

SPANISH MUNICIPAL LEGISLATION CONCERNING MATTERS OF PUBLIC INTERNATIONAL LAW, 1995 AND 1996

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Different aspects of Spanish municipal legislation concerning matters of public international law are covered. Only relevant articles are quoted or mentioned and an unofficial translation or a reference to the *Boletín Oficial del Estado* (Official Journal of the State) is given.

I. INTERNATIONAL LAW IN GENERAL

II. SOURCES OF INTERNATIONAL LAW

– Resolution of 24 January 1995, passed by the Spanish Technical Secretariat-General for Foreign Affairs, on third states actions regarding multilateral treaties to which Spain is a party. (BOE 35, 10.2.95 and 128, 30.5.95).

Note: This Resolution provides for publication, in the public interest, of communications regarding international treaties received by the Spanish Ministry of Foreign Affairs from 31 August 1994 to 31 December 1994.

– Resolution of 24 May 1995, passed by the Spanish Technical Secretariat-General for Foreign Affairs, on third states actions regarding multilateral treaties to which Spain is a party. (BOE 142, 15.6.95).

Note: This resolution provides for publication, in the public interest, of communications received by the Spanish Ministry of Foreign Affairs regarding international treaties from 1 January to 30 April 1995.

– Resolution of 29 September 1995, passed by the Spanish Technical Secretariat-General for Foreign Affairs, on third states actions regarding multilateral treaties to which Spain is a party. (BOE 249, 18.10.95; 267, 8.11.95 and 280, 23.11.95).

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 May 1995 to 31 August 1995.

- Resolution of 25 January 1996, passed by the Spanish Technical Secretariat-General for Foreign Affairs, on third states actions regarding multilateral treaties to which Spain is a party. (*BOE* 45, 21.2.96)

Note: This resolution provides for publication, in the public interest, of communications regarding international treaties received by the Spanish Ministry of Foreign Affairs from 31 August 1995 to 31 December 1995.

- Resolution of 10 May 1996, passed by the Spanish Technical Secretariat-General for Foreign Affairs on third states actions regarding multilateral treaties to which Spain is a party. (*BOE* 133, 1.6.96).

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 1996 to 30 April 1996.

- Resolution of 9 October 1996, passed by the Spanish Technical Secretariat-General for Foreign Affairs, on third states actions regarding multilateral treaties to which Spain is a party. (*BOE* 257, 24.10.96 and 288, 29.11.96).

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 May 1996 to 30 August 1996.

III. THE RELATION BETWEEN INTERNATIONAL AND MUNICIPAL LAW

- Organic Law 4/1995 of 11 May amends the Spanish Penal Code and creates the crime of Defence of Genocide. (*BOE* 113, 12.5.95).

Note: Amended Articles are not listed here as the Spanish Penal Code was later wholly amended by Organic Law 10/1995 of 23 November.

- Organic Law 10/1995 of 23 November enacts the new Spanish Penal Code. (*BOE* 281, 24.11.95).

Note: This Code entered into force on 25 May 1996 pursuant to the Seventh Final Provision thereof. Entry into force of article 19 has been postponed until the enactment of a law providing for the criminal liability of minors.

The following provisions are deemed relevant to public international law:

Article 24.1: "For penal purposes, authority shall mean any individual who is in command or exercises jurisdiction either by himself or as a member of a corporation,

court of law or collective body. In any case, Members of Congress, of the Senate, of the Autonomous Communities' Legislative Assemblies and of the European Parliament shall be deemed to be authorities. The Public Prosecutor's officials shall also be considered authorities".

Article 89: "1. The courts may substitute for a sanction involving deprivation of liberty of a duration of less than six years imposed on a foreign national who is not lawfully a resident in Spain a decision ordering his expulsion from Spanish territory. Judges or tribunals may also substitute for terms equal to or exceeding six years" imprisonment imposed on a foreign national a decision ordering his expulsion from Spanish territory provided that the sentenced person has served at least three-quarters of such term. In both cases the sentenced person must be heard before the decision is taken.

2. A foreign national subject to an expulsion order shall not be allowed to re-enter Spain for a period of three to ten years from the date of his removal calculated on account of the sanction imposed. If the sentenced person re-enters Spain before the end of that period, he shall serve the term for which the expulsion order was substituted.

3. Notwithstanding the provisions of the preceding paragraph, a foreign national detained at the border attempting to violate an expulsion order containing an express ban on his re-entering Spanish territory shall be removed by the competent government authority.

Article 108: "1. If the subject of a sentence is a foreign national who is not a lawful resident in Spain, the judge or tribunal may, after hearing the subject, substitute for the applicable security measures involving deprivation of liberty a decision ordering expulsion from Spanish territory.

2. The sentenced person shall not be allowed to re-enter Spanish territory for the period of exclusion, which may not exceed ten years."

Article 121: "The State, autonomous communities, provinces, the isles, municipalities and all other public entities, as the case may be, shall be held vicariously liable for damages caused by an individual criminally responsible for offences committed with mens rea when such individual be an authority, an agent or employee of such authority or a civil servant in the exercise of his powers or the performance of his duties, provided that the loss or damage results directly from the operation of public services entrusted to the offender, without prejudice to state corporate liability arising from the normal or abnormal operation of such services, which may be claimed under administrative procedural rules but always precluding entitlement to double indemnity.

Where civil liability in respect of an authority, its agents or employees, or a civil servant is sought in criminal proceedings, a claim must be filed simultaneously against the Public Administration or public body allegedly held vicariously liable thereof."

Article 131: "4. The crime of genocide shall not be subject in any way to statutes

of limitations.”

Article 133: “2. Sentences imposed on account of genocide shall not be subject in any way to statutes of limitations.”

Article 170: “If threats of committing a wrongful act which constitutes a crime are primarily intended to intimidate the civilian population of a city, town or village, an ethnic group or a large group of persons, and are coupled with present ability to give effect to the threat, the sanctions to be imposed on account of it shall be, respectively, one degree more severe than those set out in the preceding article.”

Article 305: “The same sanctions shall be imposed where the acts described in the first paragraph of this article (‘An individual who acts or fails to act intending to commit fraud in respect of the State Treasury, the Autonomous Community Treasury or the Local Treasury by evading payment of taxes, of monies which have been or should have been deducted at source or of deposits on payments in kind, or by unlawfully obtaining refunds or enjoying tax allowances...’) are committed against the Communities Treasury, provided that the amount involved exceeds the sum of fifty thousand ECU.”

Article 306: “An individual who acts or fails to act intending to commit fraud in respect of the Communities’ general budget or any other budget administered by the Communities, by evading payment of monies destined to be deposited or by using funds obtained for purposes other than those originally prescribed, involving an amount in excess of fifty thousand ECU, shall be liable to imprisonment for one to four years and to a minimum fine equal to the sum involved up to sixfold that sum.”

Article 309: “An individual who unlawfully obtains funds from the Communities’ general budget, or from any other budget administered by the Communities, by falsifying the terms and conditions required for the grant of such funds or by concealing those which would preclude such grant, involving an amount in excess of fifty thousand ECU, shall be liable to imprisonment for one to four years and to a minimum fine equal to the sum involved up to sixfold that amount.”

Article 312: “1. An individual who trafficks illicitly in labour shall be liable to imprisonment for six months to three years and to a fine of six to twelve months.

