

Spanish Municipal Legislation Concerning Matters of Private International Law, 1998

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I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

– Order issued on 22 September 1998, establishing the system applicable to individual licences for telecommunications services and networks and the conditions to be met by their holders (*BOE* 231, 26.9.98).

Note: With respect to the granting of individual licences for the provision of services to third parties or the establishment or operation of public networks, article 13, paragraph 6, requires applicants “to declare they will abide by the jurisdiction of the S305

panish courts and tribunals of any kind with respect to disputes which may arise directly or indirectly from actions performed under the licence granted, renouncing if necessary any foreign jurisdiction which may correspond to the applicant. Spanish undertakings shall not submit this declaration” Article 33, paragraph 4, establishes a similar requirement in relation to the granting of licences for the establishment or operation of private networks using the public radioelectric domain and for the provision of telecommunications services under the self-provision system. See also *infra* section XVIII.

– Law 34/1998, 7 October, on the hydrocarbons sector (*BOE* 241, 8.10.98).

Note: Article 30 establishes that: “The holders of exploration licences, research permits or operating concessions shall abide by Spanish laws and courts of law concerning any matters arising in relation thereto.” See also *infra* section XVI.

III. PROCEDURE AND JUDICIAL ASSISTANCE

– Law 18/1998, 15 June, partially amending Law 36/1994, 23 December, on the restitution of cultural assets which have been removed illegally from the territory of a Member State of the European Union (*BOE* 143, 16.6.98).

Note: Law 36/1994 can be found in the same section of the 1993–1994 volume of this Yearbook.

– Organic Law 4/1998, 1 July, for Cooperation with the International Criminal Tribunal for Rwanda (*BOE* 157, 2.7.98).

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

V. INTERNATIONAL COMMERCIAL ARBITRATION

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. NATIONALITY

– Royal Decree 2669/1998, 11 December, approving the procedure to be followed on the reinstatement of public employees within the civil service (*BOE* 307, 24.12.98).

Note: Articles 2-1, 4-2 and 6-1 regulate the reinstatement procedure for persons who have ceased to be public employees owing to change of nationality and subsequently revert to Spanish nationality or acquire any other nationality entitling them to access to the corps, school, post or job they previously held.

VIII. ALIENS, REFUGEES AND CITIZENS OF EUROPEAN COMMUNITY

– Royal Decree 3/1998, 9 January, on professional qualifications in civil aeronautics and air traffic controller's licences (*BOE* 17, 20.1.98).

Note: Article 8 regulates the validation of qualifications and licences pertaining to air traffic controllers issued by a contracting State of the Chicago Convention of 7 December, 1944.

– Resolution issued on 12 January 1998, by the Directorate-General for Migrations, approving a model application form for exemption from the obligation to procure a work permit and residence permit or verification of legal residence (*BOE* 33, 7.2.98).

- Resolution issued on 20 February 1998, by the Technical Secretariat General, ordering the publication of the joint Circular of the Directorates-General for Migrations and of the General Treasury of the Social Security on the insurance, registration, withdrawal, variation in data and contributions of foreign workers to the Social Security scheme (*BOE* 54, 4.3.98).
- Order issued on 25 February 1998, establishing the requirements and procedure for the granting of authorizations for employment, application of certain preferential circumstances, modification of work permits and compatibility of work permits (*BOE* 57, 7.3.98).
- Resolution issued on 13 March 1998, by the Under-Secretariat [Ministry of the Presidency], providing for the publication of the Agreement of the Council of Ministers of 13 March 1998 establishing the quota of authorizations for the employment of non-Community aliens for 1998 (*BOE* 63, 14.3.98).
- Resolution issued on 25 March 1998, by the Under-Secretariat [Ministry of the Presidency], providing for the publication of the Resolution of 16 March 1998 issuing general instructions on the establishment of a quota of authorizations for the employment of non-Community aliens in 1998 and the procedure for filling this quota (*BOE* 73, 26.3.98).
- Instruction issued on 20 April 1998, by the Central Electoral Board, on voting requirements of electors registered on the Special Register of Absent Residents (*BOE* 97, 23.4.98).
- Royal Decree 778/1998, 30 April, regulating third-cycle university studies, the acquisition and issuance of doctorates and other postgraduate studies (*BOE* 104, 1.5.98; correction of errors *BOE* 5.5.98).
Note: It is interesting to note the first and second additional provisions (regulation of access to doctorate studies with a degree awarded by a foreign university or establishment of higher education), and the first temporary provision (prior recognition of the foreign qualifications required for access to doctorate studies).
- Order issued on 12 June 1998, amending the Order of 22 June 1995 and providing for its application to the verification of the qualifications of Speech Therapist and Occupational Therapist (*BOE* 146, 19.6.98).
Note: Among other amendments, the scope of application of the Order of 22 June 1995 (see this same section in the 1995–1996 volume of this Yearbook) is extended to the States party to the Agreement on the European Economic Area.
- Resolution issued on 6 July 1998, by the Directorate General of the Institute for Migrations and Social Services (*IMSERSO*), approving the Basic Statute of

