting currency or banknotes, issue of which is authorized by law, and the introduction or circulation of such counterfeit currency.
- Any offences committed in the course of their duties by public officials employed abroad.

*Article 174.* If the persons who have committed any of the offences listed in the preceding article have been acquitted or convicted abroad, and provided that in the latter case they have served their sentence, the case shall not be re-opened.

The same shall apply in the case of persons who have been pardoned, except in respect of offences against the external security of the State or against the President of the Republic.

If part of the sentence has already been served, this shall be taken into account and the sentence to which such person would otherwise be liable shall be reduced in proportion.

*Article 175.* The provisions of the two preceding articles shall apply in respect of aliens who have committed any of the offences listed therein, if they are arrested on the territory of Honduras or if they have been extradited.

*Article 176.* A Honduran national committing an offence abroad against another Honduran national shall be tried in Honduras by the judges and courts designated in article 163, in the order listed, in the following cases:

1. If the victim of the offence or any person legally entitled to do so institutes proceedings;
2. If the offender is on Honduran territory;
3. If the offender has not been acquitted, pardoned or sentenced abroad, having served the full sentence in the latter case.

If part of the sentence has been served, the provisions of article 174 will apply.

*Article 177.* Any Honduran national committing a serious offence under the Honduran Penal Code against a foreign national abroad shall, if the three conditions indicated in the preceding article are fulfilled, be tried in Honduras by the judges designated in that article.

*Article 178.* No criminal proceedings may be instituted in the cases referred to in the preceding article if the act in question is not an offence under the laws of the country in which it was committed, even when it is an offence under the laws of Honduras.

*Article 179.* Honduran nationals committing offences abroad and handed over to Honduran consuls shall be tried in accordance with the provisions of this law, in so far as local conditions permit.

The preliminary examination shall be carried out by the consul, or if he does not possess the necessary legal qualifications, by his deputy, with the assistance of an assessor, or, in the absence of the latter, of two Honduran nationals chosen as assistants; these shall be appointed by him each year and shall serve in all cases pending or initiated during that year.

When the case is complete, and the documents prepared have been duly certified in the presence of the accused person or persons, the documentation shall be transmitted to the Honduran court competent to deal with offences of such a nature and nearest to the consulate in which the case was prepared.

. . .

*Note.* Article 552 of the Honduran Penal Code of 8 February 1906 provides for the punishment of those who have caused a disaster by means of "sinking or stranding a ship". L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, p. 144.

(b) AVIATION LAW, PROMULGATED BY LEGISLATIVE DECREE NO. 121, 17 MARCH 1950. "LA GACETA", VOL. 75, NO. 14,114 (29 MAY 1950), PP. 1,8. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 184.* Juridical events and acts which occur on board Honduran aircraft during a flight, whether over national territory or the high seas, are subject to Honduran laws.

*Article 185.* Juridical events and acts which occur on board Honduran aircraft during a flight over foreign territory shall be considered as events or acts occurring in national territory and shall be subject to the laws of the Republic, except when they are of such a character that they endanger the security and public order of the underlying foreign State.

*Article 186.* Criminal events and acts which occur on board any aircraft flying over foreign territory shall be subject to Honduran laws when they produce or are claimed to have produced criminal effects in national territory.

. . .



## 27. Hungary

(a) PENAL CODE, ENACTED BY ACT NO. 2 OF 1950. "MAGYAR KÖZLÖNY", 18 MAY 1950, PP. 112-113. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

§ 3. (1) Crimes committed within the Hungarian territory either by nationals or aliens, or by Hungarian nationals abroad, shall be punished in accordance with the Hungarian Penal Code.

(2) Crimes committed outside the frontiers of the Hungarian People's Republic, but on board a Hungarian warship, Hungarian military aircraft, or on the high seas on board a Hungarian merchant vessel or aboard a Hungarian civilian aircraft in flight, shall be considered as crimes committed within the national territory.

§ 4. The Hungarian Penal Code applies to crimes committed by aliens abroad if:

(a) They are punishable not only according to the Hungarian Penal Code, but also according to the law of the country in which they are committed;

(b) If they are detrimental to the basic interests of the democratic functioning or the economic order of the Hungarian Republic, whether or not they are punishable according to the laws of the country in which they are committed;

on condition, in both cases, that the Minister of Justice orders the institution of legal proceedings.

§ 5. Whether the crime has been committed within the national territory or abroad, the punishment imposed on the basis of a valid judgment of a foreign court must be taken into account in any penalty imposed by a Hungarian court.

§ 6. If the crime committed abroad is one for which prosecution can only be instigated by the plaintiff, whether under Hungarian or foreign law, criminal action can only be brought by the plaintiff. This rule does not apply to those acts which have to be punished under the Hungarian Penal Code, regardless of whether or not they are punishable under the law of the place in which they were committed (§ 4 (b)).

§ 7. In so far as prosecution, under criminal law, of persons enjoying extra-territorial rights or personal immunity is concerned, procedure under treaties, or in the absence thereof, international custom shall apply.

. . .

*Note.* Provisions on criminal jurisdiction over offences committed abroad were previously contained in articles 7-16 of the Hungarian Penal Code of 1878. *Sammlung ausserdeutscher Strafgesetzbücher*, vol. 30 (Supplement to *Mitteilungen der Internationalen Kriminalistischen Vereinigung*, vol. 19, 1910), pp. 7-9.

- (b) CODE OF CRIMINAL PROCEDURE, 4 DECEMBER 1896. TRANSLATION BASED ON THE GERMAN TRANSLATION IN "STRAFPROZESSORDNUNG FÜR DAS KÖNIGREICH UNGARN", SUPPLEMENT TO VOL. 19 OF THE "ZEITSCHRIFT FÜR DIE GESAMTE STRAFRECHTSWISSENSCHAFT" (1899), P. 6.

§ 25. In regard to a punishable act committed abroad, the Hungarian court competent to try the case is the court in the jurisdiction of which the accused resides or is domiciled.

In the absence of a place of residence or domicile, the competent court is the court in the jurisdiction of which the accused was taken into custody by Hungarian authorities.

If the punishable act was committed on a Hungarian ship in foreign waters or on the high seas, the competent court is the Hungarian court in the jurisdiction of which the vessel's port of departure (home port) is situated, or the court in the jurisdiction of which the vessel's first Hungarian port of call is situated, or the Hungarian court in the jurisdiction of which the accused was taken into custody. Competence is vested in whichever of these courts acts first.

In regard to a punishable act committed abroad by a Hungarian citizen enjoying extra-territoriality or personal immunity, the competent Hungarian court is the court in the jurisdiction of which the accused last resided or, if such place of residence cannot be ascertained, the Budapest court.

## 28. Iceland

- (a) GENERAL PENAL CODE, 25 JUNE 1869. "LOVSAMLING FOR ISLAND", VOL. 20, 1868-1870 (1887), PP. 173-175, 253-255. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 2.* The Code shall apply to all offences committed in Iceland, irrespective of the place where the offender is domiciled.

*Article 3.* Offences committed on board a vessel registered in Iceland shall also be punishable under this Code, unless the vessel is in waters subject to the criminal jurisdiction of another country.

*Article 4.* If for the purpose of circumventing a law in force in Iceland any subject of the King domiciled there commits abroad an offence punishable under the said law, he shall be subject to the same penalty as if he had committed the offence in Iceland.

*Article 5.* It shall also be an offence against the Penal Code of Iceland if, while abroad, any subject of the King domiciled in Iceland commits in the form of treason or *lèse-majesté* an offence against the Danish State, or falsifies or counterfeits Danish money, or commits an offence against a Danish official acting in an official capacity abroad, or otherwise offends against the loyalty and obedience which as a subject he is bound to observe.

The same provision shall apply if an official in Iceland commits abroad an offence in his official capacity or if a subject of the King

domiciled in Iceland, either through bad faith in the exercise of a position of trust or by any other act or omission punishable under this Code, fails while abroad to fulfil an obligation undertaken with respect to a person in Iceland.

*Article 6.* If a subject of the King domiciled in Iceland has committed any other offence abroad, the Civil Governor of Iceland may cause him to be prosecuted there, and the offender shall then be sentenced under this Code.

*Article 7.* If a person is prosecuted in Iceland for an offence and it appears that he has been punished for the same in another State, the courts shall take into consideration the penalty imposed upon him abroad and may, according to the circumstances, impose a milder sentence than that provided by law or no sentence at all.

*Article 8.* If a person has committed offences both in Iceland and in the Kingdom of Denmark and is prosecuted in Iceland for all the offences so committed, the penalty for them all shall be determined according to the law in force in Iceland.

The said law shall likewise be applied if a person in Iceland who has committed an offence in the Kingdom cannot be arrested on that account and sent to the place where the offence was committed and is therefore prosecuted in Iceland at the request of the competent authority in the Kingdom or, in the case of an offence which under Icelandic law may be prosecuted privately, is sued by the injured party in the court in Iceland having jurisdiction.

*Article 9.* With regard to embassies of foreign States and foreign warships and troops and with regard to offences committed in their official capacity by foreign officials stationed in Iceland, the general rules of international law shall apply.

. . .

## 29. India

(a) PENAL CODE, ACT NO. 45, 6 OCTOBER 1860, AS AMENDED. S. SASTRY AND H. PRASAD, "THE INDIAN PENAL CODE" (1951), P. 6.

. . .

*Section 3. Punishment of offences committed beyond, but which by law may be tried within India.* Any person liable, by any Indian law, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Code for any act committed beyond India in the same manner as if such act had been committed within India.

*Section 4. Extension of Code to extra-territorial offences.* The provisions of this Code apply also to any offence committed by:

- (1) Any citizen of India in any place without and beyond India;
- (2) Any person on any ship or aircraft registered in India wherever it may be.

*Explanation.* — In this section the word "offence" includes every act committed outside India which, if committed in India, would be punishable under this Code.

. . .

*Note.* Section 280 of the Indian Penal Code provides that "Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 rupees, or with both." *Ibid.*, p. 535:

Section 99 of the Indian Merchant Shipping Act of 2 April 1923 (Act. No. XXI of 1923), as amended, provides that:

"If a master, seaman or apprentice belonging to a Indian ship by wilful breach of duty or by neglect of duty or by reason of drunkenness:

"(a) Does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

"(b) Refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb; he shall be liable for every such offence to a fine which may extend to 1,000 rupees or to imprisonment for a term which may extend to two years, or to both."

(c) CODE OF CRIMINAL PROCEDURE, ACT NO. 5, 22 MARCH 1898, AS AMENDED. S. KRISHNAMURTI, "A HAND BOOK OF CRIMINAL LAW" (1951), p. 271.

. . .

*Section 188. Liability of Citizens of India.* When an offence is committed by

(a) Any citizen of India in any place without and beyond India or

(b) Any person on any ship or aircraft registered in India wherever it may be,

He may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this chapter, no charge as to any such offence shall be inquired into in India unless the political agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in India; and, where there is no political agent, the sanction of the state government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in India shall be a bar to further proceedings against him under the Indian Extradition Act, 1903, in respect of the same offence in any territory beyond the limits of India.

. . .

### 30. Iran

- (a) CODE OF CRIMINAL PROCEDURE, 9 RAMAZAN 1330 (JULY 1912). A. A. DAFTARY, "GESCHICHTE UND SYSTEM DES IRANISCHEN STRAFRECHTS" (1935), p. 56. TRANSLATION FROM GERMAN BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 200.* An Iranian, who has committed abroad a crime or a misdemeanour and is apprehended in Iran, shall be judged by the court in the district of which he has been caught.

- . . . .
- (b) REGULATIONS FOR THE CONSULATES, 21 MARCH 1901. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON, 1933), VOL. II, PP. 957, 963.

. . . .

*Article 52.* In case of crime on board a commercial vessel on the high seas, cognizance thereof belongs to the Persian courts. In this case the consul must collect all information which may serve for the examination of the case and shall send it to the Ministry of Foreign Affairs.

### 31. Israel

- (a) CRIMINAL PROCEDURE (TRIAL UPON INFORMATION) ORDINANCE, 1 SEPTEMBER 1924, AS AMENDED BY ORDINANCE NO. 1 OF 1937. H. KANTROVITCH, "THE LAW OF CRIMINAL PROCEDURE IN PALESTINE" (REVISED EDITION, 1946), PP. 36-37.

. . . .

*Article 4.* (1) The court having jurisdiction in a criminal case shall be the Court of Criminal Assize or the district court of the district within which or within the territorial waters adjacent to which the criminal act charged was wholly or in part committed.

(2) If the criminal act was not committed within the jurisdiction of any district court in Palestine, then the court having jurisdiction shall be the Court of Criminal Assize or the district court of the district within which the accused person was apprehended, or the court holden in Jerusalem, as may be determined by the Attorney General:

Provided that the Chief Justice may change the place of trial of any such case.

. . . .

*Note.* The following provisions of the Ottoman Code of Criminal Procedure seem to be still in force in Israel (H. Kantrovitch, *The Law of Criminal Procedure in Palestine*, Revised edition, 1946, p. 186):

"*Article 5.* Every Ottoman who has committed outside the territory of the Empire a crime against the safety of the Empire or the crime of forgery of State seals, of legal currency, of any kind of Government titles, of bonds,

of treasury bills and of bank notes authorised by the law may be prosecuted and convicted of such offence in accordance with the Ottoman Law if he has not already been convicted therefor in a foreign country.

“*Article 6.* The provisions set out in the preceding article apply to foreigners who have committed themselves or have been accomplices to the crimes mentioned, if they are arrested in Turkey or if the Government obtains their extradition.”

The Israeli Criminal Code Ordinance of 14 December 1936 (Palestine, *Ordinances, Regulations, etc.*, 1936, vol. I, pp. 285, 373), contains the following provisions with respect to destruction of vessels:

“*Article 323.* Any person who:—

“(a) Wilfully and unlawfully casts away or destroys any vessel, whether completed or not; or

“(b) Wilfully or unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or

“(c) With intent to bring a vessel into danger, interferes with any light, beacon, buoy, mark or signal, used for purposes of navigation, or exhibits any false light or signal;

“is guilty of a felony and is liable to imprisonment for life.

“*Article 324.* Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a felony and is liable to imprisonment for fourteen years.”

(b) EXTRADITION ORDINANCE, 1 DECEMBER 1926. R. H. DRAYTON, “THE LAWS OF PALESTINE” (1933), VOL. I, PP. 677, 678, 684.

. . .

*Article 3. Foreign State includes dependencies.* For the purpose of this Ordinance, every colony, dependency, mandated territory and every constituent part of a foreign State and every vessel of that State shall be deemed to be within the jurisdiction of, and to be part of, such foreign State.

. . .

*Article 18. Jurisdiction as to offences committed at sea.* Where the offence in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of Palestine, the following provisions shall have effect:

(a) The criminal may be committed to any prison or other place of detention to which the person committing him has power to commit persons accused of the like offence;

(b) If the fugitive criminal is apprehended on a warrant issued without the order of the High Commissioner, he shall be brought before the magistrate issuing the warrant or having jurisdiction in the port where the vessel lies or in the place nearest to that port, who shall by warrant order him to be brought, and the prisoner shall accordingly be brought, before the magistrate in the manner provided in section 10.

. . .

*Note.* The First Schedule to this Ordinance lists among extradition crimes: “Sinking or destroying a vessel at sea or attempting or conspiring to do so.” Drayton, *op. cit.*, p. 686.

### 32. Italy

- (a) PENAL CODE, 19 OCTOBER 1930. L. FRANCHI AND V. FEROCI, "QUATTRO CODICI" (1949), CODICE PENALE E CODICE DI PROCEDURA PENALE, PP. 7-9. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 3. The binding force of penal law.* Italian penal law is binding on all persons, whether citizens or aliens, who are in the territory of the State, with the exceptions provided for in domestic public law or in international law.

Italian penal law is also binding on all persons, whether citizens or aliens, who are abroad, but only with respect to cases provided for in that law or in international law.

*Article 4. Italian citizens. The territory of the State.* For the purposes of penal law, "Italian citizens" shall include the citizens of the colonies, colonial subjects, persons belonging by origin or by choice to places subject to the jurisdiction of the State and stateless persons resident in the territory of the State.

For the purposes of penal law, the "territory of the State" shall be deemed to mean the territory of the Kingdom, of the colonies and all other places subject to the jurisdiction of the State. Italian vessels and aircraft shall be considered as the territory of the State, wherever they may be, unless they are subject, under international law, to foreign territorial law.

*Article 6. Crimes committed within the territory of the State.* Anyone who commits a crime within the territory of the State shall be punished in accordance with Italian law.

The crime shall be deemed to have been committed within the territory of the State when the action or omission which constitutes the crime either takes place there wholly or partly, or when the act which is the result of such action or omission has occurred there.

*Article 7. Crimes committed abroad.* Any Italian citizen or alien who commits in foreign territory one of the following crimes shall be punished in accordance with Italian law:

1. Offences against the State;
2. Offences involving the counterfeiting of the State seal and the use of such a counterfeit seal;
3. Offences involving the counterfeiting of coin which is used as legal currency within the territory of the State, or forging stamped securities or Italian public credit notes;
4. Offences committed by public officials in the service of the State, through abuse of their powers or by violating duties inherent in their functions;
5. Any other crime which is rendered subject to Italian penal law, by special provisions of the law or by international conventions.

*Article 8. Political offences committed abroad.* Any Italian citizen or alien who commits in foreign territory a political offence not included among those referred to in sub-paragraph 1 of the preceding article shall be punished in accordance with Italian law, at the request of the Minister of Justice.

In the case of a punishable offence involving a suit by the injured party, such a suit is necessary in addition to that request.

For the purpose of penal law, a political offence shall be deemed to mean any offence prejudicial to the political interests of the State or the political rights of an Italian citizen. An ordinary offence which is motivated, wholly or in part, by political considerations, shall also be deemed to be a political offence.

*Article 9. Ordinary offences committed by Italian citizens abroad.* With the exception of the cases referred to in the two preceding articles, any Italian citizen who commits, in foreign territory, any offence for which Italian law provides the penalty of death, hard labour, or imprisonment for a minimum of three years, shall be punished in accordance with that law, provided that he is within the territory of the State.

