

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.