

Spanish Municipal Legislation Concerning Matters of Public International Law, 2005

This material has been selected, compiled and commented on by a team from the Department of Public International Law of the University of Malaga, which includes Dr. Alejandro J. Rodríguez Carrión, Professor of Public International Law, Dr. Elena del Mar García Rico, Dr. Magdalena M^a. Martín Martínez, Dr. Eloy Ruiloba García, Dr. Ana M. Salinas de Frías and Dr. María Isabel Torres Cazorla, Lecturers of Public International Law.

This survey covers aspects of Spanish municipal legislation relating to Public International Law. Only relevant passages are quoted or mentioned, with an unofficial translation or a reference to the *Boletín Oficial del Estado* (Official Journal of the State).

I. INTERNATIONAL LAW IN GENERAL

II. SOURCES OF INTERNATIONAL LAW

– Resolution of 23 January 2005, passed by the Spanish Technical Secretariat-General on implementation of article 32 of Decree 801/1972, regulating the activity of the State Administration regarding international treaties (*BOE* 34, 9.02.05).

Note: This Resolution provides for publication, in the public interest, of communications of third States actions regarding multilateral treaties to which Spain is party, and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 September to 31 December 2004.

– Resolution of 9 June 2005, passed by the Spanish Technical Secretariat-General on implementation of article 32 of Decree 801/1972, regulating the activity of the State Administration regarding international treaties (*BOE* 152, 27.06.05).

Note: This Resolution provides for publication, in the public interest, of communications of third States actions regarding multilateral treaties to which Spain is party, and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 January to 30 April 2005.

– Resolution of 4 October 2005, passed by the Spanish Technical Secretariat-General on implementation of article 32 of Decree 801/1972, regulating the activity of the State Administration regarding international treaties (*BOE* 248 and 258, 17 and 28.10.05).

Note: This Resolution provides for publication, in the public interest, of communications of third States actions regarding multilateral treaties to which Spain is

party, and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 May to 30 August 2005.

III. THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

V. THE INDIVIDUAL AND INTERNATIONAL LAW

1. Nationals

– Act 3/2005 of 18 March providing economic support for citizens of Spanish origin who were displaced abroad as minors as a result of the Spanish Civil War and who have spent most of their life abroad (*BOE* 68, 21.03 and 80, 4.04.05).

Note: The purpose of this Act is to provide economic support for those citizens of Spanish origin who were displaced abroad as minors between 18 July 1936 and 31 December 1939 as a result of the Spanish Civil War and who have lived most of their life abroad.

– Order TAS/1967/2005 of 24 June laying down the provisions for the implementation and enforcement of Act 3/2005 of 18 March providing economic support for citizens of Spanish origin who were displaced abroad as minors as a result of the Spanish Civil War and who have spent most of their life abroad (*BOE* 151, 25.06.05).

– Royal Decree 1612/2005 of 30 December, amending Royal Decree 728/1993 of 14 May, setting up old age pensions for Spanish emigrants (*BOE* 313, 31.12.05).

2. Aliens

– Royal Decree 2393/2004 of 30 December, adopting the Regulation of Organic Act 4/2000 of 11 January, on the Rights, Freedoms and Social Integration of Aliens in Spain (*BOE* 6, 7.01 and 130, 1.06.05).

Note: In light of the number of illegal foreign residents in Spain this Royal Decree, in addition to implementing the regulation laid down in Organic Act 4/2004 of 11 January, also provides extraordinary measures for regulation of the status of foreign nationals residing in Spain with no authorisation. Without denying that the admittance of foreign nationals is linked to the filling job openings, it gives foreign nationals, on an exceptional basis, three months during which to legalise their resident status. It requires employers to submit the authorisation request form along with a labour contract which is binding in the event the authorisation is granted.

– Order PRE/140/2005 of 2 February, lays down the procedure for regularisation of aliens as provided in the third transitional provision of Royal Decree 2393/2004 of 30 December, adopting the Regulation of Organic Act 4/2000 of 11 January, on the Rights, Freedoms and Social Integration of Aliens in Spain (*BOE* 29, 3.02.05). *Note:* Employers may apply for the regularisation of foreign nationals providing they comply with the following requirements: one – that the foreign national in question was registered at his/her local town hall of residence at least six months prior to the entry into force on 7 February 2005 of Royal Decree 2393/2004; two – that a labour contract has been signed by the employer and the employee, which will become applicable if authorisation is granted, for a minimum duration of six months with the exceptions foreseen in this regulation.