2. The same sentence shall be imposed on individuals responsible for recruiting others or arranging their leaving their employment by offering them misleading or false employment or work conditions, and on individuals responsible for employing aliens without work permits under conditions which violate, suppress or restrict employees’ rights as set out in legal provisions, collective agreements or specific contracts.”

Article 313: “1. An individual who aids, abets or otherwise assists clandestine immigration of workers into Spain shall be liable to the penalty prescribed in the preceding article.

2. The same punishment shall be imposed on individuals responsible for arranging or otherwise assisting the emigration of others by simulating contracts or employment or by using similar misrepresentations.”

Article 325: "An individual who directly or indirectly produces or causes the production or release of emissions, dumping, radiation, extractions or excavations, demolitions, noise, vibrations, injections or deposits in the atmosphere, soil, subsoil, in internal, sea or underground waters, *even having transboundary impact* (emphasis added), or who undertakes the collection of water in ways which may cause serious damage to the balance of ecosystems, *thereby breaching general environmental laws* or other legal provisions for the protection of the environment, shall be liable to imprisonment for six months to four years, to a fine of eight to twenty-four months and to specific disqualification from professional or trade practice for one to three years. If the health of persons is put at serious risk, the offender shall be liable to imprisonment for the higher half of the terms prescribed hereinafter" (emphasis added).

Article 387: "For the purposes set out in the preceding article (on currency and stamped paper counterfeiting) currency shall mean legal tender coins and bank notes. For the same purposes, credit cards, debit cards and traveller's cheques shall be considered currency. Likewise, *the European Union currency* and foreign currencies shall be considered equal to Spanish currency" (emphasis added).

Article 458: "An individual who commits perjury in a judicial case shall be liable to imprisonment for six months to two years and to a fine of three to six months.

3. The same punishment shall be imposed if perjury is committed before international courts exercising jurisdiction under Spanish constitutional provisions by virtue of duly ratified treaties pursuant to the Spanish Constitution, or when deposing before Spanish courts in pursuance of letters rogatory transmitted by foreign courts" (newly added paragraph).

Article 472: "Individuals who publicly and violently rebel shall be accused of the crime of rebellion if the purpose of the uprising is any of the following:

(...) 5th. Declare the independence of any part of the Spanish national territory."

Note: Crimes against the Crown are defined in Chapter II, Title XXI, being particularly worth noting together with the inclusion of the King, that of his ancestors or descendants, the Queen Consort or the Consort of the Queen, the Regent or a Member of the Regency, and the Heir to the Throne (articles 485–491). Sanctions on account of these crimes are more clearly specified here than in the former Spanish Penal Code.

Article 543: "Acts involving verbal, written or factual abuse or outrage in respect of Spain, its Autonomous Communities, its symbols or emblems, perpetrated with publicity, shall be punishable by a fine of seven to twelve months."

Article 580: "A criminal judgment delivered by a foreign judge or tribunal on account of any criminal offence related to the activities of armed gangs or terrorist groups or organisations shall be considered as having the same effect, for the purpose of applying the aggravating circumstance of recidivism, as that imposed by a Spanish judge or tribunal."

Note: Title XXIII, where the crime of treason and those against the peace and

independence of the State and against national security are defined, is specially important. Chapter I thereof characterizes treason as follows:

Article 581: "A Spanish national who abets a foreign power to declare war on Spain or plots with it to that end shall be liable to imprisonment for fifteen to twenty years."

Article 582: "A Spanish national who:

(1st) aids, abets or otherwise assists in the entrance of a hostile Power into Spain or in the seizure of a Spanish town, military post, vessel or aircraft, service corps or arms magazine by such a Power; or

(2nd) incites or approaches Spanish troops or other forces at the service of Spain to serve in the forces of a hostile Power or to desert the flag while in the field of battle; or

(3rd) recruits people or supplies arms or other useful means to wage war against Spain, under the flag of a hostile Power; shall be liable to imprisonment for twelve to twenty years" (emphasis added).

Article 586: "A foreign resident who is responsible for any of the criminal offences set out in this Chapter shall be liable to punishment one degree less severe than that prescribed therein for the crime except as otherwise provided by treaties or *jus gentium* in respect of diplomatic, consular, and international organisation officials" (emphasis added).

Note: The following crimes against the peace and independence of the State set out in Chapter II are new to the Spanish Penal Code:

Article 588: "A member of the Spanish Government who declares war or signs a peace treaty in breach of the Spanish Constitution shall be liable to imprisonment for fifteen to twenty years".

Article 593. "An individual who violates a cease-fire or an armistice concluded between Spain and its adversary, or between the belligerent armed forces of both parties, shall be liable to imprisonment for eight to fifteen years."

Article 597: "A Spanish subject or a foreign national who crosses over or attempts to cross over to an enemy country in breach of a government ban shall be liable to a fine of six to twelve months."

Note: The following crimes against national security set out in Chapter III are new to the Spanish Penal Code:

Article 602: "An individual who uncovers, breaches, reveals, steals or makes use of legally classified or secret information concerning nuclear energy shall be liable to imprisonment for six months to three years, unless a more severe punishment be established for the same offence elsewhere."

Note: Title XXIV, where crimes against the international community are established, is of vital importance. Chapter I thereof includes articles 605 and 606, whose content on crimes against *jus gentium* are very similar to articles 136 and 137 of the former Spanish Penal Code.

Article 605: "An individual who kills in Spain a foreign head of State or any

other person regarded as internationally protected under a treaty shall be liable to imprisonment for twenty to twenty-five years. Where two or more aggravating circumstances concur imprisonment shall be for a term of twenty-five to thirty years."

2. An individual who inflicts on the persons included in the preceding paragraph the injuries set out in article 149 shall be liable to imprisonment for fifteen to twenty years.

Imprisonment on account of injuries such as those set out in article 150 shall be for a term of eight to fifteen years, and for a term of four to eight years in respect of any other injury.

3. Any other offence committed against the persons included in the preceding paragraphs or against their official premises, private accommodation or means of transportation shall be punishable by the more severe half of the sanctions laid down in this Code in respect of that offence."

Article 606: "An individual who violates the personal immunity of a head of state or any other person regarded as internationally protected under a treaty shall be liable to imprisonment for six months to three years.

2. Where the national laws of the state on behalf of which the victim performs his functions do not allow for reciprocal punishment in respect of the criminal offences set out in this and the preceding article, the punishment to be imposed on the offender shall be that which is laid down in this Code for those offences where the victim is not an internationally protected person."

Note: In Chapter II the crime of genocide is defined in greater detail than in article 137 (bis) of the former Spanish Penal Code.

Article 607: "1. An individual who commits any of the acts set out in this article with intent to destroy, in whole or in part, a national, ethnic, racial or religious group shall be liable to:

(1st) imprisonment for fifteen to twenty years if he kills any of the members of the group; where two or more aggravating circumstances concur, the more severe degree of punishment may be imposed;

(2nd) imprisonment for fifteen to twenty years if he commits any form of sexual assault against any of the members of the group or inflicts on them any of the injuries set out in article 149;

(3rd) imprisonment for eight to fifteen years if he deliberately inflicts on the group or on any of its members living conditions calculated to bring about their physical destruction or to seriously harm their health, or any of the injuries set out in article 150;

(4th) imprisonment as above if he forcibly transfers the group or members of the group, or imposes on them measures intended to prevent their way of life or birth within the group, or forcibly transfers members of the group to another;

(5th) imprisonment for four to eight years if he inflicts any injury other than those referred to in paragraphs (2nd) and (3rd) above.