In the case of any offence punishable by a penalty restricting personal freedom for a shorter period, the offender shall be punished at the request of the Minister of Justice, or else in consequence of a request of, or a suit by, an injured party.

In the cases referred to in the above provisions, when an offence committed against a foreign State or against an alien is concerned, the offender shall be punished at the request of the Minister of Justice, provided that his extradition has not been granted, or has not been accepted by the government of the State in which the offence was committed.

*Article 10. Ordinary offences committed by aliens abroad.* Any alien who, outside the cases referred to in articles 7 and 8, commits in foreign territory an offence to the detriment of the State or of a citizen, for which Italian law prescribes the penalty of death or hard labour or imprisonment for a minimum of one year, shall be punished in accordance with the said law, provided that he is within the territory of the State, and that there is a request by the Minister of Justice, or a request of, or a suit by, the injured party.

Should the offence be committed against a foreign State or an alien, the offender shall be punished in accordance with Italian law at the request of the Minister of Justice, provided that:

- (a) He is within the territory of the State;
- (b) The offence concerned is punishable by death, hard labour or imprisonment for a minimum of three years;
- (c) His extradition has not been granted or has not been accepted by the government of the State in which he committed the offence or by the government of the State of which he is a citizen.

. . .

*Note.* The Italian Penal Code contains the following special provisions concerning shipwreck:

*“Article 428. Shipwreck, sinking or disaster to aircraft.* A person causing the shipwreck or sinking of a ship or other vessel or the fall of an aircraft, the



property of another, shall be punished by imprisonment for not less than five nor more than twelve years.

“If the offence has been committed through destroying, removing or obscuring a light or other signal, or the giving of false signals or other fraudulent acts, the penalty shall be not less than five nor more than fifteen years’ imprisonment.

“The provisions of this article shall apply also to any person who causes the shipwreck or sinking of his own ship or other vessel or the fall of his own aircraft, and thereby endangers the public.

“*Article 429. Damage followed by shipwreck.* A person who, with intent only to damage a ship, other vessel or aircraft, or appliance intended to ensure safety of navigation, damages the same or renders it wholly or partly unserviceable, shall, if the act causes danger of shipwreck or sinking of a ship, or of accident to an aircraft, be punished by imprisonment for not less than one nor more than five years.

“If the act causes shipwreck, sinking of a ship or disaster as aforesaid, the penalty shall be imprisonment for not less than three nor more than ten years.

. . .

“*Article 449. Wilful damage.* A person who wilfully causes a fire or other disaster mentioned in chapter I of this title shall be punished by not less than one nor more than five years’ imprisonment.

“If the disaster is a railway accident, or a shipwreck, or the sinking of a ship or the fall of an aircraft used for the carriage of passengers, the penalty shall be double.

“*Article 450. Wilfully causing danger.* A person who by his own act or wilful negligence causes or continues in being the danger of a railway accident, flood, shipwreck or the sinking of a ship or other vessel shall be punished by imprisonment not exceeding two years.

“If the offender disobeyed a specific order of an authority to remove the danger, the term of imprisonment shall be not less than one year.”

L. Franchi and V. Feroci, *Quattro Codici* (1949), Codice penale e Codice di procedura penale, pp. 79, 82.

(b) CODE OF CRIMINAL PROCEDURE, 17 OCTOBER 1930. L. FRANCHI AND V. FEROCI, “QUATTRO CODICI” (1949), CODICE PENALE E CODICE DI PROCEDURA PENALE, P. 143. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 41. Jurisdiction over offences deemed to have been committed in the territory of the State and over offences committed abroad.* Where an offence has been committed partly in the territory of the State and partly abroad, proceedings shall be instituted in the State before the judge of the place where the action or omission took place wholly or partly or where the event became known, and his jurisdiction shall be governed by the provisions of the two preceding articles.

If the offence was committed wholly in foreign territory and if proceedings are to be instituted in the State, jurisdiction shall be determined successively by the place of residence, dwelling, domicile, arrest or detention of the accused.

Nevertheless, the Court of Cassation may on application by the public

prosecutor remove the examination or trial to a judge nearer to the place where the offence was committed.

The judge may use the records of the foreign authorities in the criminal proceedings or, if no proceedings are instituted in the State, in applying security measures and in ordering restitution and damages for loss.

In all the cases referred to in the above paragraphs officers of the judicial police, the public prosecutor and the judge may do anything necessary to collect and preserve the evidence even if the accused is not in the territory of the State.

. . . .

- (c) NAVIGATION CODE, 30 MARCH 1942. A. BRUNETTI AND A. GIANNINI, "CODICE DELLA NAVIGAZIONE MARITTIMA" (1943), PP. 1926, 2284. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 4. Italian vessels and aircraft in localities not subject to the sovereignty of any State.* Italian vessels on the high seas and Italian aircraft in a place or in air space not subject to the sovereignty of any State shall be considered as Italian territory.

*Article 5. Law governing instruments executed on board vessels or aircraft in course of navigation.* Instruments executed and acts done on board a vessel or aircraft in course of navigation in a place or in air space subject to the sovereignty of a foreign State shall be governed by the national law of such vessel or aircraft in all cases in which, in conformity with the provisions respecting the applicability of laws in general, the law of the place in which the instrument was executed or the act done should be applicable.

The provisions of the foregoing paragraph shall likewise apply to instruments executed and acts done on board a vessel or aircraft of foreign nationality in course of navigation in a place or in air space subject to the sovereignty of the Italian State, on condition of reciprocity on the part of the State to which such vessel or aircraft belongs.

. . . .

*Article 1240. Territorial jurisdiction.* Territorial jurisdiction with respect to the offences provided for in this code, if committed abroad or outside the territorial waters or air space of Italy, shall rest with the judge of the place where, after the offence is committed, the vessel or aircraft in which the accused person was travelling at the moment of the offence first puts in or lands in Italy.

If, before the vessel puts in or the aircraft lands in Italy, a report, charge or complaint was lodged with the consular authorities or the captain of a naval vessel, or if such authorities have discharged the functions of judicial police, or if jurisdiction cannot be determined in the manner prescribed in the foregoing paragraph, jurisdiction shall rest with the judge of the place in which the vessel or aircraft on board which the accused person was travelling at the moment of the offence is registered or is normally kept, respectively.

Where, in cases dealt with by the consular authorities, sentence has not yet been passed at the time of departure of the vessel or aircraft from

the official district of the said authorities, jurisdiction shall pass to the judge having territorial jurisdiction under the provisions of the foregoing paragraphs. Documents drawn up by the consular authorities in the course of the preparatory investigation shall retain full validity for the purpose of the said judges.

### 33. Japan

(a) CRIMINAL CODE, 23 APRIL 1907, AS AMENDED. TRANSLATION FROM T. L. BLAKEMORE, "THE CRIMINAL CODE OF JAPAN" (1950), PP. 3-7.

*Article 1.* This Code applies to every person who commits a crime in Japan.

It also applies to every person who commits a crime on board a Japanese ship outside Japan.

*Article 2.* This Code applies to every person who commits one of the following crimes outside Japan:

1. (Deleted)
2. Crimes as provided in articles 77 to 79;
3. Crimes as provided in articles 81, 82, 87 and 88;
4. Crimes as provided in article 148 as well as attempts thereof;
5. Crimes as provided in articles 154, 155, 157 and 158;
6. Crimes as provided in articles 162 and 163;
7. Crimes as provided in articles 164 to 166 as well as an attempt to commit a crime as provided in paragraph 2 of article 164, paragraph 2 of article 165, and paragraph 2 of article 166.

*Article 3.* This Code applies to a Japanese who commits one of the following crimes outside Japan:

1. Crimes as provided in article 108 and paragraph 1 of article 109, and crimes punishable as provided in article 108 and paragraph 1 of article 109, as well as any attempt to commit the above-mentioned crimes.
2. The crime as provided in article 119;
3. Crimes as provided in articles 159 to 161;
4. Crimes as provided in article 167 as well as an attempt to commit the crime as provided in paragraph 2 of that article;
5. Crimes as provided in articles 176 to 179, 181 and 184;
6. Crimes as provided in articles 199 and 200, as well as an attempt to commit such crimes;
7. Crimes as provided in articles 204 and 205;
8. Crimes as provided in articles 214 to 216;
9. Crimes as provided in article 218 as well as the crime of killing or injuring a person as a result of the commission of those crimes;
10. Crimes as provided in articles 220 and 221;
11. Crimes as provided in articles 224 to 228;
12. Crimes as provided in article 230;
13. Crimes as provided in articles 235, 236, 238 to 241 and 243;
14. Crimes as provided in articles 246 to 250;
15. The crime as provided in article 253;
16. The crime as provided in paragraph 2 of article 256.

*Article 4.* This Code applies to a public servant of Japan who commits one of the following crimes outside Japan:

1. The crime as provided in article 101 as well as an attempt to commit such crime;
2. The crime as provided in article 156;
3. Crimes as provided in article 193, paragraph 2 of article 195, and articles 197 to 197-3; as well as the crime of killing or injuring a person through the commission of the crime as provided in paragraph 2 of article 195.

*Note.* The Japanese Criminal Code contains the following provisions with respect to the destruction of vessels:

*“Article 126.* A person who overturns, damages or destroys a railroad train or an electric car in which persons are present shall be punished with imprisonment with forced labour for life or for not less than three years.

*“The same applies to a person who capsizes or destroys a vessel in which persons are present.*

*“A person who, by the commission of crimes provided in the preceding two paragraphs, causes the death of another shall be punished with death or with imprisonment with forced labour for life.*

. . .

*“Article 129.* A person who, through negligence, endangers the movement of a railroad train, an electric car or a vessel, or who overturns, damages or destroys a railroad train or electric car or capsizes or destroys a vessel shall be punished with a fine of not more than five hundred yen.

*“When a person commits the crime as provided in the preceding paragraph in the conduct of his professional or occupational duties, imprisonment for not more than three years or a fine of not more than one thousand yen shall be imposed.”* T. L. Blakemore, *The Criminal Code of Japan* (1950), pp. 79-80.

The contents of the provisions mentioned in articles 2-4 are as follows:

- Articles 77 to 79—insurrection;
- Articles 81 to 88—foreign aggression;
- Article 148—counterfeiting currency;
- Articles 154 to 158—forgery of documents;
- Articles 162 and 163—counterfeiting securities;
- Articles 164 to 166—counterfeiting seals.
- Articles 108 and 109—arson;
- Article 119—inundation;
- Articles 159 to 161—forgery of private documents;
- Article 167—counterfeiting private seals or signatures;
- Articles 176 to 184—indecentcy, rape and bigamy;
- Articles 199 and 200—homicide;
- Articles 204 and 205—bodily injury;
- Articles 214 to 216—abortion;
- Article 218—abandonment of a person in need of assistance (e.g., a child);
- Articles 220 and 221—unlawful arrest;
- Articles 224 to 228—kidnapping;
- Article 230—defamation;
- Articles 235 to 243—robbery;
- Articles 246 to 250—fraud and extortion;
- Article 253—embezzlement;
- Article 256—resale of stolen property.

Article 101—escape of prisoners;  
 Article 156—false official documents;  
 Articles 193 and 195—abuse of authority;  
 Articles 197 to 197-3—bribes.

- (b) CODE OF CRIMINAL PROCEDURE, 10 JULY 1948. TRANSLATION FROM ATTORNEY-GENERAL'S OFFICE, "CODES AND STATUTES OF JAPAN, No. 1" (1948), p. 1.

. . .

*Article 2.* The territorial jurisdiction of courts shall be determined by the place of the offence, or the place of domicile or residence of the accused or by the place where the accused is at present.

In respect to an offence committed on board a Japanese vessel while outside Japanese territory, the question shall, in addition to the places mentioned in the preceding paragraph, be determined also by the place of home port of such vessel, or the place where the vessel has lain at anchor subsequent to the committal of the offence.

. . .

### 34. Jordan

- (a) CODE OF CRIMINAL PROCEDURE, 26 JUNE 1879, AS AMENDED BY ACT OF 24 NOVEMBER 1924. C. R. W. SETON, "LEGISLATION OF TRANSJORDAN, 1918-1930", p. 89. ARTICLES 5 AND 6 HAVE BEEN ADAPTED FROM G. YOUNG, "CORPS DE DROIT OTTOMAN" (1906), VOL. 7, PP. 226-228.

. . .

*Article 5.* An inhabitant of Transjordan who has committed outside Transjordan a *Jinayet* (crime) against the security of the State, or counterfeits the seal of the State, national currency of legal-tender, national documents, authorizations, treasury certificates or bank notes authorized by law, may be prosecuted and judged according to the provisions of the penal laws in force in Transjordan, if he has not been judged abroad.

*Article 6.* The provisions of the previous article apply also to aliens, who are guilty, either as principals or as accessories, of one of the above-mentioned *Jinayets*, if they have been arrested in Transjordan or if their extradition has been secured by the Government.

*Article 7.* If any inhabitant of Transjordan is accused of the commission of a crime outside Transjordan which, according to any of the provisions of the penal laws in force in Transjordan, is considered a *Jinayet* or *Junha*<sup>1</sup>, he may be prosecuted for such crime in Transjordan and condemned in accordance with the said laws. But if it be proved in the course of the investigation or trial that he has been tried outside Transjordan for the said crime and acquitted, or condemned but the

<sup>1</sup> The difference between a *Jinayet* and a *Junha* is similar to, but not identical with, the distinction formerly made in English law between a felony and a misdemeanour.

term of imprisonment has been served or the penalty has lapsed owing to prescription or pardon, he shall not in such a case be prosecuted for the offence of which he is accused.

Public Prosecutors shall not prosecute any inhabitant of Transjordan who is accused of the commission of a *Finayet* or *Junha* outside Transjordan, unless he returns to Transjordan, provided that the charge brought against him is not one of the *Finayets* specified in articles 5 and 6 of the Code of Criminal Procedure.

The taking of legal proceedings regarding the above depends upon a complaint being preferred by the person against whom the crime was committed, or an intimation from the Government of the country in which the *Finayet* or *Junha* was committed, being addressed to the Transjordan Government requesting that the offender be punished.

### 35. Lebanon

(a) PENAL CODE, ENACTED BY LEGISLATIVE DECREE NO. 340/NI, 1 MARCH 1943. "JOURNAL OFFICIEL", No. 4104 (27 OCTOBER 1943); SUPPL., PP. 2-3. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

#### CHAPTER II. THE APPLICATION OF PENAL LAW IN SPACE

##### I. Territorial jurisdiction

*Article 15.* Lebanese law applies to all offences committed in Lebanese territory.

The offence shall be deemed to have been committed in Lebanese territory:

1. When one of the acts constituting an offence, an act constituting an indivisible offence, or an act of principal or accessory participation has been committed in that territory;

2. When the results occur or are intended to occur in that territory.

*Article 16.* Lebanese territory includes the layer of the atmosphere which lies over it, or its air space.

*Article 17.* For the purposes of the application of penal law, the following shall be assimilated to Lebanese territory:

1. The territorial sea to the distance of twenty kilometres from the shore, measured from the line of the low tide;

2. The air space over the territorial sea;

3. Lebanese vessels and aircraft;

4. Foreign territory occupied by a Lebanese army, to the extent to which the offences committed endanger the security of the army or its interests.

*Article 18.* Lebanese law does not apply:

1. To offences committed on board an alien aircraft in Lebanese air space, if they are committed wholly within the confines of that aircraft;

Nevertheless, offences committed wholly within the confines of the aircraft shall be subject to Lebanese law, if the author or the victim is a

Lebanese national, or if the aircraft lands in Lebanon after the offence has been committed.

2. To offences committed on board a foreign vessel or aircraft in Lebanese territorial sea, or in the air space over it, if they are committed wholly within the confines of the said vessel or aircraft.

3. To offences committed in Lebanese territory which endanger the security or interests of the French [Lebanese] army or, in general, under the laws in force, are subject to French [Lebanese] military jurisdiction.

## *II. Substantive jurisdiction*

*Article 19.* Lebanese law shall apply to any Lebanese or alien who is guilty outside the territory of Lebanon, either as a principal or as an instigator or accomplice, of a crime against the security of the State, of counterfeiting the State seal, or of counterfeiting or falsifying any Lebanese or foreign paper money or banknotes which are regarded as legal or customary tender in Lebanon.

Nevertheless, this provision shall not apply to an alien whose action is not contrary to the rules of international law.

## *III. Personal jurisdiction*

*Article 20.* Lebanese law shall apply to any Lebanese who is guilty, outside the territory of Lebanon, either as a principal or as an instigator or accomplice, of a crime or offence punishable by Lebanese law.

This provision shall also apply if the accused has lost or acquired Lebanese nationality after perpetrating the crime or offence.

*Article 21.* Lebanese law shall apply, outside the territory of Lebanon:

1. To offences committed by Lebanese officials in the exercise of their duties or in connexion with such exercise;

2. To offences committed by Lebanese diplomatic officials and consuls, to the extent to which they enjoy immunities recognized by public international law.

*Article 22.* Lebanese law shall not apply in Lebanese territory to offences committed by foreign diplomatic officials and consuls to the extent to which they enjoy immunities recognized by public international law.

## *IV. Universal jurisdiction*

*Article 23.* Lebanese law shall apply to any alien found in Lebanese territory who has committed abroad, either as a principal or as an instigator or accomplice, a crime or offence not covered by articles 19, 20 and 21, if his extradition has not been requested or granted.

## *V. The authority of foreign law*

*Article 24.* Lebanese law shall not apply to offences covered by article 20 which are punishable by imprisonment for less than three years, or to any offences covered by article 23, unless such offences are

punishable under the law of the State in the territory of which they were committed.

*Article 25.* If there is any divergence between Lebanese law and the law of the place where the offence is committed, the judge may, in applying Lebanese law in accordance with articles 20 and 23, take this divergence into account for the benefit of the accused.

The security or educational measures and the disqualifications and forfeitures provided for by Lebanese law shall apply irrespective of the law of the place where the offence was committed.

