



TEMPORAL, SPATIAL AND PERSONAL FRAMEWORKS OF APPLICATION OF SPANISH CRIMINAL LAW

Lesson 3

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Criminal Law I AR

FRAMEWORKS OF APPLICATION

Abbreviations used

BOE- Spanish Official Gazette (Boletín Oficial del Estado)

CLOS- Convention on the Law of the Sea

CrimC – Criminal Code

SConst/Const- Spanish Constitution 1978

ConstCt- Constitutional Court

ECtHR- European Court of Human Rights

ECHR- European Convention on Human Rights

TFEU- Treaty on the Functioning of the European Union

FRAMEWORKS OF APPLICATION

SUMMARY

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW
2. THE SPATIAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW
3. THE PERSONAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW. INVIOABILITY AND IMMUNITY OF JURISDICTION

FRAMEWORKS OF APPLICATION

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.1. Existence

- A criminal statute exists as soon as the legal procedures necessary for its adoption are carried out (Lesson 2), which in our legal system involves the process of its approval by Parliament as an organic law, its royal sanction and promulgation, and its subsequent publication in the Official State Gazette (BOE, art. 90 CE). With this process, the legal provision – from which the rule is extracted – becomes part of the legal system.

There are therefore three key moments in this process: a) Adoption by Parliament (art. 79 Constitutional Court Organic Act), b) Promulgation, c) Publication (art. 31 Constitutional Court Organic Act).

Only the first of these, which is the most relevant since it expresses the People's will, could be used as a coherent criterion for derogation by incompatibility.

FRAMEWORKS OF APPLICATION

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.1. Existence

- *Norms are created through interpretation (Lesson 1, point 2). It is therefore essential to distinguish between normative formulation (the linguistic expressions that make up normative texts) and norm (the meaning extracted from those linguistic expressions). This means that normative change does not always occur through formal rule-making procedures and can also occur through interpretation.*
- *What we apply are norms, not normative formulations, so this problem must be taken into account.*

FRAMEWORKS OF APPLICATION

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.2. Applicability

- *The existence of a norm does not make it applicable from that moment on. For it to be applicable, it must enter into force (Art. 2.1 Civil Code). The period of time that exists between the moment when the rule is published in the BOE and the moment when it comes into force (either in accordance with the provisions of the legal provision itself or in accordance with the subsidiary provision established in Art. 2.1 Civil Code) is called vacatio legis, a temporary interval that finds its meaning in the possibility for citizens to be aware of the rule prior to its entry into force, which allows them to adapt their conduct to the new rules that will be applicable in the future.*
- *Once a rule enters into force, applicability is determined by linking a certain action (a property of a rule, which could be, for example, the action of killing in the crime of homicide) to the interval of validity of a rule by means of a point of connection, which in the case of criminal law is the moment the crime is committed.*

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.2. Applicability

From the various questions examined, we can distinguish between:

1.1.2.1. Internal applicability of the norms: Properties of the norm (agents, actions, circumstances of the norm) are used as criteria for internal application.

E.g., If a certain norm states that the active agent should be a civil servant, this is a criterion of internal application because it is applicable to all civil servants.

Sometimes, this criterion of internal application could be used as a criterion of temporal application or connection points, when the statutes do not provide specific connection points.

E.g., How do we know which statute should be of application to a certain rental contract signed on date X? If the statute does not provide any specific connection point, the closing of the contract during the “in force” period of a specific statute will determine that the provisions of this statute should be applied to that contract. This an example of an internal criterion of application being used as a temporal criterion of application.

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.2. Applicability

1.1.2.2. External applicability defines when a certain norm has to be temporally applied. Various types of provisions govern temporal application:

1.1.2.2.1. Coming/being into force. In force period (vigencia): According to Art. 91 SC and Art. 2.1 Civil Code, once a statute has been approved by Parliament, duly sanctioned and promulgated, it must be published in the BOE, go through the period of *vacatio legis*, and then come into force.

The basic form of temporal application is to apply the norm which was in force when the designated connection point arose; in the case of criminal law, this is the moment the crime is committed.

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.2. Applicability

1.1.2.2.2 Derogation is the end of the “in force” period of the statute or norm. It does not affect the existence of the norm. The norm continues to exist in the legal system and is not ordinarily applied except if there is a special disposition that requires it.