the *IMSERSO* Refugee Centres and developing the Order of 13 January 1989, on Refugee Centres (*BOE* 188, 7.8.98).

– Royal Decree 1754/1998, 31 July, incorporating Directives 95/43/EC and 97/38/EC into Spanish law and amending the appendices to Royal Decrees 1665/1991, 25 October, and 1396/1995, 4 August, on the general system of recognition of degrees and professional qualifications of the Member States of the European Union and other signatories of the Agreement on the European Economic Area (*BOE* 188, 7.8.98; correction of errors *BOE* 22.10.98).

– Resolution issued on 1 September 1998, by the Directorate-General for Relations with the Administration of Justice, announcing the holding of proficiency tests for citizens of the European Union and other States parties to the Agreement on the European Economic Area who wish to exercise the profession of lawyer in Spain (*BOE* 224, 18.9.98).

– Royal Decree 2170/1998, 9 October, extending to nationals of the signatory States of the Agreement on the European Economic Area the scope of application of the Royal Decrees regulating the recognition of diplomas, certificates and other qualifications for generalist Nurse, Dentist, Veterinary Surgeon, Nurse specializing in Obstetrics and Gynaecology (Midwife) and Pharmacist of the European Union States (*BOE* 255, 24.10.98).

– Royal Decree 2395/1998, 6 November, approving the Regulations of the Order of Isabella the Catholic (*BOE* 279, 21.11.98; correction of errors *BOE* 16.2.99).

Note: Article 7 establishes the regulations for the procedure for granting the Order to foreign citizens.

– Royal Decree 2396/1998, 6 November, approving the Regulations of the Civil Order of Merit (*BOE* 279, 21.11.98; correction of errors *BOE* 16.2.99).

Note: Article 8 establishes the procedure for the granting of this order to foreign citizens.

– Order issued on 23 December 1998, establishing rules and technical instructions for drawing up the electoral register of aliens residing in Spain, for the purpose of municipal elections (*BOE* 313, 31.12.98).

IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

– Instruction issued on 11 December 1998, by the Directorate-General of Registries and Notaries, on the procedure for changing Catalan surnames by correcting incorrect spellings in civil registries (*BOE* 313, 31.12.98).

X. FAMILY LAW

– Law 8/1997 of the Autonomous Community of the Balearic Islands, 18 December, on the Attribution of Powers to the *Consejos Insulares* in respect of the Guardianship, Fostering and Adoption of Minors (*BOE* 23, 27.1.98).

Note: Article 3 lists the powers transferred to the *Consejos Insulares*, which include different procedures relating to international adoption (see paragraphs 14, 16 and 18). Article 10, paragraph 2, establishes the Regional Adoptions Register, which shall be the sole register for the whole of the Autonomous Community and in which applications for international adoptions and the processing of international adoptions shall be entered. Finally, the fourth temporary provision contains the law in transition for international adoptions.

– Law 4/1998 of the Autonomous Community of La Rioja, 18 March, on Minors (*BOE* 79, 2.4.98).

Note: Article 67 lays down the regulations on international adoption.

– Law 1/1998 of the Autonomous Community of Andalusia, 20 April, on the Rights and Care of Minors (*BOE* 150, 24.6.98).