*Article 26.* In the case of offences committed both in Lebanon and abroad, the personal law of the accused shall be taken into account, in bringing the charge:

1. When one of the constitutive elements of the offence is governed by legislation on status or capacity;
2. When aggravating circumstances or a statutory defence other than minority in respect of penal law arise out of legislation on status or capacity.

#### *VI. The effect of foreign sentences*

*Article 27.* With the exception of the crimes provided for in article 19 and offences committed in Lebanese territory, no proceedings shall be instituted in Lebanon against a Lebanese or alien if such person has been judged definitively abroad and, in case of sentence, if he has served his sentence, if it is barred by lapse of time, or if he has been pardoned.

*Article 28.* Sentences passed abroad shall not prevent Lebanon from instituting proceedings in respect of any offence provided for in article 19 or committed in Lebanese territory, unless the verdict of the foreign court was given as the result of an official denunciation by the Lebanese authorities.

Nevertheless, any sentence or preventive detention served abroad shall be taken into account in the penalty imposed by the judge, to the extent fixed by him.

*Article 29.* Penal sentences passed by foreign courts in respect of acts which are deemed to be crimes or offences under Lebanese law may be taken into account:

1. In order to give effect to security measures and the disqualifications and forfeitures they involve, in so far as they are in conformity with Lebanese law, or to an award relating to damages, restitution of property and other consequences under civil law;
2. With a view to laying down security measures and disqualifications and forfeitures provided for by Lebanese law, or damages, restitution of property and other consequences under civil law;
3. With a view to applying the provisions of Lebanese law in respect of recidivism, habitual delinquency, concurrent offences, stay of proceedings, conditional release and rehabilitation.

The Lebanese judge shall be responsible for verifying the regularity of the foreign verdict with respect to form and substance, by referring to the documents in the case.

. . .



### 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.

. . .

*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.

. . .

- (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.

. . .

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".

. . .

(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.

. . .

*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.

. . .

*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.

II. Offences committed on board Mexican warships in foreign ports or foreign territorial waters. This provision shall apply also to Mexican merchant vessels, if the offender has not been judged in the country to which the port belongs.

III. Offences committed on board foreign vessels in Mexican ports or in territorial waters of the Republic, if the offence causes a breach of the peace or if the offender or the aggrieved person is not a member of the crew. The converse case shall be governed by the law of reciprocity.

IV. Offences committed on board Mexican or foreign aircraft in Mexican or foreign territory, air space or territorial waters in circumstances similar to those specified in the foregoing paragraphs with respect to vessels.

V. Offences committed in Mexican embassies and legations.

. . .

*Note.* Article 167 of the Penal Code of Mexico provides for the punishment, by imprisonment from three days to four years and by fine from 50 to 500 pesos, of persons who have destroyed a ship in whole or in part. M. Andrade, *Legislación Penal Mexicana* (3rd edition, 1946), p. 44.

(b) FEDERAL CODE OF PENAL PROCEDURE, 28 AUGUST 1934. "DIARIO OFICIAL", 30 AUGUST 1934; M. ANDRADE, "LEGISLACIÓN PENAL MEXICANA" (3RD EDITION, 1946), PP. 235-237. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 6.* The court competent to try an offence shall be that of the place where it was committed.

*Article 7.* In a case referred to in articles 2, 4 and 5, paragraph V, of the Penal Code, the competent court shall be that in whose area the accused is found; and if he is abroad, in order to obtain extradition the case shall be heard and determined in a court of equal rank in the Federal District before which the Public Ministry brings the criminal action.

*Article 8.* In a case referred to in paragraphs I and II of article 5 of the Penal Code, the competent court shall be that having jurisdiction over the vessel's first port of call in national territory, and, in a case referred to in sub-section III of the same article, that having jurisdiction over the port in which the vessel is lying or at which it calls.

*Article 9.* The provisions of the preceding article shall apply as appropriate to the offences referred to in sub-section IV of article 5 of the Penal Code.

*Article 10.* A continuing offence may be tried by a court having jurisdiction over any area in which acts have been committed which by themselves constitute the offence or offences charged.

. . .

- (c) DECREE TO AMEND BOOK IV OF THE ACT ON GENERAL MEANS OF COMMUNICATION, 30 DECEMBER 1949. "DIARIO OFICIAL", VOL. 178, NO. 19 (23 JANUARY 1950), P. 6.

. . .  
*Article 309.* The following shall be governed by Mexican law:

I. Any event or juridical act occurring on board a Mexican aircraft in flight whether over Mexican territory or over non-territorial waters, as well as any such event or act occurring on board a Mexican aircraft flying over foreign territory, unless the event or act is of such a nature that it endangers the security or public order of the foreign State over which the aircraft is flying.

II. Any offence committed on board any aircraft over foreign territory, if the offence produces or is alleged to produce effects in Mexican territory.

. . .  

### 38. Monaco

- (a) CODE OF CRIMINAL PROCEDURE, 25 OCTOBER 1904. "PRINCIPAUTÉ DE MONACO, CODE DE PROCÉDURE PÉNALE" (1904), PP. 6-8. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .  
*Article 5.* A citizen of Monaco who commits an act abroad which is a crime under the law of Monaco, may be prosecuted and tried in the Principality.

*Article 6.* A citizen of Monaco who commits an act abroad which is an offence (*délit*) under the law of Monaco may be prosecuted and tried in Monaco, when he is found in the Principality and if the act is punishable under the laws of the State where it was committed.

In those circumstances prosecution proceedings shall only be taken at the request of the Public Prosecutor and only if a complaint is made by the injured party or an official accusation is lodged with the Monegasque authorities by the authorities of the country where the offence was committed.

*Article 7.* The following persons may be prosecuted and tried in the Principality if they are arrested there or if their extradition has been obtained:

1. An alien who commits a crime against the security of the State, or who commits a crime involving the counterfeiting of the seals or currency of the State, national papers, monies or paper money received by the State Treasury.

2. An alien who is co-author of, or accomplice in, any other crime committed abroad by a citizen of Monaco, if the latter is prosecuted or has already been sentenced in the Principality for the said crime.

*Article 8.* An alien who commits the following crimes or offences abroad may also be prosecuted and tried in the Principality:

1. A crime or offence committed against a citizen of Monaco;

2. A crime or offence committed against another alien, if the goods acquired by breaking the law are found in his possession in the Principality.

In both cases prosecution proceedings shall be taken only in accordance with the conditions laid down in article 6.

*Article 9.* The preceding provisions shall not apply:

1. If the accused person has been tried in a foreign country for the same offence and has been acquitted.

2. If, having been convicted, he has served his sentence or it has lapsed, or he has been granted an amnesty or pardon.

*Article 10.* If the sentence pronounced by the foreign courts has been partly served the judges, when imposing the new sentence, shall take into account the time served by the offender.

. . .

*Note.* The Decree on maritime discipline, of 22 January 1891 (Monaco, *Lois usuelles*, 1828-1907, pp. 299, 306), provides in article 39 that:

"Any person, whether on board or not, who with criminal intent causes a vessel to run aground or who causes the loss or destruction of a vessel by any means other than that of fire or explosives, shall be sentenced to a term of penal servitude.

"If the guilty person was, on any grounds, entrusted with the navigation of the vessel, the minimum penalty may not be applied."

### 39. Netherlands .

(a) PENAL CODE, 3 MARCH 1881, AS AMENDED. J. A. FRUIN, "DE NEDERLANDSCHE WETBOEKEN" (1947), PP. 1440-1441. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS

. . .

*Article 2.* The provisions of the Netherlands Penal Code shall apply to any person committing an offence within the Kingdom in Europe.

*Article 3.* The provisions of the Netherlands Penal Code shall apply to any person committing an offence on board a Netherlands vessel outside the Kingdom in Europe.

*Article 4.* The provisions of the Netherlands Penal Code shall apply to any person committing outside the Kingdom in Europe:

(1) An offence specified in articles 92-96, the first paragraph of article 97 (a), article 105 or articles 108-110;

(2) An offence in respect of coinage, paper currency, bank notes, stamps issued by the State or Government marks;

(3) Forgery of bonds or certificates of indebtedness issued by the Netherlands State or by a Netherlands province, municipality or public institution, the talons or the dividend or interest coupons belonging to, or certificates issued in lieu of, such securities, or wilfully using such forged or altered securities as though they were genuine and unaltered;

(4) An offence specified in articles 381-385.

*Article 5.* The provisions of the Netherlands Penal Code shall apply to any Netherlands national committing outside the Kingdom in Europe:

(1) An offence specified in title I or II of the second book or in articles 206, 237, 388 or 389;

(2) An act constituting an offence under the Netherlands Penal Code and punishable by the law of the country in which it was committed.

An accused person may be prosecuted notwithstanding that he has become a Netherlands national since the act was committed.

*Article 6.* The provisions of the Netherlands Penal Code shall apply to any Netherlands official committing outside the Kingdom in Europe an offence specified in title XXVIII of the second book.

*Article 7.* The provisions of the Netherlands Penal Code shall apply to a master of or any person sailing in a Netherlands vessel who commits outside the Kingdom in Europe, on or off the vessel, an offence specified in title XXIX of the second book or title IX of the third book.

*Article 8.* The provisions of articles 2-7 shall be subject to the exceptions recognized by international law.

*Note.* The Netherlands Penal Code contains the following provisions with respect to offences concerning damage to ships:

*“Article 168.* Any person who wilfully and unlawfully sinks, strands, destroys, disables or damages a vessel shall be punished by:

“(1) Imprisonment for a term not exceeding 15 years, if the life of any person is endangered thereby;

“(2) Imprisonment for life or for a term not exceeding 20 years, if the life of any person is endangered and the death of any person is caused thereby.

*“Article 169.* Any person through whose fault a vessel is sunk, stranded, destroyed, disabled or damaged shall be punished by:

“(1) Imprisonment or detention for a term not exceeding six months, or a fine not exceeding 300 guilders, if the life of any person is endangered thereby;

“(2) Imprisonment or detention for a term not exceeding one year, if the death of any person is caused thereby.

“ . . .

*“Article 414.* A master of a Netherlands vessel involved in a collision who wilfully fails to give assistance in compliance with the first paragraph of article 358(a) or article 785 of the Commercial Code shall be punished by imprisonment for a term not exceeding three years.

“ . . .

*“Article 473.* A master or member of a crew who fails to observe the statutory precautions against collision or fouling shall be punished by a fine not exceeding 300 guilders.

*“Article 474.* A master of a Netherlands vessel who fails to comply with the second paragraph of article 358(a) or article 785 of the Commercial Code shall be punished by detention for a term not exceeding three months or by a fine not exceeding 300 guilders.”

The first two paragraphs of article 358(a) of the Commercial Code, mentioned in the above-quoted provisions of the Penal Code, read as follows:

“A master shall give to persons in peril, and especially to another ship with which his ship has collided and to persons therein, all assistance possible without seriously imperilling his ship or persons sailing therein.

“He shall also as far as possible inform the other ships involved in the collision of the name and home port of his ship and its ports of departure and destination.”

The provisions of the Penal Code, cited in articles 4-7 of that Code, deal with the following offences:

*Articles 92-107* (title I of the second book): offences against the security of the State.

*Articles 108-114* (title II of the second book): offences against the King.

*Article 206*: making a person unqualified for military service.

*Article 237*: bigamy.

*Articles 381-414* (title XXIX of the second book): offences against shipping.

Title XXVIII of the second book: offences by officials.

Title IX of the third book: small offences (misdemeanours) connected with shipping.

- (b) CODE OF CRIMINAL PROCEDURE, 15 JANUARY 1921. J. A. FRUIN, "DE NEDERLANDSCHE WETBOEKEN" (1947), p. 1748. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 4.* An offence committed on board a Netherlands vessel outside the Kingdom in Europe shall be deemed, for the purpose of determining the jurisdiction of the judge, to have been committed in the Kingdom at the place where the owner of the vessel is resident or the shipping company has its seat.

*Article 5.* Subject to the provisions of the Act determining the judicial powers of consuls, where no judge has jurisdiction under the foregoing provisions, the district court (*rechtbank*) or the court of summary jurisdiction (*kantongerecht*) at Amsterdam shall have jurisdiction.

. . . .

#### 40. Nicaragua

- (a) PENAL CODE, 8 DECEMBER 1891. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, PP. 234. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . . .

*Article 11.* Nicaraguan penal law shall apply to all inhabitants of the Republic, including aliens, save as otherwise provided under international law. Crimes and petty offences (*delitos y faltos*) committed in territorial and adjacent waters shall be subject to the provisions of this Code.

*Article 12.* Offences committed outside the territory of the Republic shall not be punished therein, save in the cases specified by law.

*Article 13.* The following persons shall be punished in accordance with this Code:

1. A national of Nicaragua or an alien who, outside the territory of Nicaragua, counterfeits Nicaraguan State bonds, bank notes legally issued in Nicaragua or bills of exchange or promissory notes discountable in Nicaragua; provided that the offender comes to Nicaragua and has not been tried and sentenced for the offence in the country in which it was committed.



2. A master, passenger or member of the crew of a Nicaraguan merchant vessel who commits a crime or petty offence on the high seas or in the territorial waters of a foreign nation, provided that in the latter case the offender has not been tried and sentenced by the authorities of the nation in which the offence was committed.

*Article 14.* The cases referred to in paragraph 2 of the foregoing article shall not be tried in the courts of the Republic unless the offender comes to Nicaraguan territory or is apprehended by the Nicaraguan authorities.

*Note.* Article 515 of the Nicaraguan Penal Code provides for the punishment of "any person who causes damage by the sinking or stranding of a ship". L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales ibero-americanos* (1946), vol. II, p. 314.

#### 41. Norway

(a) GENERAL CRIMINAL CODE, 22 MAY 1902, AS AMENDED. "NORGES LOVER, 1682-1946", PP. 528-529. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 12.* In the absence of any specific provisions or any agreement concluded with a foreign State to the contrary the Norwegian Penal Code shall apply to any act committed:

1. Within the Kingdom, which shall include any Norwegian vessel on the high seas;

2. On a Norwegian vessel, wherever it may be, by a member of the crew or by any other person aboard the vessel;

3. In a foreign country by a Norwegian national or by a person domiciled in Norway, if such act:

(a) Is an act referred to in chapters 8, 9, 10, 11, 12, 14, 17, 18, 20, 23, 24, 25 or 33, or in articles 135, 141, 142, 144, 169, 191-195, 199, 202, 204 (cf. 202), 205-209, 223-225, 228-235, 242-245, 270-272, 275, 277, 291, 292, 294 (paragraph 2), 318, 326-328, 330 (last paragraph), 338, 367-370, 380, 381 or 423 of this Act, and in any case if such act

(b) Is a crime or offence against the Norwegian State or an authority thereof, or

(c) Is punishable also under the law of the country in which it was committed;

4. In a foreign country by an alien, if such act

(a) Is an act referred to in articles 83, 88, 89, 90 (last paragraph), 93, 98-104, 110-132, 148, 149, 152 (first and second paragraphs), 153 (first, second, third and fourth paragraphs), 154, 159, 160, 161, 169, 174-178, 182-185, 187, 190, 191-195, 202, 217, 220, 221, 223-225, 229, 231-235, 243, 244, 261, 267-269, 277, 292, 324, 325, 328, 415 or 423 of this Act,

or

(b) Is a crime punishable also under the law of the country in which it was committed, and the offender is domiciled or resident in the Kingdom.

If the criminal nature of an act is dependent entirely or partly upon the effect produced or intended to be produced by it, the act shall be deemed also to have been committed at the place where it had or was intended to have effect.

*Article 13.* An act referred to in paragraph 4 of article 12 may be prosecuted only by order of the King.

An act referred to in paragraph 4 (*b*) of article 12 may be prosecuted only if it is also punishable under the law of the country in which it was committed. Furthermore, the punishment imposed may not be more severe than the penalty permitted by the law of that country.

Where a person who has been punished in a foreign country is sentenced in Norway for the same offence, the punishment previously suffered shall be applied as far as possible against the sentence imposed in Norway.

*Article 14.* The application of the aforementioned provisions shall be subject to the exceptions recognized in international law.

*Note.* The Norwegian General Criminal Code provides for the punishment of certain crimes connected with collisions between ships. For instance, it punishes: persons causing an accident at sea (articles 148-151); the captain who by navigating an improperly equipped ship causes an accident at sea (article 304); the captain who does not render assistance to another ship after a collision with it (article 315); the captain who does not give the necessary details about his ship to the captain of a ship with which his ship has collided (article 415).

The provisions enumerated in article 12, Nos. 3 (*b*) and 4 (*a*) relate to the following acts:

*Chapter 8*—crimes against the autonomy and security of the State;

*Chapter 9*—crimes against the Constitution and the head of government;

*Chapter 10*—crimes relating to the exercise of citizens' rights;

*Chapter 11*—crimes connected with the exercise of public functions;

*Chapter 12*—crimes against public officers;

*Chapter 14*—crimes against public security;

*Chapter 17*—counterfeiting;

*Chapter 18*—forgery;

*Chapter 20*—crimes related to family relations;

*Chapter 23*—injuries;

*Chapter 24*—embezzlement and theft;

*Chapter 25*—extortion and robbery;

*Chapter 33*—offences connected with the exercise of public functions;

*Article 135*—public disturbances;

*Article 141*—encouragement of emigration;

*Article 142*—ridiculing religious beliefs;

*Article 144*—revealing professional secrets;

*Article 169*—false accusations;

*Articles 191-209*—crimes against morals;

*Articles 223-225*—deprivation of liberty;

*Articles 228-245*—crimes against life and health;

*Articles 270-272*—fraud;

*Articles 275, 277*—abuse of confidence;

- Articles 291-292*—international damage to property;  
*Article 294(2)*—abuse of confidential information;  
*Article 318*—crimes related to stolen property;  
*Articles 326-328*—offences against public officers;  
*Article 330(2)*—criminal associations;  
*Article 338*—offences connected with celebration of marriages;  
*Articles 367-370*—falsification and false statements;  
*Article 380*—work endangering the morality of employees;  
*Article 381*—work endangering children;  
*Article 423*—illegal use of flags on vessels and illegal coast-wise trading;
- Article 83*—incorporation of Norway into a foreign State;  
*Article 88*—crimes connected with supplying and transporting troops;  
*Article 89*—crimes related to negotiations with foreign governments;  
*Article 90*—divulging public secrets;  
*Article 93*—destruction of public documents;  
*Articles 98-104*—crimes against the Constitution and the head of government;
- Articles 110-132*—crimes connected with the exercise of public functions and against public officers;  
*Articles 148-149*—causing a catastrophe by fire, explosion, etc.;  
*Articles 152-153*—poisoning public water supplies or selling poisonous substances;
- Article 154*—spreading contagious diseases;  
*Articles 159-161*—crimes against public security;  
*Article 169*—false accusations;  
*Articles 174-178*—counterfeiting;  
*Articles 182-190*—forgery;  
*Articles 191-195*—crimes against morals;  
*Article 202*—encouragement of prostitution;  
*Article 217*—kidnapping;  
*Articles 220-221*—crimes connected with invalid marriages;  
*Articles 223-225*—deprivation of liberty;  
*Articles 229, 231-232*—assault;  
*Articles 233-235*—murder;  
*Articles 243-244*—abandonment;  
*Article 261*—theft;  
*Articles 267-269*—robbery;  
*Article 277*—dangerous fraud;  
*Article 292*—damage to public objects;  
*Articles 324-325*—improper exercise of public functions;  
*Article 328*—impersonating public officials;  
*Article 415*—offences connected with collisions between vessels;  
*Article 423*—illegal use of flags on vessels and illegal coast-wise trading.