- The only way to avoid the future application of a norm is to expel it from the legal system by declaring it void (e.g., by the ConstC, or with non-statutory provisions, by the Courts).
- Types of derogation: express derogation (by designation in the later statute or by the ending of the time limit of a temporal law) and derogation by incompatibility or contradiction. This latter form affects norms only (as the result of interpretation), not statutes.

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.1. Basic concepts related to the temporal framework of application of Criminal Law.

1.1.2. Applicability

1.1.2.2.3. Other criteria of external applicability:

*There are at least four kinds of applicability criteria, which are distinguished by their **level of reference**:*

- 1. Provisions establishing temporal points of connection: These provisions which help to establish what should be the point of connection for determining the applicable law, such as those establishing as a connection point the moment the offence is committed (Arts. 1, 2 and 7 CrimC).*
- 2. Applicability provisions: These provisions are characterised by determining the applicability of legal rules in a given branch of law by means of their compliance with a pre-established criterion (v.gr. Arts. 1 and 2 CrimC) They could be thought of as implying a higher level of reference since, in order to be followed, they require the establishment of connection points.*
- 3. Transitional provisions: These provisions are the most abundant and best known of the applicability criteria, and effectively presuppose, in the case of provisions of the other levels, a higher level of reference. This means that when there is conflict between the applicability provisions and the transitional provisions, the conflict must be clearly resolved in favour of the latter. The most important difference between the applicability provisions and the transitional provisions lies precisely in the ad hoc nature of the latter, and in the fact that the latter sometimes does not merely state which rule is applicable but provides the rule to be applied. In these cases, a distinction must be made between the applicability criterion itself and the rule of conduct which accompanies it (v.gr. Transitional Provisions Organic Act 1/2015, 30 March 2015).*
- 4. Principles of temporal application of the law: These provisions are of general application to all the legal rules of a legal system, or to all the legal rules of a given branch of law, laying down certain guidelines for the temporal application of legal rules. Their nature as principles means that they are of a very general nature – i.e. their properties are not strictly defined – and are often included in constitutions (v.gr. Art. 25.1 SC).*

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.2. The concept of retroactivity

- The application of a rule to acts committed prior to its period of validity are defined as a retroactive application of that rule, and the prohibition of non-retroactivity is what prevents this application when the rule is unfavourable to the active agent of the offence.
- A retroactive application of a norm could also happen through a change in case law. These normative changes, insofar as it is clear that they have occurred, and the time at which these changes have taken place, must also be subject to the prohibition of retroactivity of unfavourable criminal rules: see [*Judgment ECtHR Del Río Prada v. Spain, 21 October 2013\(Grand Chamber\)*](#).

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1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.3. The constitutional prohibition of ex post facto laws (See Lesson 2, point 1.5).

1.4. The retroactive application of the more lenient law: rationale and framework of application.

1.4.1. Rationale:

- Proportionality and the prohibition of excess. However, this is not sufficient to explain why, if the rule was considered proportionate at the time the act was committed, it is no longer proportionate afterwards. Proportionality should not be considered statically, but dynamically. The reason for applying a dynamic approach is the preventive purpose of criminal law.

- Within proportionality, the principle of necessity and proportionality in the strict sense are the elements that justify the application of the most favourable rule, because the application of the earlier rule, which contains a higher penalty than the wrongfulness of the conduct in question, implies not only an unnecessary waste of criminal coercion but also a disproportionate use of ius puniendi.

1.4.2. Nature as a fundamental right:

- To this day ConstC has denied its nature as a constitutional right, actionable with an appeal before the ConstC.

- Nonetheless, it has been recognised as a human right (Art. 15.1 International Covenant of Civil and Political Rights; Art. 49.1 Charter of Fundamental Rights of the European Union), and by ECtHR as part of Art. 7 ECHR, Judgment 17 September 2009, Case Scoppola v. Italy. It should therefore be considered as such by the ConstC, Art. 10.2 SC.