Note: The eighth additional Provision regulates the different aspects of the law with respect to foreign minors.

XI. SUCCESSIONS

XII. CONTRACTS

– Correction of errors in Law 65/1997, 30 December, on the General State Budget for 1998 (*BOE* 157, 2.7.98).

Note: Law 65/1997 can be found in section XII of the 1997 volume of this Yearbook.

– Order issued on 12 February 1998, on State cover of risks arising from foreign and international trade (*BOE* 45, 21.2.98).

Note: This Order regulates different aspects of the assumption by the State (through the “Compañía Española de Seguros de Crédito a la Exportación, Sociedad Anónima, Compañía de Seguros y Reaseguros”) of the risks arising from foreign and international trade.

– Law 7/1998, 13 April, on general conditions for trading (*BOE* 89, 14.4.98).

Note: Of particular interest to private international law is article 3, which establishes that “This law shall be applicable to the clauses on general terms and conditions contained in contracts subject to Spanish legislation. It shall also be applicable to contracts that are subject to foreign legislation where the subscriber

has issued a declaration of business in Spanish territory and resides habitually in Spain, without prejudice to the provisions of international treaties or conventions". Article 4 establishes that the Law shall not be applicable "to the general terms and conditions laid down in the provisions or principles of the international Agreements to which the Kingdom of Spain is party..."

– Order issued on 20 May 1998, enforcing the Decision of the Commission of the European Communities of 27 October 1997 (97/828/EC), on the application of Council Directive 72/166/EEC, on the harmonization of the legislation of the Member States on public liability insurance resulting from the circulation of automobiles and on control of the obligation to insure for the said liability, in relation to Slovenia's accession to the Multilateral Guarantee Agreement (*BOE* 129, 30.5.98).

– Law 28/1998, 13 July, on the Hire Purchase of Movable Property (*BOE* 167, 14.7.98).

Note: A salient feature of this law is the suppression of the exclusion of foreign trade operations from its scope of application (art. 4, paragraph 5, of the abrogated Law 50/1965 on the hire purchase of movable property).

– Law 49/1998, 30 December, on the General State Budget for 1999 (*BOE* 313, 31.12.98).

Note: Particularly noteworthy from the point of view of this review is the eighth additional provision on the upper limit on cover for new transactions involving export credit insurance.

XIII. TORTS

– Order issued on 31 July 1998, extending the list of countries guaranteeing the same protection of personal data as Spain for the purposes of international data transfer (*BOE* 200, 21.8.98).

XIV. PROPERTY

– Law 5/1998, 6 March, incorporating into Spanish law Directive 96/9/EC, of the European Parliament and Council, 11 March 1996, on the legal protection of databases (*BOE* 57, 7.3.98).

Note: Article 6, paragraph 5, incorporates into the Intellectual Property Law (passed by Legislative Royal Decree 1/1996, 12 April – see this same section in the 1995–1996 volume of this Yearbook) the new article 164 establishing the beneficiaries (scope of personal application) of the protection of the so-called "*sui generis* law on databases".

– Royal Decree-Law 8/1998, 31 July, on urgent measures in industrial property matters (*BOE* 194, 14.8.98).

Note: It is interesting for the purpose of Private International Law to note the amendment of the Law on Patents. Specifically, among other precepts, article 155, paragraph 2 (“Non-residents of a Member State of the European Community shall act, in all cases, through an Industrial Property Agent”) and article 157, paragraph 1 (all Industrial Property Agents are required to “be nationals of Spain or of a Member State of the European Community”). It likewise introduces a Title XI in the Law on Trademarks in order to regulate the transformation of community trademarks, granted under Regulation (EC) 40/1994, on the Community Trademark, into national trademarks.

– Law 42/1998, 15 December, on the timesharing of property for tourist use and tax regulations (*BOE* 300, 16.12.98).

Note: The second additional provision regulates the mandatory nature of the Law as follows: “All contracts referring to rights relating to the use of one or more properties located in Spain for a specified or specifiable period of the year are subject to the provisions of the Law, irrespective of where and when they are concluded.” On the tax regulations laid down in the Law, see *infra* section XXIII of this chapter.