- (b) CODE OF CRIMINAL PROCEDURE, 1 JULY 1887, AS AMENDED BY LAW No. 12, 22 MAY 1902. "NORGES LOVER, 1682-1946", p. 251. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 136.* An offence shall be tried in the jurisdiction where it was committed or, in case of doubt, in one of the jurisdictions where it is presumed to have been committed.

An offence committed on board a Norwegian ship situated abroad or on the high seas shall be prosecuted in the jurisdiction where the ship is registered or where it first puts in or where investigation is first commenced.

If there is no such jurisdiction or a trial there would entail material inconvenience for the accused or witnesses, the offence may be prosecuted in the place of domicile or, in default thereof, in the place of residence of the accused.

#### 42. Panama

- (a) PENAL CODE, 17 NOVEMBER 1922. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, PP. 333-334. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 5.* The penal law of Panama applies to any offender inhabiting Panamanian territory, irrespective of nationality, subject to the immunities recognized by international law.

The offences of smuggling and electoral and fiscal fraud are also excepted from the sanctions of this Code.

*Article 6.* The following persons are punishable in Panama in accordance with Panamanian penal law: nationals and aliens committing, outside the territory of the Republic, offences against the internal or external security of the Republic, or counterfeiting metal money, documents of Panamanian public credit, or foreign currency of legal tender in Panama, provided that in the latter case they have the intention to introduce it into Panamanian territory.

This provision applies also to the counterfeiting of bank notes issued by authority of the Republic.

*Article 7.* The following persons may not be tried in Panama according to the provisions of the preceding articles: a national or alien for an offence committed outside the country, if he has already been tried in the territory in which the offence was committed and has served a sentence or suffered a penalty equal to or greater than that prescribed by Panamanian law.

*Article 8.* The following persons are punishable in Panama: diplomatic agents of the Republic who commit offences on foreign territory, and the commanders or masters of Panamanian vessels and members of their crews who commit offences on the high seas or in the territorial

waters of any other country, when—in accordance with the practice accepted by international law—they may not be tried there.

A Panamanian public official abroad, other than a member of the diplomatic corps of the Republic, shall remain subject to Panamanian jurisdiction in respect of any punishable act which he commits in the performance of his duties.

Cases of piracy shall be governed by the provisions of international law regarding jurisdiction.

*Note.* The Panamanian Penal Code contains the following provisions with respect to the sinking of ships:

“*Article 258.* Any person who wilfully causes by any means the burning, sinking or shipwreck of a ship or vessel (*embarcación*) shall for that act alone be punished by imprisonment for two to six years.

“ . . .

“*Article 262.* If any act mentioned in the preceding articles endangers human life, the penalty therefore shall be increased by one-half.

“ . . .

“*Article 264.* Any person who through impudence, negligence or lack of skill in his trade or profession, or through failure to comply with regulations, causes fire, explosion, flood, sinking, shipwreck, destruction or any other disaster causing general damage shall be punished by imprisonment (*prisión*) for 15 days to 10 months and a fine of 10 to 100 balboas.

“If the act endangers human life, the term of imprisonment shall be 1 to 18 months and the fine 30 to 300 balboas; if it causes the death of any person, the period of imprisonment shall be 2 months to 2 years and the fine 100 to 500 balboas.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, pp. 374-375.

When a homicide has been committed by means of sinking, shipwreck, etc., article 313(*d*) provides for its punishment by imprisonment for twenty years. *Ibid.*, p. 382.

(*b*) JUDICIAL CODE, 22 AUGUST 1916. “REPÚBLICA DE PANAMA, CÓDIGO JUDICIAL” (OFFICIAL EDITION, 1926), p. 385. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 1988.* Cases falling within the jurisdiction of circuit or municipal judges shall be dealt with only by the judge of the district in which the offence was committed.

*Article 1989.* If the place where the offence was committed is not known, the matter or case shall be dealt with by:

1. The judge of the district or circuit in which material evidence of the offence has been found;
2. The judge of the district or circuit in which the accused was arrested;
3. The judge of the place of residence of the accused;
4. Any judge informed of the offence.

Questions of competence between such judges shall be decided according to the foregoing order of priority.

As soon as the place where the offence was committed is determined, the papers in the case shall be forwarded and persons in custody and impounded objects shall be handed over to the court of the proper district.

. . .

### 43. Paraguay

- (a) PENAL CODE, 22 FEBRUARY 1910, AS AMENDED BY LAW NO. 78, 18 JULY 1914. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, P. 402. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 8.* Offences committed in the territory of the Republic, whether by citizens or by aliens, shall be punished in conformity with this Code.

Where a person has already been sentenced abroad for an offence committed in the Republic, the penalty already suffered shall be deducted from the fresh penalty.

*Article 9.* Offences committed outside the territory of the Republic, whether by citizens or by aliens, shall be punished in conformity with this Code only if:

1. The citizen or alien commits on foreign territory an offence against the security of Paraguay, or counterfeits Paraguayan official seals, State bonds or public credit documents.

2. A citizen commits, in cases other than those specified in the foregoing paragraph, on foreign territory an offence punishable under the law both of the Republic and of the State in which it was committed, and enters the Republic in any manner.

In such cases, subject to existing treaties, the less severe law shall be applied and public prosecution shall be instituted only for offences punishable by imprisonment exceeding two years.

3. A citizen commits on foreign territory an act intended to take effect in the Republic only.

In this case, and if the act committed in the foreign country was not punishable under the law of that country, the offender may be judged in conformity with the provisions of this Code only when he enters within the territorial jurisdiction of the Republic.

*Article 10.* The provisions of the foregoing article shall not apply if criminal proceedings are barred in conformity with the law of either country, or if the offence is political, or if the accused has been acquitted in the foreign country, or has been convicted there and suffered the penalty, or the penalty has been barred by lapse of time.

If the offender has not suffered the full penalty, the case may be reopened in a court of the Republic, but due allowance shall be made for the portion of the penalty suffered.

. . .

*Note.* Article 252 of the Paraguayan Penal Code provides that "a person who causes damage by sinking or stranding a vessel . . . and thereby gravely endangers human life or health, shall be punished by imprisonment for two to twelve years according to the degree of the danger and the amount of the damage.

"If the act causes serious wound or injury, or was committed for the purpose of robbery, the penalty shall be imprisonment for ten to twenty-five years.

"If the act causes the death of one or more persons the penalty shall be death."

Article 265 provides, in addition, that "if a person commits any of the acts enumerated in this chapter through carelessness, negligence, culpable ignorance, or lack of skill in his trade or profession, he shall be punished by one-fifth of the penalty to which he would have been liable if he had committed the act with criminal intent.

"If the offender commits the act in the discharge of a public office or in the practice of a science or skill in which he holds professional qualification, he shall also suffer dismissal and special or professional disqualification for a period not exceeding two years.

"A person committing through imprudence an offence punishable by death shall be punished by imprisonment for six to ten years." L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, pp. 432, 434.

(b) REGULATIONS FOR THE CONSULS OF THE REPUBLIC, 1 NOVEMBER 1871, AS AMENDED. "MINISTERIO DE RELACIONES EXTERIORES, REGLAMENTO CONSULAR" (1913). TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON 1933), VOL. II, PP. 946, 952.

. . .

*Article 51.* In cases of offences (*delitos*) and crimes committed on the sea by Paraguayan citizens within the dominion and maritime and national jurisdiction of the place in which consuls of the Republic reside, and if the offender is apprehended, consuls shall request full particulars of the fact and shall inform their Government, forwarding the data obtained to the Minister of Foreign Relations.

*Article 52.* If a Paraguayan citizen is accused of any offence (*delito*) or crime committed on the sea, within the waters and the jurisdiction of the Republic (*en el mar, en aguas y jurisdicción de la República*), the consul shall claim jurisdiction over the said cause and request that jurisdiction be assumed by the tribunals of Paraguay, where the accused shall be tried; for this purpose he shall request an account of the circumstances, and that the criminal be sent to the Republic with full security, requesting the authorities of the country in which the consul resides for necessary cooperation and assistance for the safe detention of the accused. If the authorities of the country refuse the help asked, he shall inform the Government in order that the latter may take such steps as the case may warrant; the offences of forgery and piracy committed on the sea within the jurisdiction of the Republic are excepted from such requests.

. . .

#### 44. Peru

(a) PENAL CODE, 28 JULY 1924. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, P. 465. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 4.* Any person committing an offence in the territory of the Republic, or in national ships on the high seas, or in national warships in

waters under foreign jurisdiction if the offender is a member of the crew or performs some office in the ship, or in foreign merchant ships in jurisdictional waters, shall be liable to punishment.

*Article 5.* Offences committed outside the territory of the Republic shall be liable to punishment in the following cases:

1. The offences included in title III of the seventh section, title I of the ninth section, and title II of the fifteenth section, whether committed by nationals or aliens.

2. Offences not covered by the preceding sub-paragraph, committed by a national and entailing extradition under Peruvian law, provided they are also punishable in the State in which they were committed, if the offender enters the Republic in any manner whatsoever.

This provision shall be applicable to aliens who become Peruvian citizens after the commission of the punishable act.

3. Offences not covered by sub-paragraph 1, committed by an alien against a national and entailing extradition under Peruvian law, provided they are also punishable in the State in which they were committed, if the offender enters the Republic in any manner whatsoever and is not extradited.

4. Offences of any kind committed in the discharge of their duties by officials or employees in the service of the State.

*Article 6.* The provisions contained in the first three sub-paragraphs of the preceding article shall not apply:

1. If criminal proceedings have lapsed in accordance with the legislation of either country.

2. In the case of political-social offences.

3. If the accused has been found not guilty in the foreign country, or, if having been found guilty, he has served the penalty, or if the penalty is barred by lapse of time or has been remitted.

If the accused has not served the complete sentence, he may be retried in the courts of the Republic; the portion of the sentence served shall, however, be taken into account.

. . .

*Note.* Article 267 of the Peruvian Penal Code provides that:

"Any person intentionally causing a flood or the destruction of a building or the sinking or stranding of a ship and wittingly endangering the life or health of persons or the property of others shall be punishable by penitentiary imprisonment for a term of not more than ten years.

"If the damage caused is of minor importance, the judge may sentence the offender to a term of not more than two years' imprisonment.

"If the flood, destruction, sinking or stranding was caused by negligence, the penalty shall be imprisonment of not more than two years or a fine of not less than three or more than 90 days' income." L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, p. 503.

The titles mentioned in sub-paragraph 1 of article 5 of the Penal Code deal with the following offences: piracy, treason and acts against military security, and falsification of currency and of official seals, stamps and marks.



- (b) CODE OF CRIMINAL PROCEDURE, ENACTED BY LAW NO. 9024, 23 NOVEMBER 1939. E. GARCÍA CALDERÓN, "CONSTITUCIÓN, CÓDIGOS Y LEYES DEL PERÚ" (4TH EDITION, 1942), PP. 538, 541, 602. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 6.* A citizen of Peru who, outside the territory of the Republic, commits an offence which is punishable both under Peruvian law and the law of the country in which it is committed, may be tried upon his return to Peru.

*Article 7.* An alien who, outside the territory of Peru, commits, as principal or accessory, an offence against the security of the State or an offence involving the counterfeiting of national coinage or paper money or the forgery of state documents, shall be tried in accordance with Peruvian laws if he has been arrested in Peru or if the Government obtains his extradition.

*Article 8.* A citizen of Peru who commits an offence outside the country or an alien who commits an offence in Peru shall not be liable to prosecution if he can prove that he was previously tried for the same offence and acquitted, or that he has served his penalty, or that it has been remitted, or that it is barred by a statute of limitations.

*Article 19.* Among examining magistrates of the same category jurisdiction to deal with an offence shall be determined by:

1. The place where the offence was committed;
2. The place where material evidence of the offence was discovered;
3. The place where the accused was arrested; and
4. The place of domicile of the accused.

*Article 345.* The Executive Power may deliver to the governments of foreign countries, on the condition of reciprocity, any individual accused or condemned by the courts or tribunals of the requesting country, provided that the crime or offence involved is among those specified in the Law of 23 October 1888, and that it was committed in its territory or in its territorial waters, aboard a merchant ship on the high seas, or aboard a warship, whatever its location at the time.

*Note.* A provision similar to that of article 345 of the Peruvian Code of Criminal Procedure may be found in article 1 of the Extradition Law of 23 October 1888. E. García Calderón, *Constitución, Códigos y Leyes del Perú* (4th edition, 1942), p. 1821.

#### 45. Philippines

- (a) REVISED PENAL CODE, 8 DECEMBER 1930. G. B. GUEVARA, "COMMENTARIES ON THE REVISED PENAL CODE OF THE PHILIPPINES" (4TH EDITION, 1946), PP. 3-6.

*Article 2. Application of its provisions.*—Except as provided in the treaties and laws of preferential application, the provisions of this Code

shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offence while on a Philippine ship or airship.
2. Should forge or counterfeit any coin or currency note of the Philippines or obligations and securities issued by the Government of the Philippines.
3. Should be liable for acts connected with the introduction into these Islands of the obligations and securities mentioned in the preceding number.
4. While being public officers or employees should commit an offence in the exercise of their functions; or
5. Should commit any of the crimes against national security and the law of nations, defined in title one of book two of this Code.

*Note.* Article 324 of the Philippine Penal Code provides that:

“Any person who shall cause destruction by means of explosion, discharge of electric current, inundation, sinking or stranding of a vessel, intentional damaging of the engine of said vessel, taking up the rails from a railway track, maliciously changing railway signals for the safety of moving trains, destroying telegraph wires and telegraph posts, or those of any other system, and, in general, by using any other agency or means of destruction as effective as those above enumerated, shall be punished by *reclusión temporal* if the commission has endangered the safety of any person; otherwise, the penalty of *prisión mayor* shall be imposed.” G. B. Guevara, *Commentaries on the Revised Penal Code of the Philippines* (4th edition, 1946), p. 695.

(b) JUDICIARY ACT (REPUBLIC ACT NO. 296), 17 JUNE 1948. “LAWS AND RESOLUTIONS, FIRST CONGRESS, THIRD SESSION AND SECOND SPECIAL SESSION (1948)”, VOL. III, PP. 246, 259-260.

. . . .  
*Section 44. Original jurisdiction.* — Courts of first instance shall have original jurisdiction:

(g) Over all crimes and offences committed on the high seas or beyond the jurisdiction of any country, or within any of the navigable waters of the Philippines, on board a ship or water craft of any kind registered or licensed in the Philippines in accordance with the laws thereof. The jurisdiction herein conferred may be exercised by the Court of first instance in any province into which the ship or water craft upon which the crime or offence was committed shall come after the commission thereof: *Provided*, That the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines; . . .

#### 46. Poland

(a) PENAL CODE, ENACTED BY PRESIDENTIAL DECREE, 11 JULY 1932. “DZIENNIK USTAW” (1932), NO. 60, C. 571. PP. 1153-1154. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 3.* (1) Polish penal law applies to all persons who commit offences in the territory of the Polish State or on board a Polish vessel or

aircraft. The territory of the State shall be deemed to include inland and coastal waters and the airspace above the territory.

(2) An offence shall be deemed to have been committed in the territory of the Polish State, or on board a Polish vessel or aircraft, if the criminal act or omission took place therein; or if the criminal effect was produced or was intended by the offender to be produced there.

*Article 4.* (1) Polish penal law applies to Polish nationals who commit offences abroad.

(2) Polish penal law likewise applies to aliens who committed an offence abroad while still nationals of the Polish State, or who have acquired Polish nationality after committing an offence abroad.

*Article 5.* Polish penal law applies to aliens who commit abroad an offence against the welfare or interests of the Polish State, or of a Polish national or corporation.

*Article 6.* (1) A person shall not be deemed to be criminally liable for an act committed abroad, unless the said act is defined as an offence by the law in force at the place of commission.

(2) In the event of a conflict between the two laws, the judge may in applying the Polish law take the difference into account in favour of the accused.

(3) Security measures shall be applied by the Polish court irrespective of the law of the place in which the offence was committed.

*Article 7.* The provisions of article 6 shall not apply to:

(a) Officials who commit offences while serving abroad;

(b) Persons who commit offences in a place not subject to the jurisdiction of any State.

*Article 8.* Irrespective of the provisions in force at the place of commission of the offence, and of the nationality of the offender, Polish penal law applies to persons who commit abroad the following offences:

(a) Offences against the internal or external security of the Polish State;

(b) Offences against public authorities or officials of the Polish State;

(c) False testimony before a public authority of the Polish State.

