

Spanish Municipal Legislation Concerning Matters of Public International Law, 1999 and 2000

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

I. INTERNATIONAL LAW IN GENERAL

II. SOURCES OF INTERNATIONAL LAW

– Resolution of 11 January 1999, passed by the Technical Secretariat-General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 19, 22.1.99).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Foreign Office from 31 August to 31 December 1998.

– Resolution of 24 May 1999, passed by the Technical Secretariat-General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 136, 8.6.99).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Foreign Office from 1 January to 30 April 1999.

– Resolution of 8 October 1999, passed by the Technical Secretariat-General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 258, 8.10.99).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Foreign Office from 1 May 1999 to 31 August 1999.

– Resolution of 10 January 2000, passed by the Spanish Technical Secretariat-

General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 30, 4.2.00).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Foreign Office from 31 August to 31 December 1999.

– Resolution of 30 May 2000, passed by the Spanish Technical Secretariat-General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 138, 9.6.00).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Spanish Ministry of Foreign Affairs from 1 January to 30 April 2000.

– Resolution of 29 September 2000, passed by the Spanish Technical Secretariat-General of the Foreign Office, on third States' actions regarding multilateral treaties to which Spain is a party (*BOE* 247 and 291, 14.10.00 and 5.12.00).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Foreign Office from 1 May 2000 to 31 August 2000.

III. THE RELATION BETWEEN INTERNATIONAL AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. Aliens

– Order of 8 January 1999, issued by the Spanish Ministry of the Presidency. This lays down general rules and the rules for processing visas and residence permits for family reunification as implemented by the Regulation for Implementation of Organic Act 7/1985 of 1 July (*BOE* 11 and 48, 13.1.99 and 25.2.99).

Note: This Ministerial Order establishes that relatives of aliens legally resident in Spain may reside with the latter, as provided in International Law and by Organic Act 7/85 and the regulation thereunder. The same Order regulates the specific documentary and procedural requirements for the granting of a family reunification visa. In such applications, the criteria are whether the requirements for the application for reunification are met, on the one hand by the resident alien and on the other hand by the relative for whom application is made.

– Order of 22 February 1999, by the Spanish Ministry of the Presidency, regarding the rules governing the functioning and internal regime of Alien Internment Centres (*BOE* 47, 24.2.99).

Note: This Order lays down general provisions for such internment centres – definition, nature and purpose, machinery for cooperation with non-governmental organizations devoted to assisting aliens, human/material resources that such centres should possess and their internal organization, formalities to be observed on entry, transfer and exit, and the principles guiding internal organization.

– Organic Act 4/2000 of 11 January 2000, on Rights and Freedoms and social integration of aliens in Spain (*BOE* 10 and 20, 12.1.00 and 24.1.00).

Note: This Act repeals Organic Act 7/1985 of 1 July and amends the Penal Code; shortly thereafter, it was partially amended by Organic Act 8/2000 of 22 December.

– Royal Decree 239/2000 of 18 February 2000, issued by the Spanish Ministry of the Presidency, lays down the procedure for regularization of aliens as provided in the first transitional provision of Organic Act 4/2000 of 11 January on Rights, Freedoms and Social Integration of Aliens in Spain (*BOE* 43 and 59, 12.2.00 and 9.3.00).

Note: This Royal Decree lays down the procedure for regularization of aliens in Spain and asylum applicants whose requests have been denied, or relatives of other aliens intending to apply for such regularization, and relatives of resident aliens or Spanish nationals.

– Order of 10 March 2000, issued by the Spanish Ministry of Public Administrations. This speeds up the submission of applications for regularization of aliens as provided in Royal Decree 239/2000 of 18 February on procedure (*BOE* 63, 14.3.00 and correction on 22.3.00)

– Resolution of 20 March 2000, issued by the Secretary of the State Headquarters. This publishes the Decision of 16 March 2000 by the Police and General Internal Policy Departments (Interior Ministry) and the Department of Immigration (Ministry of Labour and Social Affairs) approving the instructions regarding procedure for regularization of aliens as provided in the first transitional provision of Organic Act 4/2000 and as approved by Royal Decree 239/2000 of 18 February (*BOE* 70, 22.3.00).

– Resolution of 20 March 2000, issued by the Spanish Under-Secretariat of the Ministry of the Presidency. This publishes the Decision of 7 March 2000 by the Police and General Internal Policy Departments (Interior Ministry) and the Department of Immigration (Ministry of Labour and Social Affairs) approving the model of application for a work/residence permit, a residence permit or a Community resident's card for purposes of regularization of aliens (*BOE* 70, 22.3.00).

– Organic Act 8/2000 of 22 December 2000 reforming Organic Act 4/2000 of 11 January on Rights, Freedoms and Social Integration of Aliens in Spain (*BOE* 307, 23.12.00).