FRAMEWORKS OF APPLICATION

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.3. *The constitutional prohibition of ex post facto laws (See Lesson 2, point 1.5).*

1.4. *The retroactive application of the more lenient law: rationale and framework of application.*

1.4.3. Application of the more lenient or favourable criminal norm.

- *As previously stated, the Criminal Code has immanent meta-criteria of temporal application (Art. 1, 2 and 7 CrimC), and a specific rule for the application of the most favourable rule to the defendant (Art. 2.2 CrimC). However, transitional dispositions are special norms and therefore, if they exist, they should be applied instead of this metadisposition.*
- *This is important because the scope of application of Art. 2.2 CrimC, according to its wording, is rather more generous than the usual Transitional Provisions since it provides for the application of the more favourable law even if the active agent is already serving their sentence.*
- *It is also important to state that, according to Art. 2.2. CrimC, the most favourable law should be applied (from the commission of the offence until the sentence has been fully served, with the most favourable case being the depenalisation of a certain conduct or the introduction of a ground for excluding punishment, including the application of statutory limitations*
- *If the offence persists, and only the punishment changes, then the punishments should be compared. There is agreement that prison sentences, and specifically life sentences, are the most severe punishments, followed, in descending order, by disqualifications, deprivations of rights, and fines.*
- *When assessing the most favourable regulation, **the complete norms of the Criminal Codes at the relevant time should be compared** (prohibition of the so-called *lex tertia*, as a corollary of the principle of legality).*
- *In any case, the **defendant must be heard** on the assessment of the mildest disposition.*

1.4.4. Exception to the application of the most favourable law: temporary laws.

- *No definition of temporary law is provided, so there is doubt about its scope of application: temporary law ab initio (e.g. royal decree for state of alarm), incidental, exceptional law, blank criminal law with complementary temporary rules?*

FRAMEWORKS OF APPLICATION

1. THE TEMPORAL FRAMEWORK OF APPLICATION OF CRIMINAL LAW.

1.5. Aspects of the temporal framework of application of Law not regulated in the Criminal Code of 1995.

1.5.1. Crimes whose commission is prolonged in time (example: illegal detentions).

1.5.1.1. Continuous crimes: In assessing the solution, attention should be given to the rationale of continuous crimes, which acts in favour of the defendant. It therefore seems reasonable to apply the norm in force when the last of the acts considered is committed. See also Judgments of Supreme Court 223/2000, 21 February 2000; 2030/2001, 31 October 2001; 1548/2005, 30 December 2002; and 903/2006, 19 September 2006.

1.5.1.2 Permanent crimes: If the modification involves circumstances that aggravate the act, they must have been committed in accordance with the new Law. According to the Supreme Court, if only the penalty changes, the new penalty will be applied (cf. in this sense, Judgments 532/2003, 19 May; 918/2004, 16 July; 556/2006, 31 May; 480/2009, 22 May). In my opinion, the previous law should be applied in any case, unless all the conduct is carried out under the new law.

1.5.2. Change of the blank provision in blank criminal laws: General rules of prohibition of retroactivity of unfavourable laws, and retroactivity of the more favourable law, apply.

1.5.3. Judgments of the Constitutional Court (art. 40 Constitutional Court Organic Act).

- Unconstitutional laws are declared void. They are therefore expelled from the legal system and are not applicable in the future.*
- If an incriminating norm is declared void, according to art. 40.2 Constitutional Court Organic Act the favourable result of that voidness should be applied, even if there is res judicata.*
- If the unconstitutionality of a favourable law is declared, the following more favourable law (or the law in force at the time the crime is committed) should apply, with the limitation of res judicata, except if the application of voidness is moderated by the Court.*
- Unfavourable interpretation of criminal laws: the same rules apply if a more favourable rule or a harsher rule is created through interpretation.*

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

- *Spanish criminal laws have a limited spatial validity, both for their own effectiveness in the prosecution of crimes and for possible conflicts of jurisdiction with other countries.*
- *To this end, effective and internationally recognised principles of application have been created, at the same time that international cooperation mechanisms (international conventions, instruments of cooperation and mutual assistance (such as extradition) and, within the EU, the European Arrest Warrant) and international courts have been set up.*
- *The principles that determine the application of Spanish criminal law are found in art. 23 of the Spanish Organic Act on the Judiciary. These are, firstly, the principle of territoriality, and three other principles that allow for a limited extraterritorial application: 1. the personal principle, 2. the principle of protection of the State's interest, and 3. the principle of universal jurisdiction.*

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.1 Principle of territoriality