*Article 9.* Irrespective of the provisions in force at the place of commission of the offence, Polish penal law shall apply to Polish nationals or aliens whose extradition is not granted, who have committed abroad any of the following offences:

(a) Piracy;

(b) Counterfeiting coins, securities or bank notes;

(c) Slave trade;

(d) Traffic in women or children;

(e) The use of means calculated to create a general danger, with the intention of so doing;

(f) Traffic in narcotic drugs;

(g) Traffic in obscene publications;

(h) Other crimes envisaged by international agreements concluded by the Polish State.

*Article 10.* (1) Polish penal law applies, subject to the provisions of articles 6 and 7, to aliens who have committed abroad offences not mentioned in articles 5, 8 and 9, if the offender is present in the territory of the Polish State and his extradition has not been granted.

(2) Proceedings shall be initiated by order of the Minister of Justice.

*Article 11.* (1) Where a person is sentenced in the Polish State for an act for which he has been punished abroad, the Court shall at its discretion take the punishment undergone abroad into consideration in imposing its sentence.

(2) Polish courts may apply security measures or impose loss of rights as a security measure, in connexion with offences tried abroad, irrespective of the law of the place of commission of the offence.

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*Note.* Articles 215-221 of the Polish Penal Code provide for the punishment by imprisonment of persons creating a public danger by causing the sinking of a ship or a disaster with respect to means of communication on land, sea or in the air.

(b) CODE OF CRIMINAL PROCEDURE, 19 MARCH 1928, REVISED VERSION PUBLISHED BY PROCLAMATION OF THE MINISTER OF JUSTICE, 16 JANUARY 1939. "DZIENNIK USTAW" (1939), NO. 8, C. 44, PP. 65, 67. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 26.* (1) Territorial jurisdiction shall be vested primarily in the court of the district in which the offence is committed.

(2) Where an offence is committed in districts belonging to several courts, jurisdiction shall be vested in the court which first had cognizance of the offence.

(3) An offence shall be deemed to have been committed in the place where the criminal act took place, or where the criminal effect was produced or was intended by the offender to have been produced.

*Article 27.* (1) If at the time when proceedings were initiated, the place in which the offence was committed cannot be determined, jurisdiction shall be vested in the court in whose district:

(a) The offence was detected;

(b) The suspected person was apprehended;

(c) The suspected person resides;

depending on which of the courts was the first to take cognizance of the offence.

(2) The provisions of paragraph 1 shall apply *mutatis mutandis* to offences committed abroad which are subject to the jurisdiction of the Polish courts.

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## 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.

. . . .

*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.

. . . .

*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.

*Article 7.* Romanian penal law does not apply:

1. To the person of the King;
2. To persons immune from criminal liability by virtue of treaties or the rules of international law;
3. To the crews of foreign merchant vessels with respect to criminal acts committed on board while the vessel is in territorial waters or in a Romanian port, or to the crews of foreign aircraft in flight over Romanian territory or present in that territory in virtue of a special authorization by the Romanian Government, except in cases where the criminal act was committed against a Romanian or has disturbed the peace and public order of the territory, or when the master of the vessel has applied to the Romanian authorities for assistance.

*Section II. Criminal acts committed abroad by Romanians or by aliens domiciled in Romania*

*Article 8.* A Romanian national is only liable to penalties for acts committed by him outside Romanian territory as principal, abettor or accessory, if he returns of his own free will or if, being in the country, he chooses to remain there, or if his extradition has been obtained, provided that the said acts are regarded as criminal acts both under the law of the country where they were committed and under Romanian law, though this proviso does not apply in the case of the criminal acts to which articles 10 and 11 refer.

In the case of discrepancy between the penalties prescribed by the two laws, the lighter penalty shall be applied.

If the lighter penalty is prescribed by the law of the foreign country and such penalty does not exist under Romanian law, the court shall replace it by one of the penalties prescribed by this Code corresponding to it as regards nature and length.

The offender may not be prosecuted if he proves, as regards the particular act, that he has been pardoned abroad, or that he had been sentenced there by a final judgment, and, in the case of conviction, that the sentence has been suspended or that the penalty has been extinguished, either because the sentence has been served or for any other reason serving to extinguish the penalty under the law of the country where sentence was passed.

If the offender has in any way whatsoever evaded the full execution of the penalty to which he was sentenced abroad, the portion of the penalty executed abroad shall be taken into account in the penalty to be imposed by the Romanian courts. Imprisonment before trial abroad shall also be deducted.

Similarly, a prosecution may not be instituted in respect of criminal acts if, under the law of the foreign country, a complaint must first be made and such complaint has not been made or has been withdrawn as provided by law.

Romanian penal law shall also apply to Romanian nationals in respect of acts committed abroad if the place where the acts were committed is not within the sovereignty of any country, provided that the said acts constitute crimes or offences punishable under this Code.

*Article 9.* The provisions of the preceding article are also applicable to aliens domiciled in Romania if they are not the nationals of any



country or if their extradition has not been requested, and to aliens acquiring Romanian nationality after committing a criminal act abroad.

The provisions shall also apply to abettors and accessories who have taken part in Romania in a criminal act committed abroad and punishable under Romanian law.

*Section III. Offences against the interests of the Romanian State,  
committed abroad by Romanians or aliens*

*Article 10.* If any person, as principal, abettor or accessory commits, outside Romanian territory, a crime against the security of the State, the offence of counterfeiting Romanian coins, government securities or Romanian bank notes, or of counterfeiting the seals of the State or of Romanian authorities, stamps or national marks, or the offence of committing acts derogatory to the honour, prestige or interests of the Romanian nation or State, or any crime or offence against a Romanian citizen, he may be prosecuted in Romania, tried and sentenced, even *in absentia*, unless the Romanian Government has requested his prosecution abroad.

If the offender is arrested in Romanian territory or if his extradition is obtained, he shall be liable to the execution of the penalty imposed by the Romanian courts, even if, in respect of the acts enumerated in the preceding paragraph, he had received pardon abroad, or has been sentenced abroad by a final judgment and, in the case of conviction, the sentence has been suspended or the penalty has been extinguished, either because the sentence has been served or for some other reason provided for in the law of the country where sentence was passed.

If the offender is sentenced abroad in respect of any such criminal act, the penalty served abroad shall be deducted from the penalty imposed by the Romanian court. Similarly, any imprisonment prior to trial abroad shall be deducted in accordance with the provisions of this Code.

Persons sentenced *in absentia* may request retrial if they return to the country and if the penalty has not been extinguished by lapse of time.

*Section IV. Offences committed abroad by aliens*

*Article 11.* If an alien commits abroad any crime or offence, other than those referred to in article 10, he shall be liable to prosecution under article 8 if he is in the country and his extradition is not requested or cannot be carried out.

A prosecution in respect of such criminal acts may be instituted only at the request of the Ministry of Justice, except in the case of the prosecution of the following criminal acts, which may be prosecuted and punished in accordance with the provisions of this Code without regard to the penal provisions in force in the place where such criminal acts were committed:

1. The counterfeiting of foreign coins, paper currency, government securities, bank notes, stamps or marks;
2. The traffic in women and children;

3. Acts of terrorism which are criminal acts under the Code in question;
4. The traffic in narcotic drugs;
5. The traffic in obscene publications (pornography);
6. Desertion of family;
7. Participation in acts committed with the intent of placing a person in a state of slavery;
8. Piracy;
9. The severing or destruction of submarine cables, and the broadcasting of false distress signals or calls;
10. Any other criminal act referred to in this Code, which Romania has undertaken by international agreement to treat as a punishable offence.

*Section V. Effects of foreign judgments in criminal matters*

*Article 12.* If a Romanian national or an alien domiciled in Romania is sentenced abroad for a criminal act under the ordinary law, the Romanian criminal courts may, on the application of the public prosecutor, order the person concerned to be placed under any disability or to suffer any loss of civil rights or any disqualification by which the criminal act is punishable under Romanian law.

The person so sentenced has the right to request that the court should re-examine the entire case before rendering a decision with regard to proceedings for disqualification instituted by the public prosecutor.

Disqualification proceedings may not be instituted by the public prosecutor if the Romanian citizen has received a pardon or has been rehabilitated in the country where the criminal act was committed, or if a period of ten years has elapsed since the date when the penalty was extinguished abroad, either because the sentence had been served, or because a pardon had been granted, or by lapse of time or on other ground for the extinction of penalties recognized by the law of the country where the sentence was passed.

*Article 13.* An alien sentenced to a penalty in his own country for a criminal act under the ordinary law, which is also a criminal act under Romanian law, shall be debarred in Romania from the exercise and enjoyment of the rights of which he has been deprived by final judgment of the foreign court.

The foregoing provisions shall not apply if the alien was sentenced *in absentia* or if the loss of capacity, loss of civil rights or the disqualification ordered by the foreign court is repugnant to public policy.

*Article 14.* Any person who commits a criminal act in Romania after having been found guilty by final judgment abroad of a criminal act which is also a criminal act under Romanian law may be treated as a second offender, in the cases and under the conditions prescribed by the code.

*Section VI. General provisions*

*Article 15.* In all cases where Romanian courts are competent to try offences committed abroad, they shall apply the security measures

applicable under Romanian law, even if such measures are not applicable or are applicable only partly under the law of the country where the criminal act was committed.

*Note.* Article 364 of the Romanian Penal Code provides for the punishment of persons who have caused a public danger with respect to means of communications on land, on sea or in the air, or who have caused the sinking of a ship.

(b) CODE OF CRIMINAL PROCEDURE, 19 MARCH 1936. "MONITORUL OFICIAL", 19 MARCH 1936, No. 66; C. HAMANGIU, "CODUL GENERAL AL ROMÂNIEI", 1856-1937, VOL. 24 (1936), PART I, PP. 133, 137-139. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 21.* Territorial jurisdiction is determined by the place where the offence was committed, even if the effects were only felt elsewhere. The court of the district in which the offender resides shall also have jurisdiction.

Further, the court of the place where the offender was taken into custody shall also have jurisdiction.

*Article 22.* Among the courts the jurisdiction of which is laid down in the preceding article, preference shall be given to the court of the place in which the offence was committed unless one of the other competent courts has already pronounced judgment.

As between the court of the place of residence of the offender and the court of the place where he was taken into custody, preference shall be given to the court of the place of his residence unless the other court has already pronounced judgment.

In all cases where the offence was committed in a place within the competence of several courts, the court which first takes cognizance of the offence shall be competent.

*Article 23.* In case of an offence committed abroad, the court of the place of the offender's residence or of the place where he was taken into custody shall be competent.

Proceedings shall be taken before the criminal courts at Bucharest against all offenders not residing in Romania who have been extradited and all offenders who commit an offence in the circumstances set forth in article 10 of the Penal Code.

In cases where an offence has been committed in the vicinity of the frontier of Romania, the Court of Cassation may, for purposes of investigation and at the request of the Public Prosecutor or of the parties concerned, refer the record of the investigation to the court closest to the place where the offence was committed.

In the cases mentioned above and in all cases when the necessary judicial steps cannot be taken within the country the judge may, in order to initiate a criminal investigation or to order the return of property or the payment of damages, avail himself of the judicial steps taken by foreign authorities.

*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.

. . .

(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.

. . .

*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.

. . .

(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.

. . .

*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.

. . .

*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.

. . .

*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:

. . .

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

outside the Kingdom. If imprisonment for a fixed term or a fine is awarded, the court may order such allowance for the penalty already suffered as appears to be reasonable. (Act of 30 June 1948).

. . .

(b) MARITIME LAW, 12 JUNE 1891, AS AMENDED. "STATUTE BOOK FOR LEGATIONS AND CONSULATES" (1937), PP. 112, 139, 146, 150. TRANSLATION FROM SWEDISH.

. . .

*Article 34 (a)*. It shall be the duty of the master who finds anyone in distress at sea to render every assistance possible and needful for the rescue of the distressed, as far as he can do so without serious danger to his own ship, crew and passengers.

As regards the duty of the master to render assistance in case his ship has collided with another ship, provisions in such respect are contained in article 223. (Law of 16 October 1914.)

*Article 34 (b)*. Where a master, otherwise than as mentioned in article 34 (a), has received knowledge that anyone is in distress at sea, or, if he has been informed of any danger threatening maritime navigation he shall be obliged to take measures for the rescue of the distressed, or the warding off of the danger in conformity with the regulations given by the King, as far as he can do so without any serious danger to his own ship, crew and passengers. (Law of 16 October 1914.)

. . .

*Article 223*. If vessels collide, it shall be the duty of the respective shipmasters not only to render to the other ship, her crew and passengers, all possible and needful assistance to rescue them from the danger caused by the collision, as far as he can do so without serious danger to his own ship, crew and passengers, but also to give to the master of the other ship the name of his ship, the port to which she belongs, and the place or port whence she comes and to which she is bound. (Law of 13 December 1912.)

*Article 223 (a)*. What has been laid down in this law with regard to collision shall also hold good in cases where, in consequence of the manœuvring of a vessel or otherwise, damage is caused by one vessel to another vessel or to persons or goods on board that vessel, even though no collision between the vessels takes place. (Law of 13 December 1912.)

. . .

*Article 294*. Whenever a collision has taken place, or any such event as is set forth in article 223 (a) has occurred, and the master neglects to do what is incumbent on him in such cases in accordance with article 223, he shall be liable to a fine of not less than one hundred crowns, or to imprisonment. If the circumstances are particularly aggravating, hard labour may be inflicted not exceeding two years.

If a master neglects any of the duties incumbent on him in accordance with the first paragraph of article 34 (a), or article 34 (b), he shall be liable to a fine or to imprisonment. (Law of 16 October 1914.)

. . .

*Article 328.* Any criminal case to be adjudged according to this Law shall be tried by the Town Court of the town where the offence has been committed, but, should the offence have been committed in any town or place not provided with a Town Court, such offence shall be tried by the nearest Town Court. Any offence committed during a voyage shall be tried by the Town Court of the town at which the offender first arrives with the ship or wherever he may otherwise be met with; should the latter place be situated beyond the jurisdiction of any Town Court, the case shall nevertheless be tried by the nearest Town Court.

. . .

(c) EXTRADITION LAW, 4 JUNE 1913, AS REVISED BY LAW OF 30 JUNE 1948. A. AFZELIUS, "SVERIGES RIKES LAG" (1950), P. 758. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 3.* Extradition shall not be permitted in respect of an offence committed in Sweden or on board a Swedish vessel outside the realm. Extradition of a person accused of complicity in an offence committed abroad may, however, be granted in a particular case.

. . .

## 51. Switzerland

(a) PENAL CODE, 21 DECEMBER 1937. "CHANCELLERIE FÉDÉRALE, NOUVEAU MANUEL DU DROIT SUISSE" (1946), PP. 741-742, 797-798.

. . .

*Article 3.* (1) This code is applicable to anyone who commits a crime or offence in Switzerland.

If such an offender has served a sentence abroad in whole or in part, the Swiss judge shall deduct the sentence served from the sentence to be passed.

(2) No alien prosecuted abroad at the request of the Swiss authorities shall be punished in Switzerland for the same act:

If the foreign court has acquitted him by judgment that has become final;

If he has served the sentence passed on him abroad, if such sentence has been remitted, or if it is barred by lapse of time. If he has not served that sentence, it shall be enforced in Switzerland; if he has served part of it abroad the remainder shall be enforced in Switzerland.

*Article 4.* This code shall be applicable to anyone who commits abroad a crime or offence against the State (articles 265 to 268, 270 and 271), is guilty of espionage (articles 272 to 274) or of the offence referred to in article 275 (illegal associations), or commits an act endangering military security (articles 276 and 277).

If such an offender has served a sentence abroad wholly or partly, the Swiss judge shall deduct the sentence served from the sentence to be passed.

*Article 5.* This code is applicable to anyone who commits abroad a crime or offence against a Swiss national, provided that the act is also

punishable in the State where it was committed, if the offender is in Switzerland and is not extradited abroad, or if he is extradited to the Confederation because of his offence. Nevertheless, the foreign law shall be applicable if it is more favourable to the accused.

The offender may not be punished further for his act if he has served the sentence passed against him abroad, if the sentence has been remitted or if it is barred by lapse of time.

If he has not served the sentence passed against him abroad, it shall be enforced in Switzerland; if he has served a part of the sentence abroad, the remainder shall be enforced in Switzerland.

*Article 6.* (1) This code is applicable to any Swiss national who commits abroad a crime or offence which may give rise to extradition under Swiss law, if the act is also punishable in the State where it was committed and if the offender is in Switzerland, or if he is extradited to the Confederation because of his offence. Nevertheless, the foreign law shall be applicable if it is more favourable to the accused.

Such an offender may not be punished further in Switzerland:

If he has been acquitted abroad for the same act by a judgment that has become final;

If he has served the sentence passed against him abroad, if such penalty has been remitted or if it is barred by lapse of time.

If he has served part of the sentence passed against him abroad, that part shall be deducted from the sentence to be passed.

*Article 7.* A crime or an offence shall be deemed to have been committed both in the place where the accused perpetrated the act and in the place where its results take effect.

An attempt shall be deemed to have been committed both in the place where the accused made the attempt and in the place where the author intended the results to take effect.

. . .

*Article 346* (corrected by the Order of 20 November 1941). The authority of the place where the accused perpetrated the act is competent to prosecute and judge an offence. If only the place where the results took effect, or were to have taken effect, is in Switzerland, the authority of that place shall be competent.

If the accused perpetrated the act and the results took effect in different places, the competent authority shall be that of the place where the proceedings were first initiated.

. . .

*Article 348.* If the offence was committed abroad, or if it is impossible to determine the place where it was committed, the competent authority shall be that of the place where the person accused of the offence resides. If he has no residence in Switzerland, the competent authority shall be that of the place where he was arrested.

If competence cannot be determined on any of these grounds, the competent authority shall be that of the canton which called for the extradition. In such cases, the government of the canton shall appoint the authority which is to have local competence.

*Article 349.* The authority competent to prosecute and judge the principal offender shall also be competent to prosecute and judge instigators and accomplices.

If the offence was committed by several persons jointly, the competent authority shall be that of the place where the initial proceedings were taken.