– Law 50/1998, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 313, 31.12.98; correction of errors *BOE* 7.5.99).

Note: Article 84 amends Law 32/1988, 10 November, on Trademarks with respect to transformation of community trademarks and international registers.

XV. COMPETITION LAW

– Royal Decree 295/1998, 27 February, on the application in Spain of European competition rules (*BOE* 57, 7.3.98).

XVI. INVESTMENTS AND FOREIGN EXCHANGE

– Correction of errors in Law 66/1997, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 157, 2.7.98).

Note: Law 66/1997 can be found in sections XVI, XVII, XXI and XXIII of the 1997 volume of this Yearbook.

– Royal Decree 40/1998, 16 January, applying the system of prior administrative authorization to “Corporación Bancaria de España, Sociedad Anónima” and to certain group companies (*BOE* 15, 17.1.98; correction of errors *BOE* 22.1.98).

Note: The purpose of this legislation is to subject to administrative authorization the purchase of stakes in the companies, thereby controlling acquisitions by new shareholders.

– Royal Decree 929/1998, 14 May, applying the system of prior administrative authorization to “Endesa, Sociedad Anónima”, and to certain group companies (*BOE* 129, 30.5.98; correction of errors *BOE* 10.6.98).

Note: The purpose of this legislation is to control the acquisition of stakes by new shareholders by subjecting the purchase of stakes to prior administrative authorization.

– Royal Decree 2110/1998, 2 October, approving the Rules on Amusement and Gambling Machines (*BOE* 248, 16.10.98).

Note: Article 25, paragraph 4, establishes that “foreign ownership of stakes in the companies to which these regulations refer shall conform to current regulations on foreign investments”. See also *infra* section XVII of this chapter.

– Law 34/1998, 7 October, on the hydrocarbons sector (*BOE* 241, 8.10.98).

Note: Article 10 establishes that: “For the purposes of this Title [Exploration, investigation and exploitation of hydrocarbons], capital may be invested freely by legal persons domiciled overseas, and shall conform to the current regulations on foreign investments.” See also *supra* section II of this chronicle.

– Royal Decree 2660/1998, 14 December, on the exchange of foreign currency at establishments open to the public other than lending institutions (*BOE* 299, 15.12.98; correction of errors *BOE* 13.2.99).

– Law 50/1998, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 313, 31.12.98; correction of errors *BOE* 7.5.99).

Note: Article 96, paragraph 2, amends article 19 of Law 10/1988, 3 May, on Private Television with respect to the holding of stakes in licensee companies by individuals or legal persons who are residents or nationals of non-European Union Member States.

XVII. FOREIGN TRADE LAW

– Circular 8/1997, 19 December, of the Department of Customs and Excise of the National Tax Office, substituting the text of Circular 5/1996, establishing the instructions for the application of the provisions on statistics relating to exchanges of goods between the European Union Member States (*BOE* 1, 1.1.98; correction of errors *BOE* 17.2.98).

Note: Circular 5/1996 can be found in section XVII of the 1995–1996 volume of this Yearbook.

– Circular 9/1997, 29 December, of the Department of Customs and Excise of the National Tax Office, amending Circular 4/1996, on instructions on completing the formalities for the Single Administrative Document (SAD) (*BOE* 7, 8.1.98).

Note: Circular 4/1996 (see section XVII of the 1995–1996 volume of this Yearbook) was also subsequently amended by Circulars 2/1997 and 7/1997 (see section XVII of the 1997 volume), and by Circular 1/1998 (see *infra* this same section).

– Correction of errors in Law 66/1997, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 157, 2.7.98).

Note: Law 66/1997 can be found in sections XVI, XVII, XXI and XXIII of the 1997 volume of this Yearbook.

– Royal Decree 39/1998, 16 January, amending Royal Decree 401/1996, 1 March, establishing the conditions for entry into Spanish territory of certain harmful organisms, vegetables, vegetable products and other objects for the purpose of testing, scientific purposes and for the selection of varieties (*BOE* 15, 17.1.98).

– Royal Decree 230/1998, 16 February, approving the Regulations on explosives (*BOE* 61, 12.3.98).