- *Art. 8 of the Civil Code: "criminal laws, police laws and public security laws are binding on all those who are in Spanish territory".*
- *Art. 23.1 Organic Act on the Judiciary: "in criminal matters, Spanish jurisdiction shall be responsible for hearing cases involving crimes and misdemeanours committed in Spanish territory or committed on board of ships or aircraft, without prejudice to the provisions of international treaties to which Spain is a party".*
- *These two rules constitute the principle of territoriality of criminal law and the basic principle of spatial application, which is the ultimate expression of national sovereignty, which demands that the State has effective legal and physical control of the territory, which implies applying its rules efficiently in its territory.*
- *It is therefore necessary to define what we mean by Spanish territory in accordance with international public law, with a bearing on the points below.*
- *Legal concept of territory: the space in which a state exercises full sovereignty, which includes the physical space on land, sea and air, as well as, in some cases, ships or aircrafts.*

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.1 Principle of territoriality

2.1.1. Mainland and inland waters: peninsular territory, the autonomous cities of Ceuta and Melilla in Africa, the Balearic Islands, the Canary Islands, as well as other minor islands and islets outside the territorial sea (Columbretes, Alborán, Chafarinas, Alhucemas, Peñón Vélez de la Gomera, and Perejil). It also extends to inland waters. Special problems are posed by other territorial spaces, such as the enclave of Llívia in France, the Pheasant Island in the Bidasoa River, the border rivers, and the Gibraltar peninsula, the study of which corresponds to International Law.

2.1.2 Territorial sea: Maritime sovereignty is defined, in accordance with the principles of international law, by Act 10/1977 of 4 January 1977 on the Territorial Sea (LMT). Article 1 states that "[t]he sovereignty of the Spanish state extends, outside of its territory and its internal waters, to the territorial sea adjacent to its coasts", and is exercised, "in accordance with international law, over the water column, the seabed, the subsoil and the resources of that sea", as well as the airspace above it". The inner limit of the territorial sea "is determined by the low sea line and, where appropriate, by such straight baselines as may be established by the Government" (Art. 2 LMT). The outer boundary, in turn, "shall be determined by a line so drawn that the points constituting it are at a distance of 12 nautical miles from the nearest points of the baselines referred to in the previous article" (Art. 3 LMT).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.1 Principle of territoriality

2.1.3. Airspace is subject to the sovereignty of the Spanish State and therefore forms part of the territory in the legal sense: "the airspace above Spanish territory and its territorial sea" (art. 1 Act 48/1960, 21 July 1960, on Air Navigation), with the exclusion of extraterrestrial space, in accordance with Article II of the United Nations Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, of 27 January 1967"; "Outer space, including the moon and other celestial bodies, shall not be used for any purpose other than in exploration and the use of outer space, including the moon and other celestial bodies, shall not be subject to national appropriation by claim of sovereignty, use or occupation, or by any other means".

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.1 Principle of territoriality

2.1.4. Other areas: Embassies and joint-use military bases.

- Contrary to widespread opinion, embassies, consular offices and other diplomatic missions are not part of the territory of the flag state they represent but are part of the territory in which they are located, without prejudice to the recognition of immunities for their personnel and special protection for buildings and land (see, in this regard, Art. 559 et seq. Criminal Procedure Act).
- US-Spanish joint-use military bases are part of Spanish territory, which only grants authorisation for the use of its spaces, according to articles 2.2.2. and Articles 2.2 and 24.1 of the Agreement between the Kingdom of Spain and the United States of America on defence cooperation, of 1 December 1988. However, under the provisions of Article 39 of the Convention, Spain can waive its criminal jurisdiction.

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.1 Principle of territoriality

2.2.5 Vessels (Ships) and Aircraft: According to Article 23.1 Organic Act on the Judiciary, Spanish jurisdiction is responsible for hearing cases for crimes and misdemeanours "committed on board Spanish ships or aircraft, without prejudice to the provisions of international treaties to which Spain is a party". The law does not distinguish, so it should be understood that this affects Spanish ships and aircraft, both public and private, wherever they may be, whether they are in Spanish sovereign territory or in the territory of another country, Spanish sovereign spaces, those of another State, or those not subject to sovereignty, such as the high seas and their airspace.

a) Warships and official ships: According to the Convention on the Law of the Sea (Montego Bay, 1982; CLOS), If they sail on the high seas, they have complete immunity from the jurisdiction of any State other than that of their flag (arts. 95 and 96 CLOS). If they are sailing in Spanish territorial waters, they also enjoy immunity, with the exceptions provided for cases of infringement of the right of innocent passage – the right to navigate in the territorial seas of other countries without stopping and without affecting the peace, good order or security of the coastal State (arts. 19 and 32 CLOS).