Note: The fact that two laws on the same matter were passed in the space of one year is indicative of the high profile of the problem of aliens in general and illegal immigration in particular. The first of these two laws, which was considerably more liberal than Act 7/1985 of 1 July, was considered over-tolerant in matters of immigration. As a result, the same parliamentary majority amended it in Organic Act 8/2000, which was still more liberal than the Act of 1985 but was more restrictive than Organic Act 4/2000.

– Orders issued by the Spanish Ministry of the Presidency creating Immigration Bureaux (*Oficinas de Extranjería*) in the following places:

- Balearic Islands, Order of 17 June 1999 (*BOE* 146, 19.06.99)
- Lleida, Order of 11 November 1999 (*BOE* 277, 11.11.99)
- Valencia, Order of 14 September 2000 (*BOE* 223, 16.09.00)
- Sevilla, Order of 2 November 2000 (*BOE* 267, 07.11.00)

VI. ORGANS OF STATE

1. Central Organs of the State

– Royal Decree 687/2000 of 12 May 2000, issued by the Spanish Ministry for Public Administrations, sets out the basic organic structure of the Foreign Office (*BOE* 115, 13.5.00).

– Royal Decree 1412/2000 of 21 July 2000 creates a Foreign Policy Council (*BOE* 175, 22.7.20).

Note: In order to safeguard consistency and efficacy in the increasingly intensive foreign activity of the Spanish government, the current Royal Decree creates a Foreign Policy Council to support and advise the Prime Minister.

– Royal Decree 1473/2000 of 4 August 2000, issued by the Spanish Ministry for Public Administrations, sets out the basic organic structure of the Foreign Office (*BOE* 187, 5.8.00).

Note: This repeals Royal Decree 1881/1996 of 2 August.

2. Diplomatic Relations

– Royal Decree 2827/1998 of 23 December 1998 on organization, functions and posts at Economic and Commercial sections of Spanish Diplomatic Missions (*BOE* 13, 15.1.99).

Note: This repeals Royal Decree 1235/1990 of 11 October.

- Royal Decree 287/1999 of 22 February 1999, drafted by the Spanish Ministry of Public Administrations, creates the office of Defence Attaché at Spain's Permanent Diplomatic Mission in Havana (*BOE* 55, 5.3.99).
- Order of 7 March 2000, issued by the Spanish Foreign Ministry, creates Technical Cooperation Offices at Spain's Permanent Diplomatic Missions in Bosnia-Herzegovina and the Chinese People's Republic, and Cultural Centres at the Permanent Diplomatic Missions in Mexico and Cuba (*BOE* 66 and 92, 17.3.00 and 17.4.00).

3. Consular Relations

- Orders issued by the Spanish Foreign Ministry creating the following Honorary Consular Offices:
- Belgium: Antwerp, Order of 15 January 1999 (*BOE*, 25, 29.1.99).
- Canada: Edmonton, Order of 23 October 2000 and eliminates the Consular Office at Calgary (*BOE* 271, 11.11.00).
- Colombia: Pereira, Order of 15 January 1999 (*BOE* 25, 29.1.99); San Andrés, Order of 14 April 1999 (*BOE* 107, 5.05.99).
- Cuba: Santa Clara, Order of 14 April 1999 (*BOE* 98, 24.4.99); Camagüey, Order of 14 April 1999 (*BOE* 98, 24.4.99).
- Dominican Republic: Constanza, Order of 22 July 1999 (*BOE* 181, 30.7.99); Samaná, Order of 22 July 1999 (*BOE* 181, 30.7.99).
- Eritrea: Asmara, Order of 12 April 1999 (*BOE* 96, 22.4.99).
- Italy: Catanzaro and Pescara, Order of 1 September 2000, which also eliminates those of Reggio Calabria, Catania and Avellino (*BOE* 219, 12.9.00); Novara, Order of 1 September 2000 (*BOE* 219, 1.9.00; Verona, Order of 1 September 2000 (*BOE* 271, 11.11.00).
- Jamaica: Montego Bay, Order of 4 October 1999 (*BOE* 245 and 67, 13.10.99 and 18.3.00).
- Macedonia: Skopje, Order of 23 June 1999 (*BOE* 158, 3.7.99).
- Mexico: Aguascalientes, Order of 9 March 2000 (*BOE* 66, 17.3.00); Tlaxcala, Order of 19 May 2000 (*BOE* 131, 1.6.00).
- Reunion Island: St. Denis, Order of 18 January 1999 (*BOE* 25, 29.1.99).
- Switzerland, Tesino Canton: Bellinzona, Order of 22 July 1999 (*BOE* 181 and 157, 30.7.99 and 1.7.00).
- USA: Tucson, Denver and Salt Lake City, Order of 7 July 2000 (*BOE* 172, 19.7.00).