Note: Title VII (articles 214–237) regulates the import, export, transit and transfer (physical movement within European Union territory) of the matter regulated in the Regulations.

– Royal Decree 297/1998, 27 February, regulating the security requirements of leisure craft, semi-finished leisure craft and their components, pursuant to Directive 94/25/EC (*BOE* 61, 12.3.98).

Note: Articles 3 and 4 contain, among other points, provisions on the sale and commissioning of vessels or components marked with “EC”.

– Circular 1/1998, 2 March, of the Department of Customs and Excise of the National Tax Office, amending Circular 4/1996, 9 December, on instructions on completing the formalities for the Single Administrative Document (SAD) (*BOE* 63, 14.3.98).

Note: Circular 4/1996 (see section XVII of the 1995–1996 volume of this Yearbook) was also subsequently amended by Circulars 2/1997 and 7/1997 (see section XVII of the 1997 volume), and by Circular 9/1997 (see *supra* this same section).

– Royal Decree 491/1998, 27 March, approving the regulations on the foreign trade in defence and dual use equipment (*BOE* 84, 8.4.98; correction of errors *BOE* 17.6.98).

Note: See *infra* the Order issued on 30 June 1998, regulating the procedure for foreign trade in defence and dual use material.

– Law 10/1998, 21 April, on waste (*BOE* 96, 22.4.98).

Note: It is interesting to note article 10 (rules on imports, intracommunity acquisitions, and intermediation and agency involving waste) and article 17 (waste entering and leaving Spanish territory).

– Order issued on 30 June 1998, regulating the procedure for foreign trade in defence and dual use material (*BOE* 163, 9.7.98).

Note: See *supra* in this section Royal Decree 491/1998 approving the Regulations on foreign trade in defence and dual use material.

– Law 27/1998, 13 July, on sanctions applicable to the norms established in Council Regulations (EC) 2271/96, 22 November, concerning protection from the extraterritorial application of the legislation of a third country (*BOE* 167, 14.7.98).

Note: Both the community regulations and this law constitute the European Union's response to the US Helms-Burton Act.

– Circular 3/98, 30 July, of the Department of Customs and Excises of the National Tax Office amending Circular 4/96, 9 December, concerning instructions for completing the formalities for the Single Administrative Document (SAD) (*BOE* 189, 8.8.98).

Note: Circular 4/96 can be found in this same section of the 1995–1996 volume of this Yearbook.

– Royal Decree 2110/1998, 2 October, approving the regulations on amusement and gambling machines (*BOE* 248, 16.10.98).

Note: Articles 31 and 32 regulate the system of imports and exports of amusement and gambling machines. See also *supra* section XVI of this chapter.

– Order issued on 24 November 1998, regulating the procedure for administrative authorizations for imports and prior notifications of imports (*BOE* 289, 3.12.98).

– Circular 2832/1998, 27 November, of the Secretary General for Foreign Trade, concerning the procedure for imports and the entry of goods and their trade regimes (*BOE* 290, 4.12.98).

– Royal Decree 2718/1998, 18 December, abrogating Royal Decrees 1192/1979, 4 April, 2736/1983, 29 September and 242/1984, 11 January, which regulate the customs clearance of goods at the premises of the interested party, and Royal Decree 3434/1981, 21 December, which regulates the system of companies under customs intervention in order to encourage exports (*BOE* 310, 31.12.98).

– Resolution issued on 18 December 1998, by the Department of Customs and Excise of the National Tax Office, updating the Integrated Community Tariff (TARIC) (*BOE* 310, 28.12.98).

– Order issued on 22 December 1998, establishing the statistical thresholds for assimilation defined in article 28 of Regulation (EEC) 3330/91 of the Council of the European Community (*BOE* 313, 31.12.98).

Note: The aforementioned statistical thresholds refer to declarations that must be made in intracommunity trade.

– Order issued on 22 December 1998, establishing the limits for abolishing the obligation to specify statistical value in the “Intrastat” declaration pursuant to Regulation (EC) 860/97 (*BOE* 313, 31.12.98).

– Resolution issued on 22 December 1998, by the Department of Customs and Excises of the National Tax Office, establishing the regulations applicable to statistics on the exchange of goods between the Member States of the European Union for 1999 (*BOE* 313, 31.12.98).