. . .

(b) FEDERAL DECREE CONCERNING MARITIME NAVIGATION UNDER THE SWISS FLAG, 9 APRIL 1941. "RECUEIL OFFICIEL DE LOIS", VOL. 57 (1941), PP. 365, 379-382. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 57.* Offences committed on board a Swiss vessel shall be tried according to the Swiss Penal Code of 21 December 1937.

However, if the offender belongs to the crew of the vessel, the provisions of the Military Penal Code of 13 June 1927 shall be applicable to offences committed on board or in connexion with the offender's service obligations; if an offence is not punished by the Military Penal Code, but is punishable under the Swiss Penal Code, the latter shall apply also to members of the crew.

. . .

*Article 62.* The master of a Swiss vessel, who:

Does not lend assistance to a vessel with which his own has come into collision, and to the crew or passengers of the said vessel, whenever he may do so without exposing his own vessel, crew and passengers to serious danger,

Does not indicate to the other vessel, although in a position to do so, the name and port of registration of his vessel, together with its port of embarkation and its destination,

Does not assist persons encountered at sea whose lives are in danger wherever he may do so without exposing his own vessel, crew and passengers to serious danger,

Shall be punished by imprisonment for not more than two years or a fine of not more than 10,000 francs.

If the offender has acted through negligence, he is liable only to the fine.

. . .

*Article 70.* The authorities of the Canton of Bâle-Ville are competent to prosecute and try the offences covered by this decree, even where such offences are punished by the Military Penal Code of 13 June 1927.

The jurisdiction of the military courts is reserved for offences committed on board a Swiss vessel, subject to the conditions set forth in article 2, paragraph 8, article 3, paragraph 1, article 4, paragraph 2, article 6, paragraph 1, of the Military Penal Code of 13 June 1927. In such cases, the Federal Military Department shall order the inquiry and appoint the competent military tribunal.

The authorities of the Canton of Bâle-Ville are required to transmit to the Office of the Public Prosecutor of the Confederation, immediately

and free of charge, the complete text of any judgment or order dismissing a case on the basis of the present decree.

*Article 71.* Offences committed on board a Swiss vessel do not fall within Swiss jurisdiction when another State has jurisdiction, or claims to have jurisdiction, to try them in virtue of the principles of international law.

(c) FEDERAL AIR NAVIGATION ACT, 21 DECEMBER 1948. "RECUEIL OFFICIEL DE LOIS, 6 JUNE 1950", NO. 19, P. 491; "REVUE FRANÇAISE DE DROIT AÉRIEN", VOL. 3 (1949), P. 29.

*Article 89.* (1) Any person intentionally flying or causing to be flown an aircraft bearing false or falsified marks or not bearing the marks prescribed in article 59 shall be punished by not more than 5 years, imprisonment or by a fine of not more than 20,000 francs.

(2) In very minor cases the judge may simply impose a fine.

(3) If the offender acted through negligence the penalty shall be not more than 6 months' imprisonment or a fine of not more than 10,000 francs.

(4) Any person flying or causing to be flown outside Switzerland an aircraft bearing Swiss marks when not entitled to do so shall also be liable to punishment. Article 4 (2) of the Penal Code shall apply.

*Article 96.* Subject to articles 89 (4) and 97 of this Act or articles 4 to 6 of the Penal Code, criminal provisions shall apply only to persons committing an act punishable in Switzerland.

*Article 97.* (1) The provisions of the Swiss Penal Code shall apply to acts committed outside Switzerland on board a Swiss aircraft engaged in commercial traffic, when the offender is in Switzerland and has not been extradited or has been extradited to the Confederation by reason of that act.

(2) This rule shall apply also to infringements of the provisions of agreements on air navigation to which Switzerland is a party, when the aircraft is not engaged in commercial traffic.

(3) Members of the crew of a Swiss aircraft engaged in commercial traffic shall always be subject to the Swiss criminal law, if they have committed the act on board the aircraft or in the performance of their professional duties.

(4) Article 4 (2) of the Penal Code shall apply.

*Article 98.* (1) Crimes and offences committed on board an aircraft are subject to the criminal jurisdiction of the Confederation.

(2) The violations referred to in article 91 shall be prosecuted and tried by the Federal Aviation Office in accordance with the provisions of Part 5 of the Federal Criminal Procedure Act of 15 June 1934.

(3) Where punishable acts have been committed on board a foreign aircraft flying over Switzerland or on board a Swiss aircraft outside Switzerland, the competent authority under the Federal Criminal Procedure Act may refrain from instituting penal proceedings.

*Article 99.* (1) If a crime or offence has been committed in Switzerland or outside Switzerland on board a Swiss aircraft engaged in commercial traffic, the captain of the aircraft shall assemble and ascertain the evidence.

(2) Pending the arrival of the competent authority, he shall make such inquiry as brooks no delay and may, if necessary, arrest the suspected persons, search the passengers and the members of the crew, and seize any objects which may be used as evidence. Articles 62 to 64, 65, 69, and 74 to 85 of the Federal Criminal Procedure Act of 15 June 1934 which relate to provisional arrest and search, examination of papers and the hearing of witnesses shall also apply.

(3) When the aircraft lands abroad after the establishment of the facts, the Swiss consul within whose consular district the place of landing is situated, shall be notified; he shall be asked for instructions.

(4) At the end of the journey, the captain of the aircraft shall report in writing to the Federal Aviation Office on the facts and the inquiry.

. . .

## 52. Syria

(a) PENAL CODE, PROMULGATED BY DECREE NO. 148, 22 JUNE 1949. PUBLICATION OF THE MINISTRY OF JUSTICE OF THE REPUBLIC OF SYRIA. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 15.* (1) The laws of Syria shall be applicable to all crimes committed in the territory of Syria.

(2) A crime shall be considered as having been committed in Syrian territory,

(a) If any of the principal elements that constitute a crime, or if any of the acts that constitute an indivisible crime, or if any direct or indirect participation in the crime, took place in Syrian territory;

(b) If the result of the crime occurred in that territory or was intended to occur in that territory.

*Article 16.* The territory of Syria includes the air space over it.

*Article 17.* For the purpose of the application of this law the following shall be considered Syrian territory:

(a) The territorial waters to a distance of twenty kilometres from the shore, measured from the line of the lowest tide;

(b) The air space over territorial waters;

(c) Syrian ships and aircraft;

(d) Foreign territory occupied by Syrian armed forces, if the crimes committed affect the security or the interest of the Syrian forces.

*Article 18.* The laws of Syria are not applicable:

(a) Where a crime is committed on board a foreign aircraft flying over Syrian territory, if the crime does not produce effect beyond the aircraft. However, such a crime shall come within the scope of these laws if a Syrian citizen is a party to it, or if the aircraft lands on Syrian territory after the crime has been committed.

(b) Where a crime is committed on board a foreign vessel or foreign aircraft in Syrian territorial waters or in the air space over such waters, if the crime does not produce effect beyond such vessel or aircraft.

*Article 19.* (1) The laws of Syria are applicable to any Syrian citizen or alien who, either as an instigator or an accomplice or a principal, commits, outside Syrian territory, a crime or an offence that affects the security of the State, or forges the State's seal, or counterfeits the bonds of the State of Syria or foreign banknotes legitimately in current use in Syria.

(2) These provisions shall not be applicable to aliens whose acts are not contrary to the principles of international law.

*Article 20.* The laws of Syria are applicable to every Syrian citizen who is an accomplice, or who participates in, or instigates or commits a crime or an offence outside Syrian territory, if the act is punishable under the provisions of these laws. The loss or acquisition of Syrian citizenship, subsequent to the commission of the crime or offence, shall not affect the application of this provision.

*Article 21.* The laws of Syria shall be applicable:

(a) To all crimes committed abroad by a Syrian official in the performance of his duties, or in connexion with such performance;

(b) To all crimes committed abroad by any member of the Syrian diplomatic or consular service, in so far as he is entitled to immunities under international law.

*Article 22.* The laws of Syria shall not be applicable to crimes committed in the territory of Syria by any member of the foreign diplomatic and consular corps so long as he is entitled to immunities under international law.

*Article 23.* The laws of Syria shall be applicable to every alien residing in Syrian territory, who has committed, instigated, or participated in, a crime or an offence not mentioned in articles 19, 20 and 21, outside Syrian territory and whose extradition has not been requested or has not been granted.

. . .

(b) CODE OF CRIMINAL PROCEDURE, PROMULGATED BY LEGISLATIVE DECREE NO. 112 OF 13 MARCH 1950. "OFFICIAL GAZETTE", 13 APRIL 1950, NO. 22, P. 1513. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 3.* (1) A public prosecution shall be instituted against the accused before the tribunal within whose jurisdiction is situated the place where the offence was committed, or where the accused is domiciled or is arrested.

(2) In the case of an attempt to commit an offence, every place where the series of acts constituting the attempt is done shall be considered to be the place where the offence is committed. In the case of a continuing offence, every place where any of the acts which constitute the continuing offence is done, shall be considered to be the place where the offence is committed. In the case of habitual or successive offences, the place where any of the acts which constitute



the habitual or successive offences is perpetrated shall be considered to be the place where the offence is committed.

(3) Where an offence covered by the provisions of the laws of Syria is committed abroad and the offender is not domiciled in Syria and is not arrested in Syria, a public prosecution shall be instituted against him before the tribunals of the capital of Syria.

### 53. Thailand

(a) CRIMINAL CODE, 1 JUNE 1908. G. PADOUX, "CODE PÉNAL DU ROYAUME DE SIAM" (1909), p. 5. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 9.* An offence committed within the territory of the Kingdom shall be tried and punished according to Siamese law.

*Article 10.* An offence committed outside the territory of the Kingdom shall be punishable within Siam in the following cases:

1. When it is one of the offences against the Sovereign and the State covered by articles 97 to 111;

2. When it is one of the offences relating to State currency, seal or stamps covered by articles 202 to 221;

3. When it is an act of piracy;

4. When the offence was committed by a Siamese citizen, provided:

(a) That the complaint is lodged by the foreign State or by the injured party,

(b) That the offence is covered by and punishable under the law of the country in which it was committed,

(c) That the offence is also covered by and punishable under Siamese law,

(d) That the offender was not acquitted in the country in which the offence was committed, that the penalty to which he was sentenced in respect of that offence was not executed or barred by lapse of time or remitted.

*Note.* The Penal Code of Thailand provides, in articles 193, 200 and 201, for the punishment of persons who commit acts "likely to cause the sinking or stranding of a sea-going vessel". The penalty is increased in cases where the sinking or stranding has in fact resulted from the act, or where these acts caused bodily injury or death. On the other hand, the penalty is smaller in cases where the act was due to negligence only.

### 54. Turkey

(a) PENAL CODE, ENACTED BY LAW NO. 764, 1 MARCH 1926, AS AMENDED. "HAŞİYELİ TÜRK CEZA KANUNU" (ISTANBUL, 1944), pp. 9-14. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 3 (As amended on 11 June 1936).* Any person committing an offence in Turkey shall be punished under Turkish law, for which

purpose a Turk shall be tried in Turkey even if he has already been judged abroad.

An alien even if he has already been judged abroad for such an offence shall be tried in Turkey at the request of the Minister of Justice.

*Article 4 (As amended on 8 June 1933).* A Turk or an alien committing abroad an offence against the safety of the Turkish State or any of the offences dealt with in the Turkish Penal Code, in chapter 8, section 1, articles 316, 317, 318, 319, 320, 323 or 324, or in section 2, articles 332 or 333, shall be subject to initial prosecution and punished by the penalty prescribed therein.

Even if such a person has already been judged abroad for an offence connected with the counterfeiting of foreign currency, he shall, if the Minister of Justice so requests, be tried again in Turkey.

A person committing an offence arising out of a function or office exercised by him abroad on behalf of Turkey shall be tried in Turkey.

*Article 5 (As amended by Acts Nos. 3038 and 3112).* A Turk committing abroad an offence, other than those referred to in article 4, punishable under the Turkish Penal Code by at least three years' restriction of liberty shall, if found in Turkey, be punished under the Turkish Penal Code.

If the offence is punishable by less than three years' restriction of liberty, proceedings may be instituted only on the complaint of the aggrieved person or of the foreign government.

If the aggrieved person is an alien, the act must be punishable under the law of the place in which it was committed.

*Article 6 (As amended on 11 June 1936).* An alien committing abroad against Turkey or a Turk an offence, other than those referred to in article 4, punishable under Turkish law by at least one year's restriction of liberty shall, if found in Turkey, be punished under Turkish law.

In such a case proceedings may be instituted only at the request of the Minister of Justice or on the complaint of the aggrieved person.

If the offence was committed against an alien, the offender shall be punished at the request of the Minister of Justice, provided that:

1. The offence is punishable under Turkish law by at least one year's restriction of liberty;

2. There is no extradition treaty with, or extradition has not been accepted by, the government of the country in which the offence was committed or of which the offender is a national.

A Turk or an alien committing abroad an offence against chapter 8, section 3, of the Turkish Penal Code shall be subject to initial prosecution and punished by the penalty prescribed in the relevant article of that section.

*Article 7.* Where an alien has committed abroad an offence against a Turk or the Turkish Republic and has been convicted or acquitted, or his penalty has for any reason been barred, by a foreign court, the case shall be heard and determined anew by a Turkish court.

If he has been sentenced to a lesser penalty than that prescribed by the Turkish Penal Code for the offence, he shall suffer the balance of the penalty. If his penalty has been barred or he has been acquitted on grounds not known to Turkish law, he shall be sentenced anew.

In such a case proceedings may be instituted only at the request of the Minister of Justice.

*Article 8.* In any of the cases mentioned in the foregoing articles, if the sentence passed by the foreign court is in accordance with Turkish law and carries with it under Turkish law, either as penalty or as consequence, a disqualification for public office or any other incapacity, the court may decide at the request of the public prosecutor that such disqualification or incapacity pronounced abroad shall take effect also in Turkey.

The convicted person may apply for review of the foreign judgment by a Turkish court before proceedings are commenced at the request of the public prosecutor.

- (b) CODE OF CRIMINAL PROCEDURE, ENACTED BY LAW NO. 1412, 4 APRIL 1929. "OFFICIAL GAZETTE", No. 1172 (20 APRIL 1929), p. 6963; RIZZO, "LA LÉGISLATION TURQUE, CODE DE PROCÉDURE PÉNALE" (1930), pp. 3-4. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 9.* If the place where the offence was committed is not known, the case shall be dealt with by the court having jurisdiction at the place where the accused was arrested or, if he has not been arrested, the place where he is domiciled.

If the accused is not domiciled in Turkey, the case shall be dealt with by the court having jurisdiction at the place where he was last resident in Turkey.

If the proper court cannot be determined as aforesaid, the case shall be dealt with by the court having jurisdiction at the place where the preliminary examination is commenced.

*Article 10.* If an offence is committed abroad and if, pursuant to articles 4, 5, 6, 7 and 8 of the Penal Code, it is triable in Turkey, the case shall likewise be dealt with by the court determined as prescribed by the first and second paragraphs of the preceding article.

Nevertheless, the Supreme Court of Appeal may, on application by the Attorney-General of the Republic or by the accused, refer the case to the court having jurisdiction at the place nearest to the scene of the offence.

If in any such case as aforesaid the accused has not been arrested in Turkey, or is not domiciled, or was not last resident there, the proper court shall be designated by the Supreme Court of Appeal if requested to do so by the Minister of Justice and applied to by the First Attorney-General of the Republic.

An offence of a personal nature committed by a Turkish official resident abroad who enjoys extra-territoriality shall be dealt with by the court at Ankara.

*Article 11.* If an offence is committed on board, or by means of, a Turkish ship or aircraft, whether at sea or in a foreign port or in foreign territorial waters, the case shall be dealt with by the court having jurisdiction at the place in Turkey which is the port of registry of the ship or

aircraft or the first port at which the ship or aircraft calls after the commission of the offence.

## 55. Union of South Africa

(a) MAGISTRATES' COURTS ACT, 3 JULY 1917 (ACT NO. 32 OF 1917), AS AMENDED. "REVISED STATUTES OF THE UNION OF SOUTH AFRICA" (1935), VOL. III, 1917-1920, PP. 342, 386.

*Section 87.* (1) Subject to the provisions of the last preceding section, any person charged with any offence committed within any district may be tried by the court of that district.

(2) When any person is charged with any offence:

(a) Committed within the distance of two miles beyond the boundary of the district; or

(b) Committed in or upon any vessel or vehicle employed on a voyage or journey any part whereof was performed within the distance of two miles of the district; or

(c) Begun or completed within the district;  
such person may be tried by the court of the district as if such person had been charged with an offence committed within the district.

(3) Where it is uncertain in which of several jurisdictions an offence has been committed, it may be tried in any of such jurisdictions.

(4) A person charged with any offence may be tried by the court of any district wherein any act or omission or event which is an element of the offence took place.

(5) A person charged with theft of any property or with obtaining by any offence any property or with any offence which involves the receiving of any property by him may also be tried by the court of any district wherein he has or had any part of the property in his possession.

(6) A person charged with kidnapping, child-stealing or abduction may be tried by the court of the district in which this took place or of any district through or in which he conveyed or concealed or detained the person kidnapped, stolen or abducted.

(7) Where by any special provision of law a magistrate's court has jurisdiction in respect of any offence committed beyond the local limits of the district, such court shall not be deprived of such jurisdiction by any of the provisions of this section.

(8) Notwithstanding anything contained in this section the Attorney-General may, with the consent of the person charged with having committed any offence within the area of jurisdiction of such Attorney-General, cause such person to be tried for such offence in the court of any district within such area.

## 56. Union of Soviet Socialist Republics

- (a) CONSULAR LAW, 8 JANUARY 1926. "SOBRANIŬ ZAKONOV I RASPORIAZHENIŬ", 1926, No. 78. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON, 1933), VOL. II, PP. 1197, 1211.

*Article 107.* In case a crime is committed on board a ship by a member of the crew or by a passenger during the voyage, or while in port, and the arrest of the accused was made on the ship, a consul must take steps to send the accused to the territories of the USSR by the next vessel sailing under the flag of the USSR, if the person is subject to the jurisdiction of the Soviets.