2. Dissemination, by any means, of ideas or doctrine which deny or justify

genocidal activity as defined in the preceding section of this article, or which attempt to rehabilitate regimes or institutions which support practices that generate such activity, shall be punishable by imprisonment for one to two years."

Note: The crimes against protected persons and property in case of armed conflict included in Chapter III, articles 608 to 614, are new to the Spanish Penal Code.

Article 608: "For the purposes of this Chapter, a protected person means:

(1st) the wounded, sick and ship-wrecked, and religious and medical personnel protected under the Geneva Conventions I and II of 12 August 1949 or Additional Protocol I of 8 June 1977;

(2nd) prisoners of war protected under the Geneva Convention III of 12 August 1949 or Additional Protocol I of 8 June 1977;

(3rd) civilian population and civilians protected under the Geneva Convention IV of 12 August 1949 or Additional Protocol I of 8 June 1977;

(4th) non-combatants and personnel engaged by the Protecting Power or substitute thereof protected under the Geneva Conventions of 12 August 1949 or Additional Protocol I of 8 June 1977;

(5th) parliamentarians and the persons accompanying them protected under The Hague II Convention of 29 July 1899;

(6th) any other person granted such status under Additional Protocol II of 8 June 1977 or under any other international Treaty to which Spain be a party."

Article 609: "In case of armed conflict, an individual who subjects any protected person to physical violence or seriously endangers their life, health or integrity, or makes them the object of torture or inhuman treatment including biological experiments, causes great suffering, or subjects them to any medical procedure or operation not prescribed for their condition nor consistent with generally accepted medical standards which the offending Party would apply under analogous medical circumstances to its own nationals not deprived of their freedom, shall be liable to imprisonment for four to eight years, without prejudice to the punishment which may be imposed on account of the resulting injury."

Article 610: "In case of armed conflict, an individual who employs or orders the employment of means or methods of combat which are prohibited or intended to cause superfluous injury or unnecessary suffering, or calculated or reasonably expected to cause widespread, long-term and severe damage to the natural environment thereby jeopardizing the health or survival of the population, shall be liable to imprisonment for ten to fifteen years, without prejudice to the punishment which may be imposed on account of the resulting injury."

Article 611: "In case of armed conflict, an individual shall be liable to imprisonment for ten to fifteen years without prejudice to the punishment which may be imposed on account of the resulting injury if he:

(1st) launches or orders excessive or indiscriminate attacks, or makes civilian populations the object of attacks, reprisals, acts or threats of violence primarily intended to spread terror among such population;

(2nd) causes, in violation of international law applicable in armed conflicts, the destruction or damage of non-military vessels or aircraft belonging to an adversary or to a neutral state not justified by military necessity without allowing any time or adopting any measures for the crews and ships' papers to be brought to a safe place;

(3rd) compels prisoners of war or civilians to serve in any way whatsoever in the forces of the adversary, or deprives them of the rights of fair and regular trial;

(4th) deports, forcibly transfers, takes protected persons hostage or unlawfully confines them;

(5th) transfers and settles parts of the civilian population of the Occupying Power into occupied territory intending that this population settles there permanently;

(6th) engages in, orders or supports the practice of racial discrimination or other inhumane or degrading practices based on any adverse distinction in respect of protected persons which involves outrages upon their personal dignity;

(7th) unjustifiably prevents or delays the release or repatriation of prisoners of war or civilians."

Article 612: "In case of armed conflict, an individual shall be liable to imprisonment for three to seven years without prejudice to the punishment which may be imposed on account of the resulting injury if he:

(1st) knowingly breaches his duty to protect medical units and means of transportation of the medical service, prisoner of war camps, hospital and security zones and localities, neutralized zones and civilian internment camps, undefended localities and demilitarized zones, which are marked with the appropriate distinctive protective signs or emblems;

(2nd) commits acts of violence against medical personnel, religious personnel, personnel engaged in medical missions, or personnel of aid societies;

(3rd) commits serious outrages upon the dignity of any protected person, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of sexual assault, or deprives them of or does not provide them with food or medical care indispensable to their survival, or unjustifiably fails to inform them promptly of their situation in a language which they can understand, or imposes collective punishments for individual acts, or breaches the provisions on accommodation for women and families or on special protection for women and children set out in International Treaties to which Spain is a party;

(4th) unlawfully or perfidiously uses protective or distinctive signs or emblems established and acknowledged under International Treaties to which Spain is a party, specially the protective emblem of the red cross or the red crescent;

(5th) unlawfully or perfidiously uses, in the course of an attack, distinctive flags, uniforms, insignia of neutral States, the United Nations, or other States not parties to the conflict or to the adversary intending to cover, aid, protect or hinder military operations except where otherwise expressly provided for in International Treaties to which Spain is a party;

(6th) unlawfully or perfidiously uses flags of truce or white flags, or breaches the

inviolability accorded to parliamentarians, to the persons accompanying them, to the personnel of a Protecting Power or substitute thereof or to members of an International Enquiry Committee, or unlawfully confines any of these persons; or

(7th) despoils the dead, the wounded, the sick, the shipwrecked, prisoners of war, or interned civilians”.

Article 613: “1. In case of armed conflict, an individual who commits any of the following acts shall be liable to imprisonment for four to six years if he:

(a) makes clearly recognised cultural property and places of worship that constitute the cultural or spiritual heritage of peoples and that are accorded protection under special agreements the object of attack, reprisal or other acts of hostility thereby causing their extensive destruction or damage, always provided that such property and places are not situated in the immediate proximity of military objectives and are not used in support of the adversary's military efforts.

(b) makes the adversary's civilian property the object of attack, reprisal or other acts of hostility thereby causing its destruction where such destruction offers no definite military advantage under the circumstances, nor does the property make an effective contribution to the adversary's military action;

(c) attacks, destroys, removes or renders useless such objects as are indispensable for the survival of the civilian population unless they are being used by the adversary in direct support of military actions or exclusively as means of subsistence for members of its armed forces;

(d) makes works or installations containing dangerous materials the object of attack or reprisal, if such attack can cause the release of those materials and consequent severe losses among the civilian population, unless such works or installations are used in regular, significant and direct support of military operations and such attack is the only feasible way to terminate such use;

(e) destroys, damages or unlawfully appropriates goods without any military necessity, or compels others to hand over such goods, or commits any other act of pillage.

2. When such acts involve especially protected cultural property, or constitute a grave breach of international humanitarian law, the higher degree of punishment may be imposed.”

Article 614: “In case of armed conflict, an individual who violates or orders the violation of the provisions set out in International Treaties to which Spain be a party, concerning the conduct of hostilities, protection of the wounded, sick and shipwrecked, of prisoners of war, of civilian populations and of cultural property in case of armed conflict shall be liable to imprisonment for six months to two years.”

Note: Book III of the new Penal Code includes the following criminal offences and penalties:

Article 627: “An individual who commits fraud in respect of the Communities' Treasury involving an amount in excess of four thousand ECU by any of the methods set out in article 305 shall be liable to a fine of five days to two months”.