4. Relations with International Organizations

- Royal Decree 3453/2000 of 22 December 2000 creating an Organizing Committee for the Second UN World Assembly on Ageing (*BOE* 307, 23.12.00).

VII. TERRITORY

VIII. SEAS, WATERWAYS, SHIPS

1. Fisheries

- Resolution of 10 February 1999, issued by the Secretariat-General for Marine Fishing, introducing a census of vessels authorised in 1998 to trawl in waters of International Council for the Exploration of the Sea sub-zone IX under Portuguese sovereignty or jurisdiction (*BOE* 53, 3.3.99).
- Royal Decree 1797/1999 of 26 November 1999 on control of third-country vessels in waters under Spanish sovereignty or jurisdiction (*BOE* 301, 17.12.99).
- Royal Decree 1828/2000 of 3 November 2000, issued by the Spanish Ministry of Public Works, amending the Regulations for control of compliance with international regulations on safety at sea, prevention of contamination and living and working conditions on foreign vessels using ports or facilities situated in Spanish jurisdictional waters, as approved by Royal Decree 768/1999 of 7 May (*BOE* 265, 4.11.00).

IX. INTERNATIONAL SPACES

X. ENVIRONMENT

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. General Provisions

- Resolution of 11 May 1999, by the Spanish International Cooperation Agency, calling urgently for extraordinary aids and subsidies to Non-Governmental Organizations and non-profit-making Institutions to undertake initiatives in the Balkan region (*BOE* 114, 13.5.99).
 - Royal Decree 810/1999 of 14 May 1999, issued by the Spanish Ministry of the Presidency, creates an Inter-Ministerial Commission to coordinate overseas humanitarian aid plans (*BOE* 117, 17.5.99).
- Note:* The Decree created an Inter-Ministerial Commission affiliated to the Ministry of Foreign Affairs to coordinate and promote any initiatives commissioned by the government in connection with plans for overseas humanitarian aid.

– Royal Decree 993/1999 of 11 June 1999, issued by the Spanish Ministry of Foreign Affairs, approving the Regulations for a Registry of Non-Governmental Development Organizations affiliated to the Spanish International Cooperation Agency (*BOE* 152, 26.6.99).

Note: The purpose of these regulations is to lay down guidelines for the practical functioning of the Registry.

– Royal Decree 23/2000 of 14 January 2000, issued by the Spanish Ministry of Foreign Affairs, regulates the composition, competences, organization and functions of the Inter-Ministerial Commission for International Cooperation (*BOE* 13, 15.1.00).

– Royal Decree 3424/2000 of 15 December 2000, issued by the Spanish Ministry of the Presidency, approves the Statute of the Spanish International Cooperation Agency (*BOE* 301, 16.12.00).

2. Military and Defence Cooperation

– Order of 26 August 1999, issued by the Spanish Ministry of Defence, created the Spanish Contingent of the NATO Sub-Regional Joint Command Southwest (*Boletín del Ministerio de Defensa* 179, 31.8.99).

Note: This created the National Contingent of the NATO Sub-Regional Joint Command Southwest at Pozuelo de Alarcón (Madrid) under the authority of the Defence Chief of Staff and divided into two basic units.

– Order of 1 June 2000, issued by the Spanish Ministry for Defence, created the Spanish Contingent of the Combined Air Operations Centre at Torrejón (*Boletín Oficial del Ministerio de Defensa* 112, 9.6.00).

Note: The new NATO military structure provides for the creation of Air Command and Control to enable Air Forces to operate effectively within the framework of the NATO Integrated Air Defence System. The new structure contemplates a Combined Air Operations Centre at the Torrejón Air Base.

3. Economic Cooperation

– Organic Act 3/2000 of 11 January 2000 amends Organic Act (Penal Code) 10/1995 of 23 November as it relates to combating bribery of foreign public officials in international business transactions (*BOE* 10, 12.1.00).

Note: Having ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Spain was obliged to introduce categories of criminal offence as contemplated in the Convention. This Act added a Title (XIX bis) to Book II of the Penal Code, in which Article 445 bis provides: “Anyone personally or through intermediaries bribing or attempting to bribe foreign public authorities or officials, or authorities or

officials of international organizations, in exercise of their duties by means of donations, gifts, offers or promises, or accepting such bribes to act or refrain from action in the exercise of their public functions for the purpose of securing or preserving a contract or other irregular advantage in the conduct of international business shall be subject, as applicable, to the penal sanctions provided in Article 423”.

4. Financial and Tax Cooperation

– Royal Decree 1967/1999 of 23 December 1999 sets forth the exemptions from indirect taxes applicable to NATO and its member States and lays down the procedure for their application (*BOE* 10, 13.1.00).

