

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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