– Resolution of 15 April 2005 of the Under-Secretariat providing for the publication of the Resolution of 14 April 2005 delivered by the Chair of the National Statistics Institute and by the Directorate-General for Local Cooperation issuing technical instructions to Town Halls for the processing of registration certificates attesting to the residence prior to 8 August 2004 of foreign nationals affected by the regularisation proceeding who registered subsequent to that date (*BOE* 91, 16.04.05).

– Order TAS/1745/2005 of 3 June, regulating the certification proving compliance with the requirement laid down in Art. 50(a) of the Regulation of Organic Act 4/2000 of 11 January, on the Rights, Freedoms and Social Integration of Aliens in Spain, approved by Royal Decree 2393/2004 of 30 December (*BOE* 140, 13.06.05).

– Resolution of 12 August 2005 issued by the Secretariat of State for Immigration and Emigration calling for the publication of the Cabinet Agreement taken on 15 July 2005 establishing the Instructions determining the procedure to be followed in granting residence status and the undertaking of professional sports activities in the case of foreign nationals (*BOE* 200, 22.08.05).

– Royal Decree 1288/2005 of 28 October, approving the regulatory rules applying to a direct subsidy to the Spanish Red Cross for provision of medical services to immigrants arriving to the beaches along the Andalusian and Fuerteventura coasts in 2005 (*BOE* 259, 29.10.05).

VI. STATE ORGANS

1. Central organs

– Royal Decree 1009/2005 of 1 August, declaring an official period of mourning for the death of His Majesty the King Fahd Bin Abdulaziz Al-Saud of Saudi Arabia (*BOE* 183, 2.08.05).

Note: Official mourning was declared owing to the deep historic ties of friendship and solidarity between the Royal Families, the Governments and the Peoples of the Kingdoms of Saudi Arabia and Spain.

– Royal Decree 755/2005 of 24 June, amending Royal Decree 1416/2004 of 11 June, modifying and setting out the basic organisational structure of the Ministry of Foreign Affairs and Cooperation (*BOE* 151, 25.06 and 217, 10.09.05).

Note: This Royal Decree establishes the Directorate-General of International Affairs relating to Terrorism, Non-Proliferation and Disarmament: the former Directorate-General of International Affairs relating to Terrorism, the United Nations and Multilateral Organizations is now the Directorate-General of the United Nations, Human Rights and Multilateral Organizations.

It likewise establishes the Directorate-General for Planning and Evaluation of Development Policies.

The Under-Secretariat of Administration and Administrative Control was divided into a new Under-Secretariat General of Financial Administration and an Administrative Control Division.

– Order AEC/2699/2005 of 20 July establishing the makeup of the Diplomatic Career staff and breakdown into the different diplomatic categories (*BOE* 198, 19.08.05).

Note: In order to avoid a backlog in the promotion of career diplomats, the total number of officials will break down as follows, maintaining the eight categories of civil servants:

- Three percent Spanish Ambassadors.
- Nine percent First Ministers.
- Eleven percent Second Ministers.
- Fourteen percent Third Ministers.
- Twenty-two percent Embassy Counsellors.
- Nineteen percent First Secretaries.
- Fourteen percent Second Secretaries.
- Eight percent Third Secretaries.

– Royal Decree 938/2005 of 29 July, laying down the rules concerning the monitoring and accounting application of the funds earmarked for external services (*BOE* 212, 5.09.05).

2. Diplomatic Relations

– Royal Decree 2400/2004 of 30 December, setting up the Section of Economy and Trade of the Spanish Permanent Diplomatic Mission in Lithuania (*BOE* 14, 17.01 and 29, 3.02.05).