XVIII. BUSINESS ASSOCIATION/CORPORATIONS

– Order issued on 12 March 1998, establishing the regulations for the granting and maintenance of operating licences to airline companies (*BOE* 73 26.3.98).

Note: Article 4 establishes the requirements to be met by undertakings that are awarded operating licences. These include the requirements that their main centre of activity and registered office be in Spain, and that they be owned by Member States of the European Union or by nationals of those States.

– Law 11/1998, 24 April, on telecommunications (*BOE* 99, 25.4.98; correction of errors *BOE* 8.7.98).

Note: Particularly worthy of mention is Title II, which regulates the provision of services and the establishment or operation of telecommunications networks.

– Royal Decree 1351/1998, 26 June, establishing the conditions for contracting the administration and deposit of foreign financial assets of pension funds (*BOE* 161, 7.7.98).

Note: Article 2 establishes the requirements to be met by investment entities and by the depository entities with which the administration or the deposit and custody of foreign financial assets are contracted, respectively.

– Order issued on 22 September 1998, establishing the system applicable to general authorizations for telecommunications services and networks and the conditions to be met by their holders. (*BOE* 231, 26.9.98).

Note: Article 13 lays down the points to be included in applications for authorization for the provision of new telecommunications services. Paragraph 1 establishes that: applicants who are foreign individuals or legal persons must have a representative who is domiciled in Spain. In this case, the domicile of a representative shall be deemed to coincide with the domicile for the purpose of

notification of the person represented.” See *supra* in this same section on the general law on telecommunications.

– Order issued on 22 September 1998, establishing the system applicable to individual licences for telecommunications services and networks and the conditions to be met by their holders (*BOE* 231, 26.9.98).

Note: With respect to the granting of individual licences for the provision of services to third parties or the establishment or operation of public networks, article 13, paragraph 1, establishes the documents required from foreign and legal persons of the European Union Member States and signatory States to the agreement on the European Economic Area (points 1.2) and from other foreign legal persons (point 1.3) to prove their capacity. As regards the award of licences for the establishment or operation of private networks which use the public radioelectric domain and for the provision of telecommunications services under the self-provision system, the documents to be submitted in order to prove the capacity of foreign applicants are laid down in article 33, paragraphs 1 and 2. See also *supra* section II of this chapter.

– Royal Decree 2111/1998, 2 October, regulating access to railroad infrastructure (*BOE* 250, 19.10.98).

Note: The main purpose of this regulation is to regulate right of access to, and transit of, railroad infrastructure for the provision of international transport services, in addition to the licences which undertakings established in Spain must procure in order to render these services (see article 1). Article 2 establishes the right of access to, and transit of, railroad infrastructure by international groups of railroad undertakings established in the European Union countries and in which railroad undertakings established in Spain hold stakes, in addition to access to the railroad infrastructure of undertakings established in European Union Member States. Among other requirements, article 6 states that railroad undertakings wishing to obtain a licence to provide international transport services must have an operations centre or permanent establishment in Spain. Lastly, article 15 states that sections of railroad infrastructure may be allocated to undertakings with licences issued in a European Member State, as well as to international groups of railroad undertakings established in the European Union in which an undertaking established in Spain takes part.

– Royal Decree 2486/1998, 20 November, approving the regulations on the classification and supervision of private insurance (*BOE* 282, 25.11.98).

Note: Title III of the regulations concerns the activity of foreign insurance companies in Spain, distinguishing between those domiciled in countries which are members of the European Economic Area (arts. 128–135) and those domiciled in third countries (arts. 136–140).

– Royal Decree 2590/1998, 7 December, on amendments to the legal system governing the securities markets (*BOE* 302, 18.12.98).

Note: Article 1, point 2, amends article 3 of Royal Decree 291/1992 on issues and public offerings of securities (see this same section of the 1992 volume of this Yearbook), which specifies when the advertising activities relating to the issue or public offering of securities are deemed to be performed in Spain. Article 5 also rewords article 26 of Royal Decree 291/1992, which henceforth regulates special circumstances relating to international issues or offerings and those carried out by non-residents.