Note: This repeals the following provisions: Royal Decree 1046/1989 of 28 August and Article 10.6 of Royal Decree 1624/1992 of 29 December.

5. Labour, Social Security and Immigration

– Royal Decree 2816/1998 of 23 December 1998, issued by the Spanish Ministry of Labour and Social Affairs, amends Royal Decree 490/1995 of 7 April, which created a Forum for the social integration of immigrants (*BOE* 13, 15.1.99).

Note: This Royal Decree amends the previous one which established the said forum, to fit in with departmental changes in the general State administration.

– Resolution of 10 March 1999, issued by the Department of Immigration, supplementing the grounds for granting of extraordinary individual assistance for immigrants and returnees as regulated in programme 2 of the Order of 30 December 1997, which establishes and regulates action programmes in favour of Spanish emigrants (*BOE* 89, 14.4.99).

– Royal Decree 24/2000 of 14 January 2000, issued by the Spanish Ministry of Foreign Affairs, creating a Fund for the Grant of Microcredits for Basic Social Development Projects Abroad (*BOE* 13, 15.1.00).

XII. INTERNATIONAL ORGANIZATIONS

– Act 13/1999 of 21 April 1999, on Spain’s accession to various resolutions of the International Monetary Fund (*BOE* 96, 22.4.99).

Note: This Act empowers the Kingdom of Spain to pay the increase in its quota to the International Monetary Fund, authorises it to participate in new agreements to secure credits from the International Monetary Fund with maximum commitment, authorises the ratification of the fourth amendment to the Articles of Agreement of the International Monetary Fund and lastly empowers the Cabinet to acquire additional commitments to the International Monetary Fund up to a given maximum amount.

– Act 48/1999 of 20 December 1999, authorising Spain's participation in replenishment of the Restructured Global Environment Trust Fund (*BOE* 304, 21.12.99).

Note: This Act authorises Spain to participate in the second replenishment of the Restructured Global Environment Trust Fund. The total for the period 1 July 1998 to 30 June 2002 is USD 2750m, of which Spain has undertaken to furnish USD 12.03m in special drawing rights.

– Act 10/2000 of 28 December 2000, authorising Spain to participate in a selective increase of the capital of the International Bank for Reconstruction and Development (*BOE* 312, 29.12.00).

– Act 11/2000 of 28 December 2000, authorising the Kingdom of Spain to take part in the twelfth replenishment of the International Development Association (*BOE* 312, 29.12.00).

XIII. EUROPEAN UNION

– Royal Decree 595/1999 of 19 April 1999, issued by the Prime Minister's Office, convoking elections to the European Parliament (*BOE* 94, 20.4.99)

Note: Elections to the European Parliament were set for 13 June 1999.

– Act 12/1999 of 21 April 1999, issued by the Prime Minister's Office, authorising Spain to participate in the capital increase (*BOE* 96, 22.4.99)

Note: The Spanish Government was thereby authorised to subscribe for 34,000 new shares in the capital increase of the European Bank for Reconstruction and Development approved by Resolution 59 of the meeting of the Board of Governors on 15 April 1996.

XIV. RESPONSIBILITY

– Organic Act 6/2000 of 4 October 2000, authorising the Kingdom of Spain to ratify the International Criminal Court (*BOE* 239, 5.10.00)

XV. PEACEFUL SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

XVII. WAR AND NEUTRALITY

– Circular of 13 May 1999 from the General Secretariat for Foreign Trade, establishing the trade rules for export of certain products (*BOE* 126, 27.5.99)

Note: This circular allows the sale, supply or export of products listed in European Council Common Position 1999/273/PESC, in the following cases: for the use of diplomatic and consular missions of the Member States in the Federal Republic of Yugoslavia, or of the international peacekeeping force there; for humanitarian purposes, subject to prior consultation as established in that common position; and for the use of forces operating in the Federal republic of Yugoslavia in which Member States participate.

– Act 49/1999 of 20 December 1999, establishing measures for the control of chemicals that could be diverted for use in the manufacture of chemical weapons (*BOE* 304, 21.12.99)

Note: Issued in full application of the Convention on prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Paris, 13 January 1993) where provisions entail special technical complexity or are not self-executable. The Act regulates the National Authority for the prohibition of chemical weapons (ANPAQ), places an obligation on natural and legal persons to furnish the necessary information to that authority, and creates a Registry of Obligated Activities and Subjects to keep a record of industrial, commercial, research and security activities coming under the Convention, inspections of facilities connected with substances coming under the Convention, and powers vouchsafed to the inspecting bodies. Finally, the Act establishes a system of offences and administrative sanctions applicable to any subjects so obligated by the Act.