- Royal Decree 2401/2004 of 30 December, setting up the Section of Economy and Trade of the Spanish Permanent Diplomatic Mission in Kazakhstan (*BOE* 14, 17.01.05).
- Royal Decree 369/2005 of 8 April, setting up the Section of Tourism of the Spanish Permanent Diplomatic Mission in the Republic of Ireland (*BOE* 95, 21.04 and 102, 29.04.05).
- Royal Decree 959/2005 of 29 July, regulating Defence Attachés (*BOE* 211, 3.09.05).
Note: The purpose of this Royal Decree is for Ministry of Defence representations abroad to integrate their functions in the most suitable way possible, to better coordinate their activities, better administer available material and human resources and to increase overall efficacy and functionality. They are vouchsafed, both organisationally and functionally, to the Secretariat-General of Defence Policy of the Ministry of Defence, without prejudice to the administrative and coordination responsibilities of the Diplomatic Mission heads.
- Order AEC/3472/2005 of 18 October, creating the Technical Cooperation Office of the Spanish International Cooperation Agency at Spain's permanent diplomatic mission in the Federal Democratic Republic of Ethiopia (*BOE* 268, 9.11.05).
- Royal Decree 1457/2005 of 2 December, setting up the Permanent Diplomatic Mission of Spain to the Republic of Afghanistan (*BOE* 299, 15.12.05).

3. Consular Relations

- Orders creating the following Honorary Consular Offices:

Comoros:

- Moroni, Order AEC/1352/2005 of 27 April (*BOE* 117, 17.05.05).

Croatia:

- Dubrovnik, Order AEC/703/2005 of 4 March (*BOE* 70, 23.03.05).
- Rijeka, Order AEC/704/2005 of 4 March (*BOE* 70, 23.03.05).

Morocco:

- Alhucemas and Oujda, Order AEC/1005/2005 of 4 April (*BOE* 93, 19.04.05).

New Zealand:

- Wellington, Order AEC/225/2005 of 28 January (*BOE* 36, 11.02.05).

Paraguay:

- Concepción, Order AEC/2155/2005 of 28 June (*BOE* 161, 7.07.05).

Turkey:

- Izmit, Order AEC/3455/2005 of 17 October (*BOE* 267, 8.11.05).

– Order AEC/3654/2005 of 2 November, creating a Consular Office together with the General Consulate in Beijing (People’s Republic of China) (*BOE* 282, 25.11.05).

VII. TERRITORY

1. Air

– Order PRE/1841/2005 of 10 June, partially amending the Order of 18 January 1993 of the Ministry of Relations with the Courts and of the Government Secretariat on prohibited and restricted flight zones (*BOE* 144, 17.06.05).

Note: Prohibited and restricted air space over the National Parks included in the Order are established without affecting scheduled commercial flights due to the restricted vertical limits of the prohibition.

– Order PRE/2428/2005 of 26 July, amending the Order of 18 January 1993 of the Ministry of Relations with the Courts and of the Government Secretariat on prohibited and restricted flight zones (*BOE* 178, 27.07.05).

Note: Prohibited and restricted air space is created in the vicinity of the Marivent Palace, traditional summer residence of the Spanish royal family. This does not affect scheduled commercial flights due to an upper altitude limit of 3,000 feet.

VIII. SEAS, WATERWAYS, SHIPS

IX. INTERNATIONAL SPACES

X. ENVIRONMENT

1. Seas

– Royal Decree 276/2005 of 11 March, implementing Art. 2 of Royal Decree-Law 4/2004 of 2 July, introducing certain measures in connection with the damage caused by the wreck of the vessel “Prestige” (*BOE* 61, 12.03.05).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. General provisions

– Royal Decree 1412/2005 of 25 November, regulating the Interministerial Commission for International Cooperation (*BOE* 303, 20.12.05).

2. Cultural Cooperation

– Order ECI/1711/2005 of 23 May, amending the Order of 23 September 1998 on the adoption of collaboration agreements with educational institutions which have schools abroad (*BOE* 138, 10.06.05).

– Royal Decree 760/2005 of 24 June, creating the Board of Trustees of the General Archive of the Indies (*BOE* 151, 25.06.05).

Note: The General Archive of the Indies was created by Carlos III in 1786 for the conservation of documents pertaining to the Indies and Spanish overseas possessions up until the last piece of documentation brought by the Harbourmaster-General of Havana in 1888–1889.

– Royal Decree 717/2005 of 20 June, regulating the curricula at schools party to the agreement between the Ministry of Education and Science and the British Council (*BOE* 160, 6.07.05).

– Order ECI/2363/2005 of 1 July, rectifying Order ECI/1711/2005 of 23 May, on the adoption of collaboration agreements with educational institutions which have schools abroad (*BOE* 173, 21.07.05).