Article 628: "An individual who commits fraud in respect of the Communities' general budget or any other budget administered by the Communities, or unlawfully obtains funds from the Communities by any of the methods set out in articles 306 and 309, involving an amount in excess of four thousand ECU, shall be liable to a fine of five days to two months."

– Organic Law 11/1995, of 27 November, abolishes the death penalty in time of war. (*BOE* 284, 28.11.95).

Note: Pursuant to the Second Optional Protocol to the International Covenant on Civil and Political Rights, to Resolution 1044 and to Recommendation 1246, adopted by the Parliamentary Assembly of the Council of Europe on 4 October 1994, this Organic Law abolishes the death penalty in the Spanish Military Criminal Code, thus removing the last legal reference to capital punishment in Spanish legislation.

IV. SUBJECTS OF INTERNATIONAL LAW

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. European Citizenship

– Royal Decree 735/1995 of 5 May regulates entry and stay in Spain of European Union member state nationals. (*BOE* 133, 5.6.95)

Note: This Decree modifies Royal Decree 766/1992 of 26 June following entry into force of the Oporto Agreement on the European Economic Area of 2 May 1992, ratified by Spain on 26 November 1993.

– Royal Decree 800/1995 of 19 May regulates access of European Union member state nationals to specific sectors of the Spanish civil service. (*BOE* 135, 7.6.95 and 168, 15.7.95).

2. Aliens

– Royal Decree 2489/1994 of 23 December modifies the Spanish Interministerial Commission on Aliens. (*BOE* 23, 27.1.95).

Note: This Decree modifies Royal Decree 511/1992 of 14 May.

– Royal Decree 202/1995 of 10 February in relation to an electoral census of foreign residents for Spanish municipal elections. (*BOE* 38, 14.2.95 and 42, 18.2.95).

– Order of 17 February 1995, made by the Spanish Ministry of Economy and the Treasury, provides rules and technical instructions to create an electoral census of foreign residents for Spanish municipal elections. (*BOE* 42, 18.2.95).

– Royal Decree 203/1995 of 10 February contains the Rules for Application of Act 5/1984 amended by Act 9/1994, on the right of asylum and refugee status. (*BOE* 52, 2.3.95).

Note: This Decree abrogates Royal Decree 511/1985 of 20 February.

– Order of 3 April 1995, made by the Spanish Ministry of Justice and Home Affairs, modifies the “Asylum” automated data file controlled by the Spanish Directorate-General for Electoral Procedure, Aliens and Asylum. (*BOE* 87, 12.4.95).

Note: The Order includes the Spanish office of UNHCR in the “data transfer” section, pursuant to article 18 of Organic Law 5/1992 on Regulation of Automatic Processing of Personal Data, which modifies automated data files containing personal data in the “asylum” file.

– Order of 11 April 1996, made by the Spanish Ministry of Justice and Home Affairs, exempts aliens from the need of visas to enter Spain. (*BOE* 93, 17.4.96).

Note: This Order annuls Circular 7/1994, of 28 July 1994.

– Resolution of 15 April 1996, passed by the Undersecretariat for the Spanish Ministry of the Presidency, publishes the Agreement developing documentation procedure in respect of illegal aliens contained in Royal Decree 155/1996 of 2 February, which enacts the Rules for Application of Organic Law 7/1985 of 1 July on Rights and Freedoms of Aliens in Spain. (*BOE* 93, 17.4.96).

– Royal Decree 155/1996 of 2 February enacts the Rules for Application of Organic Law 7/1985 of 1 July on Rights and Freedoms of Aliens in Spain. (*BOE* 47, 23.2.96 and 80, 2.4.96).

Note: Two of the reasons for amending the Rules for Application of Organic Law 7/1985 deserve special attention: the changes which migration trends have undergone in Spain since 1986, – particularly the increase in resident aliens –, and the international commitments undertaken by Spain which require adapting Spanish legislation to international law provisions on the matter, – particularly to the European Union Treaty, to the rules and guidelines which develop the Treaty (on the admission of migrant workers, family reunion, etc.), and to the Convention enforcing the Schengen Agreement.

The new Rules introduce significant changes regarding the rights and freedoms of aliens in Spain by establishing a new visa system and new immigration control and residence permit procedures, creating permanent residents' by-laws and new work permit regulations, establishing labour quotas, and creating a unified document for all

resident aliens, as well as new procedural rules for sanctions, including specific reasons for expulsion under article 26.1 of Organic Law 7/1985.

- Royal Decree 2490/1996 of 5 December 1996 modifies the Spanish Interministerial Commission on Aliens. (*BOE* 311, 26.12.96).

Note: This Decree modifies Royal Decrees 511/1992 of 14 May and 2489/1994 of 23 December.

VI. ORGANS OF THE STATE

1. Central Organs of the State

- Royal Decree 205/1995 of 10 February modifies the basic organic structure of the Spanish Ministry of Foreign Affairs. (*BOE* 51, 1.3.95).

Note: This Decree partially modifies Royal Decree 1485/1985 of 28 August.

- Royal Decree 839/1996 of 10 May sets out the basic organic structure of the following Spanish Ministries: Foreign Affairs; Justice; Defence; Public Works Development; Education and Culture; Labour and Social Affairs; Industry and Energy; Food, Agriculture and Fishing; the Civil Service; Health and Consumer Affairs; and the Environment. (*BOE* 115, 11.5.96).

- Royal Decree 1881/1996 of 2 August sets out the basic organic structure of the Spanish Ministry of Foreign Affairs. (*BOE* 189, 2.8.96).

2. Diplomatic Relations

- Resolution of 22 March 1995, passed by the Undersecretariat for the Spanish Ministry of Justice, on the Agreement between the Spanish Ministry of Foreign Affairs and the Spanish Ministry of Justice and Home Affairs commending certain activities to the charge of the *Guardia Civil* (Civil Guard) corps posted at the Spanish Permanent Diplomatic Mission in the Principality of Andorra and at the General Consulate in Andorra La Vella. (*BOE* 74, 28.3.95).

- Royal Decree 7/1996 of 15 January creates the Councils for Food, Agriculture and Fishing at the Permanent Spanish Diplomatic Missions in Sweden, Mexico and Hungary, and suppresses the Councils in the Netherlands and Costa Rica. (*BOE* 21, 24.1.96).

3. Consular Relations

– Order of 13 January 1995, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in Split (Croatia). (*BOE* 16, 19.1.95).

Note: The Office shall rank as Honorary Consular Office and shall report to the Spanish Embassy at Zagreb (Croatia).

– Order of 1 March 1995, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in Varna (Bulgaria). (*BOE* 58, 9.3.95).

– Order of 9 March 1995, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in Puerto Ignazú (Argentina). (*BOE* 69, 22.3.95).

– Order of 11 May 1995, made by the Ministry of Foreign Affairs, creates Honorary Consular Offices in Durban and Johannesburg ancillary to the Spanish General Consulate in Capetown (South Africa). (*BOE* 119, 19.5.95).

– Order of 28 July 1995, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in N'Djamena (Chad). (*BOE* 190, 10.8.95).

– Order of 28 July 1995, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in Bali (Indonesia). (*BOE* 190, 10.8.95).

– Order of 26 June 1996, made by the Ministry of Foreign Affairs, creates an Honorary Consular Office in Nottingham (United Kingdom). (*BOE* 162, 5.7.96).

