

Spanish Municipal Legislation Concerning Matters of Public International Law, 2004

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This survey includes the treaties covered by art. 2.1 a) of the Vienna Convention on the Law of Treaties, published in the *Boletín Oficial del Estado* (Official Journal of the State). Its purpose is to record the legal effects of these instruments, such as ratification or accession, municipal entry into force, provisional application, reservations or declarations, territorial application, termination and abrogation. In a few instances some relevant articles or references will be reproduced in an unofficial translation.

I. INTERNATIONAL LAW IN GENERAL

II. SOURCES OF INTERNATIONAL LAW

– Resolution of 19 January 2004, passed by the Technical Secretariat-General of the Ministry of Foreign Affairs, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 25, 29.1.04).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Ministry of Foreign Affairs from 31 August to 31 December 2003.

– Resolution of 1 June 2004, passed by the Technical Secretariat-General for Foreign Affairs and Cooperation, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 144, 15.6.04).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Ministry of Foreign Affairs from 31 January to 3 April 2004.

– Resolution of 4 October 2004, passed by the Technical Secretariat-General for Foreign Affairs and Cooperation, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 249, 15.10.04).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Ministry of Foreign Affairs from 1 May to 31 August 2004.

III. THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

V. THE INDIVIDUAL AND INTERNATIONAL LAW

1. Aliens

– Royal Decree 2266/2004, of 3 December, modifying Regulations on aliens access to the military profession as soldiers and sailors, adopted by Royal Decree 1244/2002, of 29 November (*BOE* 292, 4/12/04).

Note: Article 3.1 of the Regulation approved by Royal Decree 1244/2002 is amended (See VIII SYIL (2001–2002), pp. 234–5) and now reads as follows:

“The maximum contingent of aliens in the Armed Forces as professional soldiers and sailors, applicable for a period of three years, shall be seven per cent of the total number of professional soldiers and sailors referred to in article 19 section 1 of the Armed Forces (Personnel Regime) Act, Law 17/1999 of 18 May”.

The contingent had hitherto been set at two per cent.

VI. STATE ORGANS

1. Central organs

– Royal Decree 553/2004, of 17 April, restructuring the ministerial departments (*BOE* 94, 18.4.04 and 96, 20.4.04).

Note: The name of the Ministry of Foreign Affairs is changed to Ministry of Foreign Affairs and Cooperation. Article 2 provides:

“Ministry of Foreign Affairs and Cooperation.

1. The Ministry of Foreign Affairs and Cooperation is responsible for the direction of foreign policy and international development cooperation policy, in accordance with the guidelines laid down by the Government and in obedience to the principle of unity of action abroad, and also for the exercise of those other competences hitherto devolving upon the Ministry of Foreign Affairs.
2. The Ministry of Foreign Affairs and Cooperation now comprises the following senior organs:
 - a) The Secretariat of State for Foreign Affairs and Iberoamerica, which shall be responsible for providing direct assistance to the Minister in the formulation and implementation of Spain’s foreign policy.

- b) The Secretariat of State for the European Union, which shall be responsible for providing direct assistance to the Minister in the formulation and implementation of Spain's policy in the European Union.
- c) The Secretariat of State for International Cooperation, which shall take on those of the minister's competences in matters of international cooperation hitherto exercised by the Secretariat of State for Foreign Affairs and Ibero-America."

– Royal Decree 562/2004, of 19 April, sets out the basic structure of the higher and directive organs of the Ministry of Foreign Affairs and Cooperation (*BOE* 96, 20.4.04).

– Royal Decree 1416/2004, of 11 June, modifying and setting out the basic structure of the Ministry of Foreign Affairs and Cooperation (*BOE* 142, 12.6.04).

Note: This repeals article 1 of Royal Decree 562/2004, of 19 April, laying down the structure of the higher and directive organs of the Ministry of Foreign Affairs and Cooperation. Article 1.3 is amended to read as follows:

"The Ministry of Foreign Affairs and Cooperation, under the direction of the head of the department, is composed of the following higher and directive organs:

- a) The Secretariat of State for Foreign Affairs and Iberoamerica, to which the following directive organs report
 - 1. The Directorate-General of Foreign Policy.
 - 2. The Directorate-General of Foreign Policy for Europe and North America.
 - 3. The Directorate-General of Policy for Iberoamerica.
 - 4. The Directorate-General of Foreign Policy for the Mediterranean, Near East and Africa.
 - 5. The Directorate-General of Foreign Policy for Asia and the Pacific.
 - 6. The Directorate-General of International Affairs relating to Terrorism, the United Nations and Multilateral Organisations.
 - 7. The Directorate-General of International Economic Relations.
- b) The Secretariat of State for the European Union, to which the following directive organs report:
 - 1. The Secretariat-General for the European Union, with the rank of Under-Secretariat.
 - 2. The Directorate-General for Integration and Coordination of European Union General and Economic Affairs.
 - 3. The Directorate-General for Coordination of the Internal Market and other Community Policies.
- c) The Secretariat of State for International Cooperation.
- d) The Under-Secretariat of Foreign Affairs and Cooperation, to which the following directive organs report:

1. The General Technical Secretariat.
 2. The Directorate-General of the Foreign Service.
 3. The Directorate-General of Consular Affairs and Assistance.
- e) It reports directly to the head of department of the Directorate-General of Exterior Communication.
- f) As an organ providing immediate assistance to the Minister, there is an Office having the organic rank of a directorate-general, structured as laid down in article 17 of Royal Decree 562/2004 of 19 April.
- g) The head of the Department is assisted by a Higher Council for Foreign Affairs, whose composition and functioning are regulated by specific provisions and whose head holds the organic rank of Deputy Director-General.

– Order PRE/2046/2004, of 25 June, publicising the Cabinet Resolution creating the Commission for Comprehensive Reform of the Foreign Service (*BOE* 154, 26.6.04).
Note: Its purpose is to draw up a report analysing and assessing the situation of the foreign service and how well it is adapted to international political, economic and institutional realities, with proposals for reform in terms of organisation, regulation and resources with a view to their improvement and the efficient accomplishment of their purposes. These objectives are to be met within one year of its creation.

2. Diplomatic Relations

- Royal Decree 220/2004, of 6 February, establishing the Education Attaché at the Permanent Diplomatic Mission in the People's Republic of China (*BOE* 33, 7.2.04).
- Royal Decree 1719/2004, of 23 July, establishing the Defence Attaché at the Permanent Diplomatic Mission in Malaysia (*BOE* 190, 7.8.04).
- Royal Decree 1894/2004, of 10 September, establishing the Defence Attaché at the Permanent Diplomatic Mission in the State of Israel (*BOE* 229, 22.9.04).
- Royal Decree 1895/2004, of 10 September, establishing the Defence Attaché at the Permanent Diplomatic Mission in the Republic of Peru (*BOE* 229, 22.9.04).

3. Consular Relations

Orders creating the following Honorary Consular Offices:

France:

- Orleans, Papeete and Rennes (*BOE* 26, 30.1.04).

Maldives:

- Male (*BOE* 259, 27.10.04).

Panama:

- David (Panama) (*BOE* 264, 2.11.04).
- Order AEX/645/2004, of 11 February, establishing a Consular Office with the rank of Consulate-General at Monterrey (United States of Mexico) (*BOE* 62, 12.3.04).
- Order AEC/3714/2004, of 15 October, promoting the Consular Office of Bogota to the category of Consulate-General (*BOE* 276, 16.11.04).
- Order AEC/3715/2004, of 15 October, promoting the Consular Office of Quito to the category of Consulate-General (*BOE* 276, 16.11.04).

VII. TERRITORY

1. Frontiers

- Order PRE/1755/2001, of 11 June, publicising the Cabinet Resolution to temporarily close the Port of Tarifa as an authorised Post for crossing of the said frontier by persons (*BOE* 142, 12.6.04).

VIII. SEAS, WATERWAYS, SHIPS

1. Fisheries

- Order APA/6/2004, of 12 January, regulating trawling in Community waters in International Council for the Exploration of the Sea (ICES) Zone IX (*BOE* 12, 14.1.04).

Note: The waters of ICES Zone IX are subject to the sovereignty or jurisdiction of Portugal.

- Royal Decree 498/2004, of 1 April, modifying Royal Decree 137/2002, of 1 February, which introduced support measures for shipowners and crew members of the fishing fleet affected by termination of the Fishery Agreement between the European Union and the Kingdom of Morocco (*BOE* 80, 2.4.04).