– Order DEF/3182/2005 of 20 September, creating the Ministerial Commission for the commemoration of the bicentennial of the Battle of Trafalgar (*BOE* 247, 15.10.05).

– Order DEF/3183/2005 of 20 September, creating the Ministerial Commission for the commemoration of the bicentennial of the War of Independence (*BOE* 247, 15.10.05).

– Act 27/2005 of 30 November, fostering the education and culture of peace (*BOE* 287, 01.12.05).

Note: According to point A(2) of the Declaration and Programme of Action on a Culture of Peace adopted by the General Assembly of the United Nations by Resolution 53/243 on 13 September 1999, this Act provides for a series of measures targeting the fields of education and research with a view to establishing a culture of peace and non-violence worldwide.

– Royal Decree 1551/2005 of 23 December, regulating the direct awarding of subsidies to the International Information and Documentation Centre in Barcelona and to the European Academic Foundation of Yuste for the advancement of the principles and values of the Alliance of Civilizations and for the fostering of social and cultural values in the European integration process (*BOE* 309, 27.12.05).

3. Economic Cooperation

– Royal Decree 937/2005 of 29 July, creating the Spanish coordination committee for the International Year of Microcredit (*BOE* 213, 6.09.05).

4. Tariffs and Trade Cooperation

– Resolution of 30 December 2004, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 12, 14.01.05).

– Resolution of 26 December 2004, of the Presidency of the National Tax Administration Agency creating the International Relations Coordination Unit (*BOE* 18, 21.01.05).

– Resolution of 11 January 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 18, 21.01.05).

– Resolution of 16 February 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 48, 25.02.05).

– Resolution of 22 March 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 78, 01.04.05).

– Resolution of 15 April 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 96, 22.04.05).

– Order EHA/1646/2005 of 31 May, establishing rules regarding the import/export of rough diamonds in connection with the implementation of the International System of the Kimberley Process Certification Scheme (*BOE* 135, 7.06.05).

– Resolution of 31 May 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency amending the Resolution of 15 December 2003 on Instructions for the Implementation of the Single Administrative Document (SAD) (DUA) (*BOE* 156, 1.07.05).

– Resolution of 20 June 2005, passed by the Spanish Customs and Special Taxes Department of the National Tax Administration Agency updating the Applicable Integrated Tariff (TARIC) (*BOE* 156, 01.07.05).

- Order ITC/2880/2005 of 1 August, regulating the processing procedure for administrative export authorisation and for preliminary export notifications (*BOE* 224, 19.09.05).
- Royal Decree 1165/2005 of 30 September, amending the organisational structure of the Spanish External Trade Institute (*BOE* 246, 14.10.05).
- Royal Decree 1223/2005 of 13 October, amending Royal Decree 417/1996 of 1 March, regulating the makeup and functions of the Advisory Council for the Promotion of Trade with Western Africa (*BOE* 257 and 287, 27.10 and 1.12.05).

5. Financial and Tax Cooperation

- Order EHA/748/2005 of 21 March, approving corporate tax and non-resident income tax forms corresponding to permanent establishments and to entities operating under an income attribution regime constituted abroad and present in Spain for the tax period from 1 January through 31 December 2004, issuing instructions on filing and payment procedures, establishing general conditions and telematic filing procedures and issuing specific instructions on the fractioned payment of the aforementioned taxes (*BOE* 75, 29.03 and 90, 15.03.05).

6. Sea Traffic and Transport

- Royal Decree 2319/2004 of 17 December, laying down container safety rules in compliance with the International Convention for Safe Containers (*BOE* 12, 14.01.05).

7. Air Traffic and Transport

- Order FOM/4338/2004 of 22 December, partially replacing annex I of Decree 1675/1972 of 26 June on air navigation assistance tariffs (Eurocontrol) (*BOE* 4, 5.01.05).
- Order FOM/134/2005 of 25 January, replacing annex I of Decree 1675/1972 of 26 June on air navigation assistance tariffs (Eurocontrol) and amending the late payment interest rate on the payment of such tariffs (*BOE* 28, 2.02.05).
- Order FOM/2141/2005 of 29 June, partially replacing annex I of Decree 1675/1972 of 26 June on air navigation assistance tariffs (Eurocontrol) (*BOE* 160, 06.07.05).
- Order PRE/2912/2005 of 19 September introducing technical amendments in the Air Traffic Regulation approved by Royal Decree 57/2002 of 18 January, on aerial navigation, the use of secondary radar transponders and phraseology and the undertaking of special operations with fixed wing aircraft (*BOE* 227, 22.09.05).