4. Relations with International Organisations

– Royal Decree 1526/1995 of 15 September creates the Permanent Representation of Spain at the Organisation for Security and Cooperation in Europe. (*BOE* 231, 27.9.95).

Note: This Decree abrogates Royal Decree 115/1989 of 3 February. Upon the Conference on Security and Cooperation in Europe becoming an international organisation whose seat is in Vienna, the Spanish delegation has been replaced by a permanent Spanish representation at the Organisation. The Decree is enacted at the motion of the Spanish Minister for Foreign Affairs, on a proposal from the Spanish Minister for the Civil Service, and upon the Spanish Council of Ministers' advice, in order to create the permanent representation, establish its functions, and appoint its chief of staff and its counsellor delegates.

– Royal Decree 1953/1995 of 1 December establishes the functions of the National

Committee for Relations between the Spanish Government and the Food and Agriculture Organisation of the United Nations, and updates the Committee membership. (*BOE* 302, 19.12.95).

– Royal Decree 2105/1996 of 20 September creates the Council for Economic Affairs at the Spanish Permanent Representation at the European Union. (*BOE* 229, 21.9.96).

Note: The purpose of the Council is to establish relations with the Spanish Autonomous Communities Offices in Brussels and channel information to these Communities.

– Resolution of 5 December 1996, passed by the Undersecretariat for the Spanish Ministry of the Presidency, creates the office of Counsellor for the Spanish Autonomous Communities Affairs at the Spanish Permanent Representation at the European Communities. (*BOE* 302, 16.12.96).

VII. TERRITORY

VIII. SEAS, WATERWAYS, SHIPS

1. Fisheries

– Order of 6 November 1995, made by the Spanish Ministry of Food, Agriculture and Fishing, regulates the Spanish Fleet's fishing practice regarding swordfish. (*BOE* 272, 14.11.95).

Note: These regulations apply to fishing in the Atlantic Ocean and adjacent seas within the jurisdiction of the International Commission for Conservation of Atlantic Tuna (ICCAT). Spain has been a member of the Organisation since 21 March 1969. The Order provides for measures whereby Spain discharges its obligations thereto.

– Resolution of 26 April 1996, passed by the Spanish Secretariat-General for Sea Fishing, publishes the Special Register for trawl line fishing vessels engaged in fishing in international fishing grounds (*BOE* 122, 20.5.96).

– Resolution of 17 September 1996, passed by the Spanish Secretariat-General for Sea Fishing, revises and updates to 1 January 1996 the Register for high-seas fishing fleets and trawl line fishing vessels over 100 gross register tonnage (GRT) engaged in fishing within the geographical boundaries of the North-East Atlantic Fishing Commission (NEAFC). (*BOE* 252, 18.10.96).

IX. INTERNATIONAL SPACES

1. Outer Space

- Royal Decree 278/1995 of 24 February creates a Spanish Register for Objects Launched into Outer Space pursuant to the United Nations General Assembly Convention of 12 November 1974. (*BOE* 58, 9.3.95 and 86, 11.4.95).

X. ENVIRONMENT

1. Fauna and Flora

- Order of 23 November 1995, made by the Spanish Ministry of Food, Agriculture and Fishing, modifies some of the Annexes to Royal Decree 2071/1993 of 26 November concerning protective measures to prevent the introduction and spread of harmful organisms for plants and vegetable products in Spain and the European Community, and regarding export and transit of such organisms to third countries. (*BOE* 285, 29.11.95).

Note: This Order abrogates the Orders of 15 February 1994, 8 May 1995 and 25 May 1995.

- Royal Decree 1997/1995 of 7 December establishes measures to protect biodiversity through conservation of natural habitats and wild flora and fauna. (*BOE* 310, 28.12.95).

2. Nuclear Energy

- Royal Decree 158/1995 of 3 February concerning the physical protection of nuclear materials. (*BOE* 54, 4.3.95).

Note: Legislative development resulting from Spain's ratification in 1991 of the Vienna and New York Convention on Physical Protection of Nuclear Materials of 3 March 1980.

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. General Provisions

– Royal Decree 2492/1994 of 23 December, partially modifies Royal Decree 1527/1988 of 11 November, on organisation of the Spanish Secretariat for International Cooperation and Iberoamerica, and reorganizes the Spanish Agency for International Cooperation. (*BOE* 9, 11.1.95).

– Royal Decree 795/1995 of 19 May 1995 creates and regulates the Council for Development Cooperation. (*BOE* 120, 20.5.95).

– Resolution of 12 June 1995, passed by the Spanish Agency for International Cooperation, publishes an Agreement with the Spanish Ministry of Foreign Affairs commending charge to Spain's plenipotentiary Ambassador-at-large to the Republic of Equatorial Guinea. (*BOE* 153, 28.6.95).

– Order of 26 July 1995, made by the Ministry of Foreign Affairs, regulates the grant of subsidies for promoting activities in Iberoamerica to foundations and associations dependent on nationwide political parties with parliamentary representation. (*BOE* 191, 11.8.95).

Note: The Order establishes terms and conditions to grant subsidies to carry out activities in Iberoamerica to spread the knowledge of democracy through research into and development of political, social and cultural thinking, by means of agreements with foundations and associations which depend on nationwide political parties with parliamentary representation.

– Resolution of 21 November 1995, passed by the Undersecretariat for the Ministry of Foreign Affairs, incorporates the Agreement between the Spanish Agency for International Cooperation and the Ministry of Foreign Affairs commending certain activities to the charge of the Spanish Ambassadors to Egypt, Jordania, Syria, Algeria, South Africa, Tanzania, Zimbabwe, China, India, Indonesia, Iran, Malaysia, Pakistan, Thailand, Abidjan, Addis Abeba, Accra, Dakar, Kinshasa, Lagos, Libreville, Nairobi and Yaunde. (*BOE* 286, 30.11.95).

Note: This agreement provides the necessary mechanism to carry on with certain cooperation activities and to carry out successfully cooperation projects entrusted to the Spanish Agency for Cooperation in the aforementioned countries where Spain has no Technical Office for Cooperation.

– Act 6/1996 of 15 January regulates Voluntary Social Work, (*BOE* 15, 17.1.96).

Note: According to the stated purpose of this Act, the rights and obligations set out therein are a "faithful reflection of the general rights and obligations contained in international recommendations on this matter, and in the 'European Charter for Voluntary Workers' put forward by Volonteuropa and the Universal Declaration on

Voluntary Work drafted by the volunteers themselves at the motion of the International Association of Voluntary Efforts put forward in the World Congress held in Paris in 1990". These rights and obligations are also in compliance with the voluntary workers charters of the most experienced Spanish NGOs in this field.

– Resolution of 18 January 1996, passed by the Undersecretariat for the Ministry of Foreign Affairs, on the Agreement between the Spanish Agency for International Cooperation and the Ministry of Foreign Affairs of 4 January 1996, annuls commendation of certain activities to the charge of the Spanish Ambassadors to Egypt, Jordania, Syria, Algeria, South Africa, Tanzania, Zimbabwe, China, India, Indonesia, Iran, Malaysia, Pakistan, Thailand, Abidjan, Addis Abeba, Accra, Dakar, Kinshasa, Lagos, Libreville, Nairobi and Yaunde. (BOE 29, 2.2.96).