– Royal Decree 2662/1998, 11 December, on common rules and standards for vessel inspection and control organizations and for activities relating to shipping management (*BOE* 303, 19.12.98).

Note: Chapter II (arts. 3–6) regulates the recognition in Spain of these organizations (classification companies or private entities engaging in the inspection and control of the safety of vessels and their elements). Chapter III (arts. 7–13) is concerned with the organizations authorized in Spain to carry out inspections of vessels on behalf of the Directorate-General of the Merchant Marine.

– Law 50/1998, 30 December, on Fiscal, Administrative and Social measures (*BOE* 313, 31.12.98; correction of errors *BOE* 7.5.99).

Note: Article 96, paragraph 2, amends article 19 of Law 10/1988, 3 May, on Private Television, which refers to stakes held by individuals or legal persons who are residents or nationals of non-EU foreign countries in the licensee company.

XIX. BANKRUPTCY

XX. TRANSPORT LAW

– Royal Decree 1426/1998, 3 July, extending the validity of the system of compensation for the transport of freight to or from the Canary Islands established by Royal Decree 1054/1995, 23 June (*BOE* 164, 10.7.98).

Note: Royal Decree 1054/1995 (see this same section of the 1995–1996 volume of this Yearbook) laid down the system of compensation for air and maritime transport of goods established in 1994 between the Canary Islands and European Union Member States, and between the former and the Spanish mainland or between the different islands of the Canary archipelago. Royal Decree 1316/1997 (see the same section of the 1997 volume of this Yearbook) extended the validity of the transport system established in Royal Decree 1054/1995 throughout 1997.

XXI. LABOUR LAW AND SOCIAL SECURITY

– Correction of errors of Law 66/1997, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 157, 2.7.98).

Note: Law 66/1997 can be found in sections XVI, XVII, XXI and XXIII of the 1997 volume of this Yearbook.

– Resolution issued on 20 February 1998, by the Technical General Secretariat ordering the publication of the joint Circular of the Directorates-General for Migration and of the General Treasury of the Social Security Department on the insurance, registration, withdrawal, variations in data and Social Security contributions of foreign workers (*BOE* 54, 4.3.98).

– Royal Decree 1564/1998, 17 July, regulating the special convention on healthcare for self-employed Spanish workers abroad (*BOE* 176, 24.7.98).

– Royal Decree 1658/1998, 24 July, regulating the special convention on healthcare under the General Social Security scheme for Spanish nationals residing in Spain who are civil servants or employees of international governmental organizations (*BOE* 192, 12.8.98).

– Royal Decree 2221/1998, 16 October, authorizing the entry in the Special Register of Vessels and Shipping Companies of undertakings and vessels engaging in coastal shipping (*BOE* 260, 30.10.98).

Note: The single temporary provision established that until 1 January 1999 certain vessels used for coastal shipping which were entered in the Special Register should “meet the requirement of employing as crew members only Spanish nationals or nationals of any other European Union Member States, while the master and first officer must always be Spanish nationals”.

– Law 50/1998, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 313, 31.12.98; correction of errors *BOE* 7.5.99).

Note: Article 51 grants the power to take out accident and health insurance policies for civil servants, and employees of public organizations related or attached to the Spanish civil service, posted abroad.

XXII. CRIMINAL LAW

XXIII. TAX LAW

– Correction of errors of Law 66/1997, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 157, 2.7.98).

Note: Law 66/1997 can be found in sections XVI, XVII, XXI and XXIII of the 1997 volume of this Yearbook.

– Resolution issued on 20 April 1998, by the Department of Revenue of the National Tax Office, amending appendix I of the Resolution issued on 6 May 1993, establishing instructions relating to payments or applications for refunds of Personal Income Tax and payments of Wealth Tax in the case of persons residing abroad who are personally subject to taxation and income deriving from Personal Income Tax and Company Tax returns of non-residents with no permanent establishment through a collaborating establishment (*BOE* 103, 30.4.98).

– Law 9/1998, 21 April, amending Law 37/1992, 28 December, on Value Added Tax (*BOE* 96, 22.4.98).