IX. INTERNATIONAL SPACES

X. ENVIRONMENT

1. Seas

- Royal Decree 253/2004, of 13 February, introducing measures to prevent and combat pollution in hydrocarbon loading, discharge and handling operations at sea and in port (*BOE* 39, 14.2.04).
- 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* 160, 3.7.04).
- Royal Decree 1892/2004, of 10 September, establishing norms for implementation of the Convention on Civil Liability for Oil Pollution Damage (*BOE* 226, 18.9.04).
- Royal Decree 2182/2004, of 12 November, creating the Centre for the Prevention and Combating of Marine and Coastal Pollution (*BOE* 276, 16.11.04).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Cultural Cooperation

- Royal Decree 173/2004, of 30 January, restructuring the Spanish National Commission for Cooperation with UNESCO (*BOE* 33, 7.2.04).
- Royal Decree 284/2004, of 20 February, creating and regulating the functions of the Commissioner for Commemoration of the Fifth Centenary of the birth of Saint Francis Xavier (*BOE* 45, 21.2.04).
- Order ECD/493/2004, of 23 February, establishing a regime for sojourns and extensions for Technical Advisors and teaching personnel at centres and on programmes abroad (*BOE* 51, 28.2.04).
- Royal Decree 2018/2004, of 11 October, amending the Regulation of the *Instituto Cervantes* approved by Royal Decree 1526/1999 of 1 October which adapted the composition of its governing organs to the restructuring of the ministerial departments (*BOE* 247, 13.10.04).

2. Economic Cooperation

- Royal Decree 2124/2004, of 3 November, amending Royal Decree 22/2000, of 14 January, regulating the composition, competences, organisation and functions of the Interterritorial Commission for Development Cooperation (*BOE* 278, 18.11.04).

– Royal Decree 2217/2004, of 26 November, on competences, functions, composition and organisation of the Development Cooperation Council (*BOE* 286, 27.11.04).

3. Tariffs and Trade Cooperation

– Resolution of 14 January 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 19, 22.1.04).

– Resolution of 26 January 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 27, 31.1.04).

– Resolution of 24 February 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 59, 9.3.04).

– Resolution of 11 March 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 68, 19.3.04).

– Resolution of 24 March 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 83, 6.4.04).

– Resolution of 7 April 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 97, 21.4.04).

– Resolution of 19 April 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, amending Resolution of 15 December 2003, on Instructions for Implementation of the Single Administrative Document (SAD) (*BOE* 111, 7.5.04).

– Resolution of 11 May 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 126, 25.5.04).

– Resolution of 31 May 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 140, 10.6.04).

- Circular of 18 June 2004, from the Secretariat-General for Foreign Trade concerning the procedure and formalities for imports and introduction of goods and their commercial regimes (*BOE* 158, 1.7.04 and 163, 7.7.04).
- Resolution of 1 July 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 165, 9.7.04).
- Royal Decree 1717/2004, of 23 July, amending Royal Decree 786/1979, of 16 March, which laid down the norms regulating the General Statute of officially-recognised Spanish Chambers of Commerce abroad (*BOE* 207, 27.8.04).
- Resolution of 18 August 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 204, 24.8.04).
- Resolution of 23 September 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 236, 30.9.04).
- Resolution of 17 December 2004, passed by the Spanish Customs and Excise Department of the State Agency for Tax Administration, updating the Applicable Integrated Tariff (TARIC) (*BOE* 315, 31.12.04).

4. Air Traffic and Transport

- Order PRE/2220/2004, of 6 July, introducing amendments to the Air Traffic Regulation to adapt to technical innovations and updates resulting from regional air navigation agreements (*BOE* 163, 7.7.04).
- Order FOM/2476/2004, of 12 July, partially amending Annex 1 of Decree 1675/1972, of 26 June, on air navigation assistance tariffs (EUROCONTROL) (*BOE* 178, 24.7.04).
- Order FOM/3043/2004, of 21 September, partially amending Annex 1 of Decree 1675/1972, of 26 June, on air navigation assistance tariffs (EUROCONTROL) (*BOE* 232, 25.9.04).
- Order FOM/3278/2004 of 28 September partially amending Annex 1 of Decree 1675/1972, of 26 June, on air navigation assistance tariffs (EUROCONTROL) (*BOE* 247, 13.10.04).

5. Labour, Social Security and Emigration

- Royal Decree 1743/2003, of 19 December, creating a Spanish Coordinating Committee for the tenth anniversary of International Family Year (*BOE* 12, 14.1.04).

6. Health and Relief Cooperation

- Royal Decree 174/2004, of 30 January, extending the deadline set in article 9 of Royal Decree 211/2003, of 21 February, for creation of a National Commission for Organisation of the Bicentenary of the Royal Philanthropic Expedition of Francisco Xavier Balmis to carry the smallpox vaccine to America and the Philippines (*BOE* 33, 7.2.04).