- (b) RUSSIAN SOVIET FEDERATED SOCIALIST REPUBLIC: CRIMINAL CODE, 22 NOVEMBER 1926, AS AMENDED. "MINISTERSTVO YUSTITSII RSFSR, UGOLOVN'I KODEKS" (1947), PP. 344. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 2.* The present Code shall apply to all citizens of the RSFSR, who have committed socially dangerous acts within the territory of the RSFSR, as well as to those who have committed such acts outside the territory of the USSR, in the event of their being apprehended within the territory of the RSFSR.

*Article 3.* Citizens of other Union Republics shall be responsible in accordance with the laws of the RSFSR for offences committed within the territory of the RSFSR, as well as for offences committed outside the territory of the USSR, in the event of their being apprehended and committed for trial or investigation within the territory of the RSFSR.

Citizens of Union Republics shall be responsible for offences committed within the territory of the Union in accordance with the laws of the place in which the offence was committed.

*Article 4.* Aliens shall be responsible for offences committed within the territory of the USSR in accordance with the laws of the place in which the offence was committed.

*Article 5.* The question of the criminal responsibility of aliens enjoying the right of extra-territoriality shall in each case be determined through the diplomatic channel.

*Note.* Similar provisions are contained in the criminal codes of other Republics of the USSR.

Articles 156, 176 and 184 of the Criminal Code of the RSFSR deal with certain offences connected with collisions at sea, such as failing to assist in saving a wrecked vessel, or its crew, or failing to give relevant information in case of a collision.

## 57. United Kingdom

- (a) MERCHANT SHIPPING ACT, 25 AUGUST 1894. 57 & 58 VICTORIA C. 60; "THE STATUTES" (3RD REVISED EDITION, 1950), VOL. 12, PP. 710, 948-950.

*Section 684.* For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

*Section 685.* (1) Where any district within which any court, justice of the peace, or other magistrate, has jurisdiction either under this Act or under any other Act or at common law for any purpose whatever is situated on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or magistrate shall have jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court, justice, or magistrate.

(2) The jurisdiction under this section shall be in addition to and not in derogation of any jurisdiction or power of a court under the Summary Jurisdiction Acts.

*Section 686.* (1) Where any person, being a British subject, is charged with having committed any offence on board any British ship on the high seas or in any foreign port or harbour or on board any foreign ship to which he does not belong, or, not being a British subject, is charged with having committed any offence on board any British ship on the high seas, and that person is found within the jurisdiction of any court in Her Majesty's dominions, which would have had cognizance of the offence if it had been committed on board a British ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.

(2) Nothing in this section shall affect the Admiralty Offences (Colonial) Act, 1849.

*Section 687.* All offences against property or person committed in or at any place either ashore or afloat out of Her Majesty's dominions by any master, seaman, or apprentice who at the time when the offence is committed is, or within three months previously has been, employed in any British ship shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if those offences had been committed within the jurisdiction of the Admiralty of England; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of England.

*Section 688.* (1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, and at any time thereafter that ship is found in any port or river of the United Kingdom or within three miles of the coast thereof, a judge of any court of record in the United Kingdom (and in Scotland the Court of Session and also the sheriff of the county within whose jurisdiction the ship may be) may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any officer of customs or other officer named by the judge, court, or sheriff, requiring him to detain the ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of the injury, or has given security, to be approved by the judge, court, or sheriff, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the United Kingdom or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge, court, or sheriff made in relation to the security shall be conclusive evidence of the liability of the defendant or defender to the proceeding.

. . .  
*Note.* Section 220 of the Merchant Shipping Act provides that

“If a master, seaman, or apprentice belonging to a British ship, by wilful breach of duty or by neglect of duty or by reason of drunkenness,—

“(a) Does any act tending to the immediate loss, destruction, or serious damage of the ship, or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

“(b) Refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb,

“He shall in respect of each offence be guilty of misdemeanour.” *The Statutes* (3rd revised edition, 1950) vol. 12, p. 788.

Section 419 contains the following provisions as to collisions at sea:

“(1) All owners and masters of ships shall obey the collision regulations, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.

“(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner shall, in respect of each offence, be guilty of a misdemeanour.

“(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary . . .” *The Statutes* (3rd revised edition, 1950), vol. 12, p. 87.

(b) CIVIL AVIATION ACT, 24 NOVEMBER 1949. 12 & 13 GEORGE 6, c. 67; “PUBLIC GENERAL ACTS AND MEASURES”, 1949, VOL. 2, PP. 984, 1043.

. . .

*Section 60.* Any offence under any enactment to which this Part of this Act applies or under an Order in Council or regulation made under either any such enactment or this Part of this Act shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

. . .

*Section 62.* (1) Any offence whatever committed on a British aircraft shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

(2) His Majesty may, by Order in Council, make provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

. . .

*Note.* Similar provisions were contained in section 14 of the Air Navigation Act of 23 December 1920. 10 & 11 George 5, c. 80; *The Statutes* (3rd revised edition, 1950), vol. 16, p. 595.

Section 11 of the Civil Aviation Act of 1949 provides that “where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both.” *Public General Acts and Measures*, 1949, vol. 2, p. 994.

(c) MALTA: CRIMINAL CODE, 10 JUNE 1854, AS AMENDED. “THE REVISED EDITION OF THE LAWS OF MALTA” (1942), VOL. I, C. 12, PP. 21, 29-30, 115.

. . .

*Section 5.* A criminal action may be prosecuted in the Island of Malta and its Dependencies, according to the laws thereof:

(a) Against any person who commits an offence in the Island of Malta or its Dependencies, or on the sea in any place within the territorial jurisdiction of the Island of Malta and its Dependencies;

(b) Against any natural-born or naturalized Maltese who commits an offence on the sea beyond such limits, on board any ship or vessel belonging to the Island of Malta and its Dependencies;



(c) Against any natural-born or naturalized Maltese who, in any other country, shall have become guilty of an offence against the safety of the Government or of the offence mentioned in section 131, or of forgery of any of the Government debentures referred to in section 174, or of any of the documents referred to in section 175, or of the offence mentioned in section 203 of this Code, or of any other offence against the person of a subject of His Majesty, provided he shall not have been tried for the same offence out of the Island of Malta and its Dependencies;

(d) Against any person who, being in these Islands, shall be a principal or an accomplice in any of the crimes referred to in section 312, although the crime shall have been committed outside these Islands:

Provided that no criminal action shall, in any case, be prosecuted against the Governor or Officer Administering the Government for the time being, the Bishop of Malta or the Bishop of Gozo.

*Section 384.* (1) The jurisdiction as between the Courts of Judicial Police shall be determined:

(a) By the place where the offence has been committed; or

(b) If there is only one accused person or if, there being two or more accused persons, they all reside in Malta, or all reside in Gozo or Comino, by the place of his or their residence.

(2) If a person is charged with two or more offences committed in different Islands, such person shall be tried by the Court within the territorial jurisdiction of which the graver offence or, if the offences are of equal gravity, the greater number of offences has been committed.

(3) If the place where the offence was committed is unknown and the accused is one, or the accused are two or more, residing, however, within the limits of the jurisdiction of the same Court, the jurisdiction shall be solely determined by the place of his or their residence; or if the persons accused reside in different Islands, the jurisdiction as between the Courts shall be determined by the place of residence of the majority of the persons accused; or if the number of the accused residing in Malta and the number of the accused residing in Gozo or Comino be the same, either Court shall be competent to try all the accused.

*Note.* The sections mentioned in section 5 deal with the following subjects: section 131—disclosing official secrets; section 203—bigamy; section 312—commercial or industrial fraud.

## 58. United States

(a) UNITED STATES CODE, TITLE 18 (CRIMES AND CRIMINAL PROCEDURE), AS REVISED BY ACT OF 25 JUNE 1948 AND LATER ACTS. "U.S. STATUTES AT LARGE". VOL. 62, P. 683; "U.S. CODE ANNOTATED, TITLE 18" (1950 ED.), P. 3.

### § 7. *Special maritime and territorial jurisdiction of the United States defined*

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

§ 9. *Vessel of the United States defined*

The term "vessel of the United States", as used in this title, means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof.

§ 1082. *Gambling ships*

(a) It shall be unlawful for any citizen or resident of the United States, or any other person who is on an American vessel or is otherwise under or within the jurisdiction of the United States, directly or indirectly:

(1) To set up, operate, or own or hold any interest in any gambling ship or any gambling establishment on any gambling ship; or

(2) In pursuance of the operation of any gambling establishment on any gambling ship, to conduct or deal any gambling game, or to conduct or operate any gambling device, or to induce, entice, solicit, or permit any person to bet or play at any such establishment; If such gambling ship is on the high seas, or is an American vessel or otherwise under or within the jurisdiction of the United States, and is not within the jurisdiction of any State.

(b) Whoever violates the provisions of subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

(c) Whoever, being (1) the owner of an American vessel, or (2) the owner of any vessel under or within the jurisdiction of the United States, or (3) the owner of any vessel and being an American citizen, shall use, or knowingly permit the use of, such vessel in violation of any provision of this section shall, in addition to any other penalties provided by this chapter, forfeit such vessel, together with her tackle, apparel, and furniture, to the United States. (Added May 24, 1949, c. 139, § 23, 63 Stat. 92.)

§ 1115. *Misconduct or neglect of ship officers*

Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and

every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be fined not more than \$10,000 or imprisonment not more than ten years, or both.

When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, misconduct, or violation of law, by which the life of any person is destroyed, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

§ 1651. *Piracy under law of nations*

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

§ 1652. *Citizens as pirates*

Whoever, being a citizen of the United States, commits any murder or robbery, or any act of hostility against the United States, or against any citizen thereof, on the high seas, under color of any commission from any foreign prince, or state, or on pretense of authority from any person, is a pirate, and shall be imprisoned for life.

§ 1653. *Aliens as pirates*

Whoever, being a citizen or subject of any foreign state, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the state of which the offender is a citizen or subject, when by such treaty such acts are declared to be piracy, is a pirate, and shall be imprisoned for life.

§ 1654. *Arming or serving on privateers*

Whoever, being a citizen of the United States, without the limits thereof, fits out and arms, or attempts to fit out and arm or is concerned in furnishing, fitting out, or arming any private vessel of war or privateer, with intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property; or

Whoever takes the command of or enters on board of any such vessel with such intent; or

Whoever purchases any interest in any such vessel with a view to share in the profits thereof;

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

§ 1655. *Assault on commander as piracy*

Whoever, being a seaman, lays violent hands upon his commander, to hinder and prevent his fighting in defense of his vessel or the goods intrusted to him, is a pirate, and shall be imprisoned for life.

§ 1656. *Conversion or surrender of vessel*

Whoever, being a captain or other officer or mariner of a vessel upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, piratically or feloniously runs away with such vessel, or with any goods or merchandise thereof, to the value of \$50 or over; or

Whoever yields up such vessel voluntarily to any pirate;

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

§ 1657. *Corruption of seamen and confederating with pirates*

Whoever attempts to corrupt any commander, master, officer, or mariner to yield up or to run away with any vessel, or any goods, wares, or merchandise, or to turn pirate or to go over to or confederate with pirates, or in any wise to trade with any pirate, knowing him to be such; or

Whoever furnishes such pirate with any ammunition, stores, or provisions of any kind; or

Whoever fits out any vessel knowingly and, with a design to trade with, supply, or correspond with any pirate or robber upon the seas; or

Whoever consults, combines, confederates, or corresponds with any pirate or robber upon the seas, knowing him to be guilty of any piracy or robbery; or

Whoever, being a seaman, confines the master of any vessel;

Shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

§ 1658. *Plunder of distressed vessel*

(a) Whoever plunders, steals, or destroys any money, goods, merchandise, or other effects from or belonging to any vessel in distress, or wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

(b) Whoever willfully obstructs the escape of any person endeavoring to save his life from such vessel, or the wreck thereof; or

Whoever holds out or shows any false light, or extinguishes any true light, with intent to bring any vessel sailing upon the sea into danger or distress or shipwreck;

Shall be imprisoned not less than ten years and may be imprisoned for life.

§ 1659. *Attack to plunder vessel*

Whoever, upon the high seas or other waters within the admiralty and maritime jurisdiction of the United States, by surprise or open force, maliciously attacks or sets upon any vessel belonging to another, with an intent unlawfully to plunder the same, or to despoil any owner thereof of any moneys, goods, or merchandise laden on board thereof, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

§ 1660. *Receipt of pirate property*

Whoever, without lawful authority, receives or takes into custody any vessel, goods, or other property, feloniously taken by any robber or pirate against the laws of the United States, knowing the same to have been feloniously taken, shall be imprisoned not more than ten years.

§ 1661. *Robbery ashore*

Whoever, being engaged in any piratical cruise or enterprise, or being of the crew of any piratical vessel, lands from such vessel and commits robbery on shore, is a pirate, and shall be imprisoned for life.

§ 2191. *Cruelty to seamen*

Whoever, being the master or officer of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, flogs, beats, wounds, or without justifiable cause, imprisons any of the crew of such vessel, or withholds from them suitable food and nourishment, or inflicts upon them any corporal or other cruel and unusual punishment, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

§ 2192. *Incitation of seamen to revolt or mutiny*

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

§ 2193. *Revolt or mutiny of seamen*

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, unlawfully and with force, or by fraud, or intimidation, usurps the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny, and shall be fined not more than \$2,000 or imprisoned not more than ten years, or both.

§ 2194. *Shanghaiing sailors*

Whoever, with intent that any person shall perform service or labor of any kind on board of any vessel engaged in trade and commerce among the several States or with foreign nations, or on board of any vessel of the United States engaged in navigating the high seas or any navigable water of the United States, procures or induces, or attempts to procure or induce, another, by force or threats or by representations which he knows or believes to be untrue, or while the person so procured or induced is intoxicated or under the influence of any drug, to go on board of any such vessel, or to sign or in anywise enter into any agreement to go on board of any such vessel to perform service or labor thereon; or

Whoever knowingly detains on board of any such vessel any person so procured or induced to go on board, or to enter into any agreement to go on board, by any means herein defined;

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 2195. *Abandonment of sailors*

Whoever, being master or commander of a vessel of the United States, while abroad, maliciously and without justifiable cause forces any officer or mariner of such vessel on shore, in order to leave him behind in any foreign port or place, or refuses to bring home again all such officers and mariners of such vessel whom he carried out with him, as are in a condition to return and willing to return, when he is ready to proceed on his homeward voyage, shall be fined not more than \$500 or imprisoned not more than six months, or both.

§ 2196. *Drunkenness or neglect of duty by seamen*

Whoever, being a master, officer, radio operator, seaman, apprentice or other person employed on any merchant vessel, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel; or, by willful breach of duty

or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall be imprisoned not more than one year.

§ 2197. *Misuse of federal certificate, license or document*

Whoever, not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same; or

Whoever, without authority, alters or attempts to alter any such certificate, license, or document by addition, interpolation, deletion, or erasure; or

Whoever forges, counterfeits, or steals, or attempts to forge, counterfeit, or steal, any such certificate, license, or document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document; or

Whoever, without authority, prints or manufactures any blank form of such certificate, license, or document; or

Whoever possesses without lawful excuse, and with intent unlawfully to use the same, any blank form of such certificate, license, or document; or

Whoever, in any manner, transfers or negotiates such transfer of, any blank form of such certificate, license, or document, or any such altered, forged, counterfeit, or stolen certificate, license, or document, or any such certificate, license, or document to which the party transferring or receiving the same is not lawfully entitled;

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

. . .

§ 2271. *Conspiracy to destroy vessels*

Whoever, on the high seas, or within the United States, willfully and corruptly conspires, combines, and confederates with any other person, such other person being either within or without the United States, to cast away or otherwise destroy any vessel, with intent to injure any person that may have underwritten or may thereafter underwrite any policy of insurance thereon or on goods on board thereof, or with intent to injure any person that has lent or advanced, or may lend or advance, any money on such vessel on bottomry or respondentia; or

Whoever, within the United States, builds, or fits out any vessel to be cast away or destroyed, with like intent;

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

§ 2272. *Destruction of vessel by owner*

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of which he is owner, in whole or in part, with intent to injure any person that may underwrite any policy of insurance thereon, or any merchant that may have goods thereon, or any other owner of such vessel, shall be imprisoned for life or for any term of years.

§ 2273. *Destruction of vessel by nonowner*

Whoever, not being an owner, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of the United States to which he belongs, or willfully attempts the destruction thereof, shall be imprisoned not more than ten years.

§ 2274. *Destruction or misuse of vessel by person in charge*

Whoever, being the owner, master or person in charge or command of any private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, willfully causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessels to be used in violation of the rights and obligations of the United States under the law of nations, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In case such vessels are so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.

§ 2275. *Firing or tampering with vessels*

Whoever sets fire to any vessel of foreign registry or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States, or to the cargo of the same, or tampers with the motive power or instrumentalities of navigation of such vessel, or places bombs or explosives in or upon such vessel, or does any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high seas, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom and



whoever attempts to do so shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

§ 2276. *Breaking and entering vessel*

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular State, breaks or enters any vessel with intent to commit any felony, or maliciously cuts, spoils, or destroys any cordage, cable, buoys, buoy rope, head fast, or other fast, fixed to the anchor or moorings belonging to any vessel, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

§ 2277. *Explosives or dangerous weapons aboard vessels*

(a) Whoever brings, carries, or possesses any dangerous weapons, instrument, or device, or any dynamite, nitroglycerin, or other explosive article or compound on board of any vessel registered, enrolled, or licensed under the laws of the United States, or any vessel purchased, requisitioned, chartered, or taken over by the United States pursuant to the provisions of Act June 6, 1941, ch. 174, 55 Stat. 242, as amended, without previously obtaining the permission of the owner or the master of such vessel; or

Whoever brings, carries, or possesses any such weapon or explosive on board of any vessel in the possession and under the control of the United States or which has been seized and forfeited by the United States or upon which a guard has been placed by the United States pursuant to the provisions of section 191 of title 50, without previously obtaining the permission of the captain of the port in which such vessel is located, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) This section shall not apply to the personnel of the Armed Forces of the United States or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess any such weapon or explosive.