Note: This law was drawn up to provide for different circumstances which had not arisen until then. It introduces new criteria on location of telecommunications services in order to avoid double taxation or non-taxation of consumption of the aforementioned services. It likewise establishes measures enabling customs agents to recover taxes paid by importers for which reimbursement was previously impossible. Finally, it excludes certain operations from the concept of operations considered as imports.

– Resolution issued on 14 May 1998, by the Directorate-General for Taxes, on the application of a tax rate of 4 percent for Value Added Tax in relation to certain food products (*BOE* 125, 26.5.98).

Note: Deliveries, intracommunity acquisitions and imports of the products listed in this resolution are taxed at this rate.

– Law 40/1998, 9 December, on Personal Income Tax and other Tax Regulations (*BOE* 295, 10.12.98).

Note: Special mention should be made of article 8 (establishing who contributors are), article 9 (defining principle residence on Spanish territory), article 75 (taxation of income under the international fiscal transparency system), the second temporary provision (taxable value of collective investment institutions incorporated in countries or territories deemed to be tax havens), and the second final provision (rewording article 3, on international treaties and conventions ratified by Spain, on the Law on Company Tax).

– Law 41/1998, 9 December, on the income of non-residents and tax regulations (*BOE* 295, 10.12.98; correction of errors *BOE* 17.12.98).

Note: Article 1 establishes that “tax on the income of non-residents is a direct tax that is levied on the income earned in Spanish territory by individuals and entities that do not reside therein”.

– Law 42/1998, 15 December, on the timesharing of real property for tourist and tax regulations (*BOE* 300, 16.12.98).

Note: Title II sets forth the tax regulations which shall be applied “without

prejudice to the provisions of the international treaties and conventions which have been incorporated into internal law” (art. 17). The second additional provision establishes the mandatory nature of this Law (see *supra* section XIV of this chapter).

– Royal Decree 2717/1998, 18 December, regulating the advance payment of Personal Income Tax and Non-resident Income Tax and amending the regulation of Company Tax with respect to withholding and advance payment (*BOE* 303, 19.12.98; correction of errors *BOE* 23.12.98).

Note: See *supra* in this section Law 40/1998 on Personal Income Tax and other Tax Regulations, and Law 41/1998 on Non-resident Income and Tax Regulations. With respect to Royal Decree 537/1997 approving the Regulations on Company Tax, see this same section of the 1997 volume of this Yearbook.

– Law 50/1998, 30 December, on Fiscal, Administrative and Social Measures (*BOE* 313, 31.12.98; correction of errors *BOE* 7.5.99).

Note: Article 5, paragraph 2, amends article 8 (exemptions in imports and similar operations) of Law 8/1991 on the Tax on Production, Services and Importation in the Cities of Ceuta and Melilla. Article 24 regulates certain aspects of the compulsory nature of certain advance payments, including Non-Resident Income Tax (see *supra* this same section).

XXIV. INTERLOCAL CONFLICT OF LAWS

– Organic Law 1/1998, 15 June, amending Organic Law 4/1982, 9 June, on the Statute of Autonomy for the region of Murcia (*BOE* 143, 16.6.98).

Note: The new article 8 of the Statute of Autonomy establishes that: “The Autonomous Community shall pay special attention to the customary law of the Region, with particular reference to the customary law courts in matters relating to water...”

– Organic Law 5/1998, 7 July, amending Organic Law 3/1983, 25 February, on the Statute of Autonomy of the Community of Madrid (*BOE* 162, 8.7.98).

Note: Article 1, point five, amends article 7 of the Statute of Autonomy, paragraph 2 of which is reworded as follows: “For the purposes of this Statute, Spaniards who hold *vecindad administrativa* [citizenship for administrative purposes] in any of its municipalities shall be deemed politically to be citizens of the Community [of Madrid].” Article 7.3 likewise states that: “As Madrilenians, Spanish citizens residing abroad whose last *vecindad administrativa* was in the Community of Madrid and prove this condition in the relevant Spanish Consulate enjoy the political rights set forth in this Statute. Descendants of theirs who are registered as Spanish nationals shall also enjoy these rights, if they so wish, as established by the law of the State.”