Note: On 6 November 1995 an Agreement was signed between the Spanish Agency for International Cooperation and the Spanish Ministry of Foreign Affairs commending certain activities to the charge of the Spanish Ambassadors to the countries and cities included therein (BOE 286, 30.11.95), involving cooperation projects in countries where the Spanish Agency had no technical Office for Cooperation. On finding the said charge contrary to correct procedure, its annulment has been ruled.

– Royal Decree 1141/1996 of 23 May reorganizes the Spanish Agency for International Cooperation. (BOE 127, 25.5.96).

– Resolution of 30 May 1996, passed by the Spanish Secretariat for International Cooperation and for Iberoamerica, delegates powers to the Secretariat-General, Executive Centres and Organic Units of the Spanish Agency for International Cooperation. (BOE 135, 4.6.96).

Note: This Resolution abrogates the Resolutions of 20 January 1993 and 23 June 1995.

– Order of 17 June 1996, made by the Ministry of Foreign Affairs, regulates the grant of subsidies to Non-Governmental Organisations and other non profit-making organisations intending to carry out cooperation projects for development. (BOE 173, 18.7.96 and 191, 8.8.96).

– Resolution of 11 September 1996, passed by the Presidency of the Spanish Agency for International Cooperation, on delegation of powers. (BOE 234, 27.9.96).

Note: This resolution delegates powers to authorise and use funds required in carrying out cooperation programmes abroad, to the Spanish Embassies at Saudi Arabia, Algeria, Australia, Cameroon, Ivory Coast, China, Egypt, United Arab Emirates, Ethiopia, Ghana, Gabon, India, Indonesia, Iran, Irak, Jordania, Kenya, Kuwait, Lebanon, Libya, Malaysia, Mauritania, Nigeria, Pakistan, Thailand, Tanzania,

Senegal, Syria, South Africa, Zaire and Zimbabwe.

2. Military and Defence Cooperation

- Order 56/1995 of 17 April, made by the Ministry of Defence, establishes a security zone for the Rota-Zaragoza oil pipeline system, and confers powers regarding the system on certain authorities. (*BOE* 100, 27.4.95).

Note: The Rota-Zaragoza oil pipeline is a Spanish military installation included in the Agreement of 1 December 1988 on Defence Cooperation between the Kingdom of Spain and the United States of America. The need to ensure the protection of the system makes it necessary to establish security zones for each stretch thereof.

3. Cultural Cooperation

- Royal Decree 2438/1994 of 16 December regulates the teaching of Religion in the Spanish education system. (*BOE* 22, 26.1.95).

Note: The need to reappraise this matter has arisen from the Spanish Supreme Court's ruling the nullity of certain regulations, and from Cooperation Agreements involving the Spanish government and representatives of the Evangelical, Israeli and Islamic religions.

- Royal Decree 3/1995 of 13 January enforces the Agreement between Spain and the Holy See on higher education teaching of Ecclesiastical Science, qualifications thereof, and related cultural matters. (*BOE* 30, 4.2.95 and 47, 2.2.95).

- Order of 9 October 1995, made by the Ministry of Education and Science, establishes the rules of equivalence between the Andorran and Spanish primary and secondary education systems. (*BOE* 247, 16.10.95 and 257, 27.10.95).

- Order of 30 April 1996, made by the Ministry of Education and Science, adjusts criteria for official approval and validation of foreign primary and secondary education qualifications and syllabi to the new education laws; and establishes the rules for equivalence with Spanish qualifications and syllabi. (*BOE* 112, 8.5.96).

4. Economic Cooperation

- Royal Decree 390/1996 of 1 March partially develops Act 13/1995 of 18 May on Policy regarding Public Administration Contracts. (*BOE* 70, 21.3.96).

Note: Articles 5 and 6 provide rules on the legal capacity of foreign firms from

European Community member states and from other countries, respectively. Annex I includes registers for the Member States of the European Community and of the European Economic Area.

5. Tariff and Trade Cooperation

– Order of 24 February 1995, made by the Ministry of Commerce and Tourism, on inspection and control rules for foreign trade inspection centres. (*BOE* 56, 7.3.95).

Note: As a result of suppressing border customs controls on intra-Community trade, customs procedures for foreign trade with third countries are simplified.

– Organic Law 12/1995 of 12 December on Suppression of Smuggling. (*BOE* 297, 13.12.95).

Note: This Law tries to make free movement of goods as compatible as possible with the need for effective suppression of smuggling; updates and raises the limiting amount for a breach of administrative rules to become a criminal offence; and includes illicit operations which involve previously unspecified endangered flora and fauna species and drug precursors.

Under article 2, paragraph 1(i), an individual who “clandestinely jettisons goods, commodities or merchandise from a vessel or trans-ships them while in Spanish internal waters or in Spanish territorial sea or under the circumstances set forth in article 23 of the Geneva Convention on the High Seas of 29 April 1958”, shall be responsible for the criminal offence of smuggling.

6. Financial and Tax Cooperation

Note: See also Spanish municipal legislation concerning matters of private international law: XVI–Investments and Foreign Exchange, and XXIII–Tax Law.

– Agreement of 6 July 1995, adopted by the Spanish National Commission for the Securities Market, includes the European Fund for Investment in the list of Multilateral Banks for Development for the purpose of considering elements of risk when calculating asset requirements to cover loan risks. (*BOE* 191, 11.8.95).

7. Radio and Telecommunications Cooperation

– Act 37/1995 of 12 December regulates Satellite Telecommunications. (*BOE* 297, 13.12.95).

- Royal Decree 149/1996 of 2 February extends legal protection of topographies of semiconductor products to World Trade Organisation member state nationals. (*BOE* 59, 8.3.96).

Note: This Decree extends legal protection afforded under Act 11/1988 of 3 May to natural persons who are World Trade Organisation member state nationals or who are domiciled in the territory of any such states. Natural and artificial persons actually and effectively established in any such states also benefit from this Decree.

8. Road Traffic and Transport

- Order of 7 February 1996, made by the Spanish Ministry of Public Works, Transport and the Environment, pursuant to Royal Decree 74/1992 of 31 January, modifies Annexes A and B to the National Regulation concerning the Carriage of Dangerous Goods by Road. (*BOE* 44, 20.2.96).

Note: In pursuance of the powers conferred on the Ministry under the Second Additional Provision of Royal Decree 74/1992, Annexes A and B of the Regulation have been modified in accordance with the amendments of Annexes A and B of the Geneva European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) of 30 September 1957, which entered into force on 1 January 1995. (The Agreement's consolidated text was published in *BOE* 224, 19.9.95).

9. Air Traffic and Transport

- Order of 22 June 1995, made by the Spanish Ministry of Public Works, Transport and the Environment, updates technical instructions for safe air transport of dangerous goods included in Annex 2 to Royal Decree 1749/1984 of 1 August. (*BOE* 166, 13.6.95).
- Order of 9 July 1996, made by the Spanish Ministry of Development, replaces Annex 2 to Decree 1675/1972 of 26 June concerning Tariffs for Assistance to Air Navigation (Eurocontrol). (*BOE* 177, 23.6.96).
- Royal Decree 1709/1996 of 12 July modifies the Aircraft Registration Regulation adopted by Decree 416/1969 of 13 March. (*BOE* 187, 3.8.96).
- Order of 24 September 1996, made by the Spanish Ministry of Development, modifies the technical instructions for safe air transport of dangerous goods included in the Annex to the Order of 22 June 1995. (*BOE* 235, 28.9.96).