Note: The deadline for performance of the scheduled activities is extended to 30 March 2007.

7. Recognition of Qualifications

- Royal Decree 285/2004, of 20 February, on conditions for recognition and equivalence of foreign university qualifications and studies (*BOE* 55, 4.3.04).
- Royal Decree 1830/2004, of 27 August, setting a new date for the entry into force of some articles of Royal Decree 285/2004, of 20 February, on conditions for recognition and equivalence of foreign university qualifications and studies (*BOE* 210, 31.8.04).
- Order ECI/3686/2004, of 3 November, establishing rules for the implementation of Royal Decree 285/2004, of 20 February, on conditions for recognition and equivalence of foreign university qualifications and studies (*BOE* 275, 15.11.04).

8. Civil and Criminal Cooperation

- Royal Decree 419/2004, of 11 March, declaring an official state of mourning in response to the terrorist attacks perpetrated in Madrid on 11 March 2004 (*BOE* 62, 12.3.04).
 - Royal Decree 453/2004, of 18 March, on the granting of Spanish nationality to victims of the terrorist attacks of 11 March 2004 (*BOE* 70, 22.3.04).
- Note:* According to article 1, “victims” means “persons injured in the said attacks, and likewise the descendants and ancestors, both in the first degree of consanguinity, of those killed”.
- Order AEC/4150/2004, of 15 December, publicising the Cabinet Resolution of 10 December 2004 establishing 27 January as Official Remembrance Day for the Holocaust and the Prevention of Crimes against Humanity (*BOE* 305, 20.12.04).

– Royal Decree 2317/2004, of 17 December, creating the position of High Commissioner for Support to the Victims of Terrorism (*BOE* 306, 21.12.04).

Note: According to article 2, his functions are:

- “a) To follow up the actions of the competent organs of the General State Administration in respect of economic and any other kind of assistance and aid to the victims of terrorism.
- b) To collaborate with any and all associations, foundations and other public or private institutions whose purpose is to care for the victims of terrorism.
- c) To cooperate with the organs of other public Administrations having competences in such matters, in order to coordinate with them and thus ensure comprehensive protection of the victims of terrorism.
- d) To continually assess the economic and social situation of the victims of terrorism.
- e) To propose legislative, regulatory and material initiatives for the improvement of mechanisms of information, care and support for the victims of terrorism.”

XII. INTERNATIONAL ORGANISATIONS

– Royal Decree 2269/2004, of 3 December, creating a Commission for the organisation and coordination of actions to celebrate the Fifteenth Iberoamerican Summit and the Tenth Anniversary of the Euro-Mediterranean Conference, on the 30th Anniversary of the Proclamation of H.M. the King Juan Carlos I (*BOE* 303, 17.12.04).

XIII. EUROPEAN UNION

XIV. RESPONSIBILITY

XV. PEACEFUL SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

– Royal Decree 2015/2004, of 11 October, creating an Army High-Readiness Land Headquarters (*BOE* 254, 21.10.04).

Note: This creates a national Army High-Readiness Land Headquarters, at the disposal of NATO in the terms laid down in the relevant agreement(s). It will be open to voluntary participation by personnel of the Armed Forces of other States parties to the North Atlantic Treaty.

- Royal Decree-Law 8/2004, of 5 November, on compensation to participants in international peace and security operations (*BOE* 271, 10.11.04, 280, 20.11.04 and 282, 23.11.04).

Note: This establishes a system of compensations when Spanish citizens are killed or suffer physical or mental injury as a result of their participation in a peace-keeping, humanitarian aid or other international operation that has been specifically approved by the Government for these purposes.

Ratified by the Congress of Deputies on 2 December 2004 (*BOE* 298, 11.12.04).

XVII. WAR AND NEUTRALITY

- Order ITC/2637/2004, of 21 July, on the application of certain provisions of Royal Decree 1206/2003, of 19 December, for implementation of the commitments acquired by Spain in the Additional Protocol to the Safeguards Agreement derived from the Treaty on Non-Proliferation of Nuclear Weapons, for commendation to the European Commission (*BOE* 187, 4.8.04).

- Royal Decree 1782/2004, of 30 July, approving the Regulation for control of foreign trade in defence material, other material and dual-use products and technologies (*BOE* 210, 31.8.04 and 248, 14.10.04).