8. Labour, Social Security and Immigration

– Order TAS/1713/2005 of 3 June, regulating the makeup, powers and operational regime of the Tripartite Immigration Labour Commission (*BOE* 138, 10.06.05).

Note: This Order creates a Tripartite Immigration Labour Commission, a collegiate ministerial body comprised of the most representative, state-wide trade unions and employer's organisations and whose purpose is to advise the Ministry of Labour and Social Affairs in actions undertaken regarding the management of migratory labour flows.

– Royal Decree 822/2005 of 8 July, regulating the terms and conditions for inclusion in the General Regime of the Social Security System of the clergy of the Russian Orthodox Church of the Moscow Patriarchy in Spain (*BOE* 176, 21.07.05).

9. Recognition of Qualifications

– Royal Decree 309/2005 of 18 March, amending Royal Decree 285/2004 of 20 February, on conditions for recognition and equivalence of foreign university qualifications and studies (*BOE* 67, 19.03.05).

– Order ECI/1712/2005 of 2 June, amending Order ECI/3686/2004 of 3 November, laying down the rules for the enforcement of Royal Decree 285/2004 of 20 February, regulating the conditions for recognition and equivalence of foreign university qualifications and studies (*BOE* 138, 10.06.05).

10. Civil and Criminal Cooperation

– Royal Decree 54/2005 of 21 January, amending the Regulation of Act 19/1993 of 28 December on measures for the prevention of money laundering, approved by Royal Decree 925/1995 of 9 June, and other regulatory norms applicable to the banking, financial and insurance systems (*BOE* 19, 22.01 and 22, 26.01.05).

– Organic Act 3/2005 of 8 July, amending Organic Act 6/1985 of 1 July of the Judiciary providing for the extraterritorial pursuit of the perpetrators of feminine genital mutilation (*BOE* 163, 9.07.05).

Note: Article 23(4) of Organic Act 6/1985 of 1 July is worded as follows:

“4. Likewise, the Spanish courts will have the authority to prosecute crimes in the following categories according to Spanish criminal law, committed by Spaniards or foreign nationals outside of national territory:

- a) Genocide.
- b) Terrorism.
- c) Piracy and illegal seizure of aircraft.
- d) Counterfeiting of foreign currency.

- e) Crimes relating to prostitution and the corruption of minors or the mentally handicapped.
- f) Illegal trafficking in psychotropic, toxic and narcotic drugs.
- g) Crimes related to feminine genital mutilation, provided that the parties responsible are found in Spain.
- h) And any other crime that, in accordance with international treaties or conventions, should be pursued in Spain”.

– Order PRE/2193/2005 of 8 July, making public the Cabinet Agreement paying homage to and in solidarity with the victims of the terrorist attack perpetrated in London on 7 July 2005 (*BOE* 163, 9.07.05).

Note: “1. To bear witness to the profound sorrow and solidarity of the Spanish nation with the victims of the attack, with the city of London and with the citizens of the United Kingdom.

2. To publicly express this testimony, as from 13:00 on 8 July to 00:00 on 10 July 2005, the National Flag shall fly at half-mast on all public buildings and navy vessels”.

– Act 16/2005 of 18 July, amending Act 1/1996 of 10 January, on free legal assistance to regulate special civil and commercial cross-border disputes in the European Union (*BOE* 171, 19.07.05).

– Order EHA/2963/2005 of 20 September, regulating the Central Body for the prevention of money laundering at the General Notary Council (*BOE* 229, 24.09.05).

– Organic Act 4/2005 of 10 October, amending Organic Act 10/1995 of 23 November on the Criminal Code regarding crimes of reckless endangerment involving explosives (*BOE* 243, 11.10.05).

Note: This Act introduces three new paragraphs numbered 2, 3, and 4 in Art. 348 of the Criminal Code to stiffen the sanction for illegal conduct by those responsible for the surveillance, control and use of explosives and reads as follows:

“Article 348.