10. Labour, Social Security and Emigration

Note: See also Spanish municipal legislation concerning matters of private international law: XXI—Labour Law and Social Security.

— Royal Decree 490/1995 of 7 April, creates a Forum for Social Integration of Immigrants. (*BOE* 87, 12.4.95).

— Resolution of 9 June 1995, passed by the Undersecretariat for the Spanish Ministry of the Presidency, establishes the 1995 quota of authorisations for employment of non-community workers. (*BOE* 141, 14.6.95).

— Resolution of 1 August 1995, passed by the Undersecretariat for the Spanish Ministry of the Presidency, gives general instructions for establishing the 1995 quota of authorisations for employment of non-community workers and for covering said quota. (*BOE* 191, 11.8.95).

— Resolution of 1 December 1995, passed by the Undersecretariat for the Spanish Ministry of the Presidency, modifies the general instructions given for establishing the 1995 quota of authorisations for employment of non-community workers and for covering said quota. (*BOE* 288, 2.12.95).

Note: This Resolution publishes the Resolution of 21 November 1995 which modifies the general instructions of 19 July 1995 establishing the 1995 quota of authorisations for employment of non-community workers and for covering said quota.

— Order of 14 December 1995, made by the Spanish Ministry of Social Affairs, adopts plans of action designed to help Spanish emigrants. (*BOE* 1, 1.1.96).

— Resolution of 8 January 1996, passed by the Spanish Directorate-General for Migrations, publishes model aid/assistance application forms designed to provide help to Spanish emigrants. (*BOE* 29, 2.2.96).

— Resolution of 17 April 1996, passed by the Spanish Directorate-General for Migrations, establishes work permit equivalence when exercising the option set forth in the second transitory provision of the Rules for Application of Organic Law 7/1985 of 1 July on the Rights and Freedoms of Aliens in Spain. (*BOE* 100, 25.4.96).

11. Narcotic Drugs

— Act 36/1995 of 11 December creates a fund from the proceeds and property confiscated in respect of drug trafficking and related crimes. (*BOE* 296, 12.12.95).

Note: This Act develops for Spain the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on 20 December 1988, to which Spain is a party and whose article 5.5(a) provides that “proceeds or property confiscated by a Party pursuant to paragraph 1 or paragraph 4 of this article shall be disposed of by that Party according to its domestic law and administrative procedures”. The said Act provides under Article 3(h) that beneficiaries and recipients of confiscated proceeds or property may be, among others, “international organisations for the development of programmes on this matter, constituted pursuant to international instruments signed by the Spanish Government through the authorised organs of the Spanish Ministry of Foreign Affairs”.

12. Recognition of Qualifications

- Order of 21 July 1995, made by the Spanish Ministry of Education and Science, establishes general criteria for carrying out comprehensive tests prior to official approval of foreign higher education degrees. (*BOE* 178, 27.7.95).
- Order of 16 October 1996, made by the Spanish Ministry of the Presidency, modifies Order of 14 October 1991, on conditions and procedure for official approval of foreign degrees and qualifications in Pharmacy and Specialist Medicine in respect of their Spanish official equivalents. (*BOE* 253, 19.10.96).

13. Industrial and Intellectual Property

- Royal Decree 1123/1995 of 3 July on enforcement of the Patent Cooperation Treaty, Washington, 19 June 1970. (*BOE* 214, 3.7.95).

14. Civil and Criminal Cooperation

Note: See also Spanish municipal legislation concerning matters of private international law: II–International Jurisdiction, III–Procedure and Judicial Assistance, IV–Recognition and Enforcement of Foreign Judgments and Decisions, and XXII–Criminal Law.

- Act 1/1996 of 10 January, regulates Legal Aid policy. (*BOE* 11, 12.1.96).

Note: Article 2 thereof, regarding the personal scope of application of the Act, provides that:

“Under the terms of this Act and of international treaties and agreements to which

Spain be a party, and to the extent provided therein, the following persons shall be entitled to legal aid:

(a) Spanish nationals, nationals of any other European Union and other foreign nationals who are lawfully resident in Spain, who prove lack of necessary financial means to afford litigation”.

Chapter VII regulates application in Spain of international treaties and agreements on legal aid. Article 44 thereof provides that:

“The Spanish Ministry of Justice and Home Affairs, through the Central Authority, designated under the European Agreement on the Transmission of Applications for Legal Aid of 27 January 1977 and The Hague Convention on International Access to Justice of 25 October 1980, receiving in Spain the applications for legal aid pursuant to these Conventions, shall submit them to the competent Legal Aid Commissions”.

Article 45 establishes the procedure to deal with the applications

– Organic Law 1/1996 of 15 January, on Legal Protection of Minors, partially amends the Civil Code and the Civil Procedure Code. (*BOE* 15, 17.1.96).

Note: Regarding the Rights of Children, Chapter II, article 3 refers to international instruments in the following terms:

“All children shall enjoy the rights set forth in the Spanish Constitution and in International Treaties to which Spain be a party, particularly the United Nations Convention on the Rights of the Child, and to all other rights to which they are entitled at law, without discrimination of any kind, irrespective of the child's birth, nationality, race, sex, disability or illness, religion, language, culture, opinion, or any other condition or status whether of personal or social origin, or concerning the child's family members.

This Law, the provisions developing it, and all other provisions concerning children, shall be construed in accordance with International Treaties to which Spain be a party, particularly with the United Nations Convention on the Rights of the Child of 20 November 1989.

The Authorities shall ensure respect and protection of these rights, and shall act in compliance with this Law and with the international law provisions mentioned above”.

– Royal Decree 190/1996 of 9 February enacts Spanish Prison Regulations. (*BOE* 40, 15.2.96).

Note: Regarding foreign sentenced persons subject to an expulsion order after serving their sentence, article 26 provides that:

“If the sentenced person is a foreign national subject to an expulsion order after serving a sentence, the Prison Warden shall notify the competent authority, pursuant to Spanish legal provisions on aliens, of the foreseeable release date three months in advance or when filing for final release from custody under article 24.2, to allow the

competent authority to provide accordingly under prevailing legislation”.

In respect of substituting expulsion orders for certain sentences imposed on foreign nationals, article 27 provides that:

“The Public Prosecutor shall also be notified of the foreseeable release date where the law provides for an expulsion order from Spanish territory to substitute a sentence and, in any case, where dealing with foreign sentenced persons serving a sentence involving deprivation of liberty for a period of less than six years”.

Regarding conditional release in respect of foreign nationals or Spanish nationals resident abroad, article 197 provides that:

“1. Requests for conditional release of sentenced foreign nationals who are not lawfully resident in Spain, or of Spanish sentenced persons resident abroad, shall be submitted to the Prison Judge, subject to the documented consent of the sentenced person, seeking leave for conditional release to be enforced in the territory of the state where the sentenced person resides, and providing, where appropriate, for measures to be taken in order to ensure effective enforcement thereof in that state. To this effect, where international law so allows, the competent authorities in the country where conditional release is to be enforced may be requested to take monitoring or other control measures, as prescribed by the domestic law of that state.