§ 2278. *Explosives on vessels carrying steerage passengers*

Whoever, being the master of a steamship or other vessel referred to in section 151 of title 46, except as otherwise expressly provided by law, takes, carries, or has on board of any such vessel any nitroglycerin, dynamite, or any other explosive article or compound, or any vitriol or like acids, or gunpowder, except for the ship's use, or any article or number of articles, whether as a cargo or ballast, which, by reason of the nature or quantity or mode of storage thereof, shall, either singly or collectively, be likely to endanger the health or lives of the passengers or the safety of the vessel, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 2279. *Boarding vessels before arrival*

Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than \$200 or imprisoned not more than six months, or both.

The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law.

. . .

§ 3238. *Offenses not committed in any district*

The trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district where the offender is found, or into which he is first brought.

. . .

(b) CIVIL AERONAUTICS ACT, 23 JUNE 1938, AS AMENDED. "U.S. STATUTES AT LARGE", VOL. 52 (1938), PP. 977, 1017; "U.S. CODE ANNOTATED, TITLE 49" (1951 SUPPLEMENTARY PAMPHLET), P. 331.

. . .

§ 903 (U.S. Code, Title 49, § 623). (a) The trial of any offense under this chapter shall be in the district in which such offense is committed; or if the offense is committed upon the high seas, or out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender may be found or into which he shall be first brought. Whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

. . .

(c) CONSULAR REGULATIONS OF THE UNITED STATES. ANNOTATED EDITION OF MAY 1930, WITH AMENDMENTS.

*Article XXI. Mutiny and Insubordination, and the Transportation of Persons Charged with Crimes Against the United States.*

. . .

*Section 355. Transportation of persons charged with crime.* When, however, mutiny or other grave offense against the laws of the United States shall have been committed on board an American vessel on the high seas, and without the jurisdiction of any State, it is the duty of the consular officer into whose district the vessel may come to take the depositions necessary to establish the facts in the fullest manner possible. If the circumstances demand that the offenders should be sent to the United

States for trial, he may apply to the local authorities for means to secure and detain them while they remain in port; and in all cases where the vessel is not bound for the United States he is directed to procure at least two of the principal witnesses to be sent along with the prisoners. And he will, at the same time, promptly transmit certified copies of all the depositions, together with a carefully prepared report of all the facts and proceedings that may aid in establishing the guilt of the offenders, to the United States attorney for the district to which the prisoners are sent, and also a like report of the case to the Department of State. When practicable to do so, consuls should send the witnesses to the United States in the same ship with the accused, and in all cases should endeavor to get witnesses to the place of trial as soon as possible after the arrival of the accused.

*Section 356. General principles of jurisdiction.* The general principle on which such offenses are exempted from the cognizance of foreign tribunals is, as stated by Wheaton, that the public and private vessels of every nation, on the high seas, and out of the territorial limits of any other State, are subject to the jurisdiction of the State to which they belong. This jurisdiction, however, is exclusive only so far as respects offenses against its own municipal laws. It is accordingly otherwise with piracy and other crimes against the law of nations. It is asserted that a vessel while upon the high seas is to be regarded as a part of the country whose flag she bears, and that therefore all offenses and crimes against the laws of the country are cognizable by its tribunals alone; and that, as the municipal laws of the State provide for the punishment of offenders in its territory, whether foreigners or its own citizens or subjects, so also this cognizance embraces all persons, without regard to nationality, who have committed offenses against its laws upon its vessels when on the high seas. Whenever, therefore, jurisdiction over offenses or crimes so committed on American vessels is asserted and exercised, as has sometimes been the case, by the courts of a foreign country, it is the duty of the consular officer to protest against any and all proceedings, and to report the facts and circumstances to the Department of State and to the diplomatic representative of the United States, if there be one accredited to the country. *Dana's Wheaton*, pp. 106-107.

## 59. Uruguay

- (a) PENAL CODE, 4 DECEMBER 1933. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, CÓDIGOS PENALES IBEROAMERICANOS (1946), VOL. II, PP. 728-729. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 9. Criminal Law and the territory.* An offence committed within the territory of the Republic, whether by a citizen or an alien, shall be punishable according to Uruguayan law, subject to the exceptions laid down by the domestic public law or by international law.

If a person is convicted abroad of an offence committed within the national territory, the penalty already suffered, whether wholly or partly, shall be taken into account in awarding the new sentence.

*Article 10. Criminal Law. Principles of defence and personality.* An offence committed abroad, whether by a citizen or an alien, shall not be subject to Uruguayan law except:

- (1) Offences against the security of the State;
- (2) Forgery of the State seal or using a counterfeit State seal;
- (3) Counterfeiting currency of legal tender within the State, or Government bonds;
- (4) Offences committed by public officers in the service of the Republic involving abuse of position or breach of official duty;
- (5) An offence punishable both by foreign and by national law, committed by a Uruguayan citizen, apprehended in the territory of the Republic and not wanted by the authorities of the country in which he committed the offence; in this case the law prescribing the lesser penalty shall apply;
- (6) An offence committed by an alien to the detriment of a Uruguayan citizen or of Uruguay, subject to the provisions of the preceding paragraph where the conditions therein laid down are satisfied;
- (7) All other offences made subject to Uruguayan law by special provision thereof or by international agreement.

*Article 11. Conditions under which an offence committed abroad may be punished in Uruguay.* Article 10 shall not apply:

- (1) If prosecution is barred by lapse of time under another system of law;
- (2) If the offence is political;
- (3) If the accused has been acquitted abroad, or has suffered the penalty, or the penalty is barred by lapse of time.

*Article 12. Procedure where the foreign penalty is the lesser but is not prescribed by Uruguayan law.* Where the penalty provided by foreign law is the lesser but is not lawful in Uruguay, the penalty which appears to the judge to be the nearest to it shall be awarded.

. . . .

*Note.* Article 208 of the Uruguayan Penal Code considers as a special aggravating circumstance, if an offence "is directed against a vessel, aircraft", etc.

(b) CODE OF LEGISLATION RELATING TO AVIATION, ENACTED BY DECREE-LAW No. 10,288, 3 DECEMBER 1942. "REGISTRO NACIONAL DE LEYES Y DECRETOS", VOL. 65 (1942), P. 1466. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 3.* The laws of Uruguay govern all acts occurring on board an aircraft, whether in flight or not, and all aircraft activities affecting third persons or property not on board, in so far as they occur in the territory, territorial waters or air space of Uruguay.

The law of Uruguay shall also apply to any act which occurs on board any Uruguayan aircraft, if the act takes place outside the territorial waters or the air space of Uruguay.

. . . .

- (c) REGULATIONS TO THE LAW ON CONSULAR ORGANIZATION, 17 JANUARY 1917. "ANUARIO DIPLOMÁTICO Y CONSULAR DE LA REPÚBLICA ORIENTAL DEL URUGUAY", 1917, p. 89. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (1933), VOL. II, PP. 1357, 1371.

. . .

*Article 144.* When an offence is committed on the high seas on board a national merchant vessel, the consular agent of the first port at which the vessel stops shall ascertain if the captain has drawn up an appropriate report and, if not, the consular agent shall do so, receiving declarations of seamen and passengers, and taking all the necessary steps.

He shall detain the offenders on board and shall send them together with the report, on the same vessel or on the first vessel which leaves for the Republic, in order to be submitted to the competent judges, and he shall adopt the necessary means for their safety.

*Article 145.* If the vessel on which the offence was committed should have to leave for some other destination and if there should be no vessel to carry the offenders to the Republic, the consular agent shall request the local authorities to keep them in a public prison until an opportunity arises to send them home for trial, and he shall endeavor to observe the provisions of treaties existing with the Republic and the laws of the country in which he resides, and if necessary he shall pay the expenses incurred.

*Article 146.* Whenever the local authority attempts to judge offences committed on the high seas on board national merchant vessels, consular agents shall maintain that the jurisdiction belongs to the authorities of the Republic.

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## 60. Venezuela

- (a) PENAL CODE, 15 JULY 1926. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, PP. 795-796. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 3.* Any person committing a crime (*delito*) or petty offence (*falta*) in the territory of the Republic shall be punished in accordance with Venezuelan law.

*Article 4.* The following persons are subject to trial in Venezuela and shall be punished in accordance with Venezuelan penal law:

1. Venezuelans committing abroad treason against the Republic, or acts against other Venezuelans which are punishable under its laws.
2. Foreign subjects or citizens committing abroad any offence against the security of the Republic or against any of its nationals.

In the two foregoing cases the accused person must have entered the territory of the Republic and proceedings must have been instituted

by the aggrieved party or, for treason or an offence against the security of Venezuela, by the Department of Public Prosecution (*Ministerio Público*).

The accused must, however, not have been judged by a foreign court or, if so judged, must have evaded the penalty.

3. Venezuelans or aliens who, without authorization from the Government of the Republic, manufacture or acquire or dispatch arms or munitions destined for Venezuela, or in any way assist in their introduction into Venezuelan territory.

4. A Venezuelan violating abroad a statute relating to the civil status and capacity of Venezuelans.

5. Diplomatic staff, in the cases permitted by public international law and in conformity with the provisions of the National Constitution.

6. Members of the diplomatic staff of the Republic performing their duties improperly or committing any punishable act not triable in their place of residence because of the privileges attached to their office.

7. Employees and other members of the company and crew of Venezuelan warships and military aircraft, for committing punishable acts anywhere.

8. The master, mate or other employees, members of the company and crew, and passengers of merchant vessels of the Republic, for punishable acts committed on the high seas or on board the vessel in the waters of another nation; subject, in the case of passengers, to the provisions of the third sub-paragraph of paragraph 2 of the present article.

9. Venezuelans, or aliens who have entered the Republic, committing on the high seas acts of piracy or other crimes classed by international law as atrocities and crimes against humanity; unless they have already been judged in another country and have suffered the penalty.

10. Venezuelans taking part in the slave trade within or without the Republic.

11. Venezuelans, or aliens who have entered the territory of the Republic, counterfeiting or taking part in the counterfeiting abroad of currency of legal tender in Venezuela or of seals used for public purposes, stamps or certificates of national credit, bearer bank notes, or capital or interest certificates issued in accordance with the law of the land.

12. Venezuelans or aliens in any manner abetting the introduction into the Republic of any of the instruments specified in the preceding paragraph.

All the cases in the preceding paragraphs shall be subject to the provisions of the third sub-paragraph of paragraph 2 of the present article.

13. The commanding officers, officers and other members of an army, in respect of any punishable act committed against the inhabitants of a neutral country while proceeding through its territory.

14. Aliens entering places in the Republic not open to external trade or taking unlawful possession of products of the land, sea, lakes or rivers thereof, or making use of uninhabited land without permission or title.

15. Aliens violating quarantine and other public health regulations.

16. Aliens or Venezuelans launching missiles or causing any other injury to towns, inhabitants or territory of Venezuela in time of peace from foreign territory, warships or aircraft, subject to the provisions of the second and third sub-paragraphs of paragraph 2 of the present article.

*Article 5.* In the cases covered by the preceding article, if a person who has already been sentenced abroad receives a fresh sentence in the Republic, allowance shall be made in accordance with the rule laid down in article 40 for the portion of the penalty which he has suffered in the other country and for the period of detention.

*Note.* The Venezuelan Penal Code contains the following provisions with respect to sinking of vessels:

“*Article 350.* Any person setting fire to a ship or aircraft or other vessel or causing its destruction, sinking or wreck shall be punished by penal servitude (*presidio*) for three to five years.

“*Article 355.* If any act or deed to which the preceding articles refer has endangered the life of any person, the penalty prescribed therein shall be increased by not exceeding one-half.

“*Article 357.* Any person who through carelessness, or negligence, or lack of skill in his profession, craft or trade, or through failure to comply with regulations, orders or disciplinary rules, causes a fire, explosion, flood, sinking, wreck, destruction or other calamity endangering the public shall be punished by imprisonment (*prisión*) for three to fifteen months.

“If the crime endangers human life, the term of imprisonment shall be three to thirty months; and if the death of any person results, it shall be one to ten years.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, pp. 850-851.

(b) CODE OF CRIMINAL PROCEDURE, 13 JULY 1926. “CÓDIGO DE ENJUICIAMIENTO CRIMINAL DE LOS ESTADOS UNIDOS DE VENEZUELA” (EDICIÓN OFICIAL, 1935), p. 15. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

*Article 30.* An offence committed outside the territory of the Republic which may or ought to be tried within the Republic may, if no court has been expressly appointed therefor by special statute, be tried by the court of the area in which the accused last resided; or, if he has not resided in the Republic, the court of the area in which he has entered the country or in which he is found.

(c) ORGANIC LAW OF THE CONSULAR SERVICE, 30 JULY 1925. “RECOPIACIÓN DE LEYES Y DECRETOS”, 1925, p. 423. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, “A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS” (WASHINGTON, 1933), VOL. II, PP. 1395, 1396-1398, 1402.

*Article 22.* Consuls are competent:

(18) To institute proceedings for correcting or amplifying the proceedings carried on by the masters in regard to crimes committed on the high seas aboard national vessels, remitting such proceedings afterwards to the competent authority together with the guilty party.

. . .

*Article 55.* If the master of a Venezuelan vessel violates any law of the Republic, it is the duty of the consuls to send to the Ministry of Foreign Relations a full exposition of the act, stating the name and domicile of the captain, the name of the vessel and all the circumstances necessary to identify him, the port of departure and destination.

*Article 56.* This shall also be done when a crime has been committed on board a Venezuelan vessel on the high seas for whose punishment only the authorities of the Republic are competent; and when crimes have been committed in the districts of the consuls which involve the responsibility of the authors towards Venezuela, in accordance with the provisions of the Penal Code.

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(d) CIVIL AVIATION LAW, 13 JULY 1944. "COMPILACIÓN LEGISLATIVA DE VENEZUELA", 1944, P. 447. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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*Article 21.* Venezuelan airplanes flying over the high seas are subject to Venezuelan laws.

Juridical acts and events occurring on Venezuelan airplanes in flight are similarly subject to Venezuelan law, without prejudice, however, to the provisions of the laws of the foreign country over which they fly.

. . .

*Article 22.* Juridical acts and events occurring on board foreign airplanes flying over the territory of the Republic and over its territorial waters are governed by the national law of the airplane, without prejudice, however, to the provisions of Venezuelan laws on the subject.

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## 61. Yugoslavia

(a) PENAL CODE, 4 DECEMBER 1947. "SLUŽBENI LIST", VOL. 3, NO. 106, C. 776, PP. 1465, 1473; "ZBIRKA ZAKONA FNRJ, KRIVIČNI ZAKONIK" (1948), PP. 31-32. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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### 2. SPHERE OF APPLICATION OF THE PENAL CODE

*Article 96.* (1) The penal code of the Federal People's Republic of Yugoslavia shall apply to any person committing a criminal act in the territory of the Federal People's Republic of Yugoslavia.



(2) The territory of the Federal People's Republic of Yugoslavia shall include its coastal waters and the air space over its land and water territory.

(3) The penal code of the Federal People's Republic of Yugoslavia shall also apply to acts committed on a Yugoslav commercial vessel on the high seas or on a national military vessel or aircraft, irrespective of its whereabouts at the time when the act is committed.

*Article 97.* The application of the penal code of the Federal People's Republic of Yugoslavia to a person enjoying the right of extra-territoriality shall be determined in accordance with international agreements and conventions or through the diplomatic channel.

*Article 98.* The penal code of the Federal People's Republic of Yugoslavia shall also apply to a national of the Federal People's Republic of Yugoslavia committing a criminal act outside the territory of the State.

*Article 99.* Penalties imposed by judgment of a foreign court abroad shall be taken into account when a penalty is imposed by a national court.

*Article 100.* The penal code of the Federal People's Republic of Yugoslavia shall also apply to an alien committing a criminal act abroad if he is found in the territory of the Federal People's Republic of Yugoslavia and is not handed over to the foreign country, provided that his offence is punishable under the law of the place where it was committed.

*Article 101.* (1) No national of the Federal People's Republic of Yugoslavia may be handed over to a foreign State.

(2) Aliens shall be extradited in accordance with international agreements or, in the absence of such an agreement, in accordance with the law of the Federal People's Republic of Yugoslavia.

(3) Extradition shall not be granted if the act for which extradition is requested is not a criminal offence in Yugoslav law.

(4) The Federal People's Republic of Yugoslavia shall not extradite a foreign national prosecuted for upholding principles of democracy, or national liberation, rights of the working people, or freedom of scientific and cultural work.

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(b) CODE OF CRIMINAL PROCEDURE, 12 OCTOBER 1948. "SLUŽBENI LIST" (OFFICIAL JOURNAL), VOL. 4, NO. 97 (6 NOVEMBER 1948), PP. 1557, 1559. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

. . .

*Article 26.* As a rule the competent court shall be the court of the district in which the crime was committed.

The Public Prosecutor may institute proceedings in the court of the district in which the accused resides or is domiciled or in the court of the district in which the accused was apprehended.

A private complainant may institute proceedings in the court of the district in which the accused resides or is domiciled.

*Article 27.* The court competent to try a press offence shall be the court of the district in which the publication was printed or if the place of publication is unknown or abroad, the court of the district in which the publication was circulated.

If the offence was committed on board a Yugoslav ship or aircraft in Yugoslav waters or in the air, between two harbours or two landing-places, or on board a Yugoslav ship or aircraft outside the frontiers of the Federal People's Republic of Yugoslavia, the competent court shall be that of the district in which the home port of the ship or the landing-place of the aircraft is situated, or in which is situated the domestic port or landing-place where the ship or aircraft has stopped after the offence was committed.

*Article 28.* If the offence was committed abroad, the competent court shall be that of the district in which the accused resides or is domiciled or in which he has been apprehended or has surrendered.

*Article 29.* Where the competent local court cannot be determined according to the foregoing provisions, the Supreme Court of the FPRY shall designate the competent court on the recommendation of the Public Prosecutor of the FPRY.

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