1. Those who, in the manufacture, handling, transport, possession or commercialisation of explosives, flammable, corrosive, toxic or asphyxiating substances, or any other materials, devices or artifices capable of causing destruction, violate established safety rules putting the life, physical integrity or health of persons or the environment at risk, shall be punished with a prison sentence of between six months and three years and fined between twelve and twenty-four months and shall be banned from public employment or office, profession or trade for between six and twelve years.
2. Those responsible for the surveillance, control and use of explosives capable of causing damage who, in violation of the law concerning explosive

material, facilitate their loss or extraction shall be punished with a prison sentence of between six months and three years and fined between twelve and twenty-four months and shall be banned from public employment or office, profession or trade for between six and twelve years

3. The upper half of the sentences laid down in the foregoing paragraphs shall be administered in the case of directors, administrators or those entrusted with the enterprise, company, organisation or holding. In these cases, the judicial authority may additionally order one or several of the measures envisaged in Art. 129 of this Code.
4. Those responsible for factories, workshops, means of transport, tanks and other establishments relating to explosives which may cause damage shall be punished with a prison sentence of between six months and three years and fined between twelve and twenty-four months and shall be banned from public employment or office, profession or trade for between six and twelve years if they are found to have:
 - a) Hampered the work government inspectors responsible for explosive safety.
 - b) Falsified or concealed relevant information from the government concerning compliance with compulsory safety measures regarding explosives.
 - c) Disobeyed explicit government orders meant to remedy the serious problems detected concerning explosive safety.

XII. INTERNATIONAL ORGANIZATIONS

XIII. EUROPEAN UNION

– Royal Decree 5/2005 of 14 January, calling for a national consultative referendum on the ratification of the Treaty establishing a Constitution for Europe (*BOE* 13, 15.01.05).

Note: In accordance with the terms of Art. 92 of the Spanish Constitution, the following question was submitted to a consultative referendum: “Do you approve of the Treaty establishing a Constitution for Europe?”.

The referendum was scheduled for 20 February 2005 and the electoral campaign was from 4 to 18 February.

– Royal Decree 7/2005 of 14 January, regulating certain aspects of the electoral proceedings applicable to the referendum on the Treaty establishing a Constitution for Europe (*BOE* 13, 15.01.05).

– Royal Decree 6/2005 of 14 January, regulating the granting of special assistance to political groups with parliamentary representation in the Congress of Deputies to defray the costs related to the explanation and dissemination of the Treaty establishing a Constitution for Europe (*BOE* 15, 18.01.05).

Note: Special subsidies are granted to defray the costs borne by political groups with parliamentary representation in the Congress of Deputies relating to informa-

tion and didactic activities and public dissemination of the Treaty establishing a Constitution for Europe.

– Order FOM/22/2005 of 17 January, laying down the rules on postal service collaboration in the referendum on the European Constitution (*BOE* 16, 19.01.05).

– Order INT/31/2005 of 17 January, establishing the type of voting facilities and electoral forms to be used for the referendum on the Treaty establishing a Constitution for Europe (*BOE* 18, 21.01.05).

– Organic Act 1/2005 of 20 May, authorizing the ratification by Spain of the Treaty establishing a Constitution for Europe, done at Rome on 29 October 2004 (*BOE* 121, 21.05.05).

– Resolution of 28 February 2005, passed by the Spanish Secretary of State on Territorial Cooperation, publishing the Agreements dated 9 December 2004 adopted by the Conference on Questions Concerning the European Communities (*Conferencia para Asuntos Relacionados con las Comunidades Europeas, CARCE*) (*BOE* 64, 16.03.05).

Note: These agreements establish the modalities of participation of the Spanish Autonomous Communities (*Comunidades Autónomas*) in the working-groups of the Council of the European Union, and regulate the system of representation into some of the configurations of this Council of the European Union.

– Order EHA/3784/2005 29 November, determining the issue, minting and circulation of commemorative coins marking the 20th anniversary of the accession of Spain and Portugal to the European Communities (*BOE* 291, 6.12.05).

– Organic Act 6/2005 of 22 December, authorizing the ratification by Spain of the Treaty of Accession to the European Union of the Republic of Bulgaria and the Republic of Romania (*BOE* 306, 23.12.05).

XIV. RESPONSIBILITY

XV. PEACEFUL SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

– Royal Decree 2394/2004 of 30 December, establishing the Protocol for the recuperation, identification, transfer and burial of the mortal remains of members of the Armed Forces, the Civil Guard and the National Police Force who perished in operations outside of Spain (*BOE* 13, 15.01.05).