2. For the purpose of executing an expulsion order made under article 89 of the Criminal Code, the Public Prosecutor shall be notified, in sufficient time, of requests for conditional release of foreign sentenced persons, and be sent a brief summary of their penal position and prison terms, stating expressly the date or dates when the applicants are expected to have served two-thirds, and three-quarters, of their sentence or sentences”.

– Royal Decree 79/1996 of 26 January modifies several provisions in the internal Regulation of the Spanish Language Translation Office of the Ministry of Foreign Affairs. (BOE 47, 23.2.96).

Note: As a result of the entry into force of the Agreement on the European Economic Area, Royal Decree 2555/1977 of 27 August, Regulation 15, paragraph (c), as modified by Royal Decree 889/1987 of 26 June, has been further modified in respect of the nationality requirement, to allow EEA member state nationals to sit the examinations to which the appointment as *Intérprete Jurado* is subject, as follows: “to have Spanish nationality or that of any other European Economic Area member state”

– Order of 8 February 1996, made by the Spanish Ministry of Foreign Affairs, gives directions concerning examinations for the appointment of *Intérprete Jurado* (official Interpreter) by that Ministry. (BOE 47, 23.2.96).

Note: Pursuant to the authorisation granted under Royal Decree 79/1996 of 26 January, first final provision thereof, this Order establishes that, among other requirements to sit the examinations which the appointment as *Intérprete Jurado* is subject to, candidates must have Spanish nationality or “that of any other European

Economic Area member state''. (Regulation 1.1.c).

XII. INTERNATIONAL ORGANISATIONS

– Act 1/1995 of 13 March on Spain's participation in the Tenth Increase in Resources of the International Development Association. (*BOE* 63, 15.3.95).

Note: It regulates Spanish participation in the increase of resources aimed at providing developing countries with concession funds through the International Development Association, which is an institution linked to the World Bank.

– Royal Decree 295/1995 of 24 February, creates the Interministerial Commission to negotiate in the World Trade Organisation. (*BOE* 75, 29.3.95).

Note: The creation of this Commission follows entry into force of the WTO's Constituting Treaty on 1 January 1995.

– Act 34/1995 of 27 November on Spain's subscribing shares in the Asian Development Bank's fourth increase of capital. (*BOE* 284, 28.11.95).

XIII. EUROPEAN UNION

XIV. RESPONSIBILITY

– Resolution of 10 May 1995, passed by the Technical Secretariat-General for the Spanish Ministry of foreign Affairs, publishes United Nations Security Council Resolution No. 955 (1994) of 8 November 1994 creating an International Tribunal to prosecute "persons responsible for genocide and other serious violations of international humanitarian law" committed in Rwanda. (*BOE* 123, 24.5.95).

Note: The Resolution's text is published pursuant to paragraph 2 of the stated purpose thereof, subject to the Spanish Council of Ministers' Agreement of 21 April 1995.

– Act 35/1995 of 11 December on aid and support to victims of violent crimes and of those against sexual freedom. (*BOE* 296, 12.12.95).

Note: The Council of Europe Convention 116, the European Convention on the Compensation for Victims of Violent Crimes, of 24 November 1983, which entered into force in 1988, although still to be signed by Spain, is a major legal reference, together with the Recommendation issued on 28 June 1985 by the Committee of Ministers of the Council of Europe to its member states, on the victim's position

within the context of criminal law and criminal proceedings. Under article 2 of this Act, those entitled to this aid and assistance include all persons who, at the time the crime is committed, are Spanish nationals or nationals of a European Union member state, or being neither, are habitually resident in Spain or are nationals of a state which provides reciprocal aid to Spanish victims in its territory. In the event of the victim's death, those provisions apply to the beneficiaries, as indirect victims, regardless of the nationality or habitual residence of the deceased victim.

XV. PEACEFUL SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

- Royal Decree 1492/1994 of 8 September establishes Spanish requirements for awarding and using the NATO medal for participation in peace-keeping operations. (*BOE* 233, 29.9.95).

Note: Following the North Atlantic Council's decision of 20 December 1994 to create a NATO medal to award service in peace-keeping operations carried out under NATO'S command, control or coordination, this Royal Decree regulates authorisation for awarding and using that medal.

- Resolution of 9 February 1996, passed by the Undersecretariat for the Spanish Ministry of the Presidency, publishes the Agreement of the Spanish Council of Ministers of the same date. The Agreement authorises the Spanish Minister for Foreign Affairs to conduct, under international law, the procedure to suspend application between the Kingdoms of Spain and Belgium of Title III, Chapters II and IV of the Schengen Agreement of 14 June 1985. It further authorises the Spanish Minister for Justice and Home Affairs to adopt reciprocal measures in matters of legal cooperation with the Kingdom of Belgium. (*BOE* 36, 10.2.96).

Note: These measures have been adopted by Spain following the refusal of the Belgian State Council to extradite Spanish nationals charged in Spain with collaboration with an armed gang. A refusal which Spain deems to be a failure on the part of Belgium to comply with the obligation to cooperate on judicial matters.

- Order of 2 April 1996, made by the Spanish Ministry of Trade and Tourism, modifies Annex II to the Order of 14 July 1995. The Order regulates expedition and export procedures and establishes applicable trade schemes. (*BOE* 98, 23.4.96).

Note: This modification adapts Spanish legal provisions to Security Council Resolution 1022 (1995). The Resolution suspends trade and economic relations restrictions regarding the Federative Republic of Yugoslavia (Serbia and

Montenegro). One of the Annexes lists the countries subject to trade embargoes on exports and applicable provisions thereto pursuant to appropriate Security Council resolutions.

– Order of 2 April 1996, made by the Spanish Ministry of Trade and Tourism, modifies Annex VII to the Order of 10 March 1996. The Order modifies the trade scheme applicable to certain imports. (*BOE* 98, 23.4.96).

Note: This modification adapts Spanish legal provisions to Security Council Resolution 1022 (1995). The Resolution suspends trade and economic relations restrictions regarding the Federative Republic of Yugoslavia (Serbia and Montenegro). One of the Annexes lists the countries subject to trade embargoes on goods and imports and applicable provisions thereto.

– Royal Decree 651/1996 of 26 April establishes the applicable scheme to certain transactions between the Kingdom of Spain and the Federative Republic of Yugoslavia (Serbia and Montenegro). (*BOE* 126, 24.5.96).

Note: This Decree repeals Royal Decree 597/1992 of 5 June where, in accordance with United Nations Security Council Resolution 757 (1992), commercial transactions with Serbia and Montenegro were subject to authorization.

– Resolution of 31 May 1996, passed by the Undersecretariat for the Spanish Ministry of Justice, publishes the Agreement of the Spanish Council of Ministers of 31 May 1996. This Agreement ratifies the Agreement of 9 February 1996 whereby the Spanish Minister for Foreign Affairs is authorised to conduct, under international law, the procedure to suspend application between the Kingdoms of Spain and Belgium of Title III, Chapters II and IV of the Schengen Agreement of 14 June 1985, and it further authorises the Spanish Minister for Justice and Home Affairs to adopt urgent reciprocal measures in matters of legal cooperation with the Kingdom of Belgium accordingly. (*BOE* 133, 1.6.96).

XVII. WAR AND NEUTRALITY