– Royal Decree 1015/2005 of 18 August, declaring an official period of mourning for the death of 17 Spanish soldiers in an air accident which occurred while carrying out a peace mission in Afghanistan (*BOE* 198, 19.08.05).

– Organic Act 5/2005 of 17 November of the National Defence (*BOE* 276, of 18 November 2005).

Note: The following is a transcription of the most significant articles:

Article 4. The Cortes Generales.

1. The Cortes Generales are responsible for:

- a) Issuing preliminary authorisations for State consent to be bound by international treaties and conventions and any other authorisations provided for in Art. 94(1)(b) of the Constitution.
2. The Congress of Deputies has the specific duty of issuing preliminary authorisation for the participation of the Armed Forces in missions outside of national territory in accordance with the provisions of this Law.

Article 15. Missions [of the Armed Forces].

3. The Armed Forces contribute militarily to the security and defence of Spain and its allies within the framework of the international organisations to which Spain is party and to peacekeeping missions, stability and humanitarian assistance.
4. The Armed Forces may likewise conduct missions to evacuate Spanish nationals residing abroad when the instability of a given country puts their lives or interests at great danger.

Article 16. Types of operations.

The Armed Forces, in compliance with their missions and their complementary or subsidiary contribution to public interest, are called upon to undertake different types of operations, in national territory and abroad, which can give rise to conflict prevention or deterrence, peacekeeping missions, crisis intervention and, where appropriate, response to aggression. Operations may specifically include:

- a) Surveillance of maritime areas as a contribution to the State's efforts at sea, surveillance of Spanish air space and any other activities intended to guarantee the sovereignty of Spain and to protect the lives of its citizens and their interests.
- b) Collaboration in international peacekeeping and stabilisation operations in areas of conflict, reconstruction of security and government and the rehabilitation of a specific country, region or area in accordance with established treaties and commitments.
- c) Provision of support for the state police and security forces in combating terrorism and those institutions and bodies responsible for land, sea and air search and rescue services.

- d) Military response to aggression by use of aircraft for terrorist purposes endangering the lives of the population and their interests. In this connection, the Government shall appoint a responsible national authority and the Armed Forces shall establish the pertinent operational procedures.
- e) Collaboration with the different public administrations in the case of grave hazards, catastrophes, calamities and other public needs in accordance with the provisions of applicable laws.
- f) Participation with other national and international bodies to protect the safety and well-being of Spanish citizens abroad in accordance with the coordination and allocation of responsibility criteria established.

Article 17. Authorisation of the Congress of Deputies.

- 1. Before ordering operations abroad which are not directly related with the defence of Spanish territory or of national interests, the Government shall make a preliminary consultation and shall obtain the authorisation of the Congress of Deputies.

Note: "or of national interest" added. Moreover, the preliminary draft states: "the Government shall make a preliminary consultation to obtain the views of the Congress of Deputies".

- 2. In the case of missions abroad which, in accordance with international commitments, require a swift and immediate response to certain situations, the preliminary consultation and authorisation formalities shall be conducted by way of an emergency proceeding in order to comply with the said commitments.
- 3. In the cases envisaged in the foregoing section, when it is impossible to conduct the preliminary consultation for reasons of maximum urgency, the Government shall submit the decision it has adopted to the Congress of Deputies as soon as possible for ratification, if relevant.

Article 18. Operation monitoring.

The Government shall inform the Congress of Deputies on a regular basis, at least once yearly, as to the development of the Armed Forces' operations abroad.

Article 19. Conditions.

The following conditions must be met if the Armed Forces are to undertake missions abroad which are not directly related with the defence of Spain or national interests:

- a) Action taken must be at the explicit request of the Government of the State in whose territory the mission is to be undertaken or it must be authorised by resolution of the United Nations Security Council or agreed, if relevant, by international organisations to which Spain is party, particularly the European Union or the North Atlantic Treaty Organisation (NATO), within the framework of their respective competences.

- b) Missions must comply with defensive, humanitarian, stabilisation or peace-keeping aims envisaged and ordered by the aforementioned organisations.
- c) Missions must conform to the United Nations Charter and must not contravene or violate the principles of conventional international law which Spain has incorporated into its legal system in accordance with Art. 96.1 of the Spanish Constitution.

XVII. WAR AND NEUTRALITY