(b) Merchant ships and State vessels for commercial purposes. If these are sailing on the high seas, the Convention refers only to collisions or other incidents of navigation which may give rise to criminal liability of the master or other persons in the service of the ship, providing that proceedings may only be instituted before the judicial authorities of the flag State or before those of the State of which such persons are nationals (Art. 97.1) CLOS), and no arrest or detention of the ship may be ordered, not even as an investigative measure, by authorities other than those of the flag State (Art. 97(1) CLOS) (art. 97.3 CLOS). The exceptions are the offences of universal prosecution, which are included in the Convention itself: the slave trade (Art. 99 in relation to Art. 110.1.b); piracy (Art. 100 et seq., especially Art. 105); drug trafficking (Art. 108); and unauthorised transmissions from the high seas (Art. 109). If they navigate in a territorial sea, without originating from internal waters, the coastal state should not exercise criminal jurisdiction over offences committed on board such vessels during their passage except in the cases provided for in Article 27 CLOS.

c) Aircraft. Article 7 of the Air Navigation Act provides that "[a] foreign aircraft, while in Spanish sovereign territory, or in airspace subject to them, shall be subject to the provisions of this Act, as well as the criminal, police and public safety provisions in force in Spain". Although in this case no distinction is made between official and commercial aircraft, international law usually attributes to official aircraft a regime of immunity similar to that of official ships.

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.2. PERSONALITY PRINCIPLE (*art. 23.2 Organic Act on the Judiciary*)

- Most countries (including Spain) do not extradite their own citizens to stand trial. If a citizen left the place where the crime was committed and returned to their country, the crime would go unpunished.
- For this reason, countries such as Spain can put their own citizens (nationals and those who have acquired Spanish nationality) on trial in accordance with the “*aud dedere aut iudicare*” principle.
- This is a corollary of the principle of territoriality and is foreseen only for perpetrators (active personality principle), not victims (passive personality principle).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.2. *PERSONALITY PRINCIPLE* (art. 23.2 Organic Act on the Judiciary)

- Regulated in art. 23.2 of the Organic Act on the Judiciary (Ley Orgánica del Poder Judicial).

- Rules applicable to these cases:

1. **Double incrimination:** the conduct should be considered an offence in both countries unless this requirement is excluded in a binding international treaty.

2. **Procedural requirement:** the victim or the Public Prosecutor should file a *querrela* (i.e., a complaint: a formal document exercising the criminal law action; art. 270 Ley de Enjuiciamiento Criminal (Criminal Procedure Law))

3. **Right not to be punished twice for the same deed, or non bis in idem:** Citizens who have already been tried or pardoned for the deed abroad cannot be put on trial again. If they have been tried and sentenced abroad, the part of the punishment served will be deducted.

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.3. *PROTECTION OF THE STATE'S INTEREST* (art. 23.3 Organic Act on the Judiciary)

- This is regulated in art. 23.3 Organic Act on the Judiciary (Ley Orgánica del Poder Judicial)
- It grants the Spanish judiciary jurisdiction for offences that are intended to protect the country's strategic security interests and that are expressly stated in an exhaustive list.
- According to art. 23.6 Organic Act on the Judiciary, these offences could only be prosecuted if the victim or the Public Prosecutor files a *querrela* (i.e., a complaint: a formal document exercising the criminal law action, art. 270 Ley de Enjuiciamiento Criminal (Criminal Procedure Law)).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.3. PROTECTION OF THE STATE'S INTEREST (art. 23.3 Organic Act on the Judiciary)

List of offences:

- a) Treason and acts against the peace or independence of the State (*Traición y delitos contra la paz y la independencia del Estado*, arts. 581- 603 CrimC).
- b) Acts against the holder of the Crown, their Consort, their Successor or the Regent (*Delitos contra la Corona*, arts. 485-491 CrimC).
- c) Rebellion and sedition (*Rebelión y sedición*, arts. 472-484 CrimC and 544-549 CrimC).
- d) Forgery of the royal signature or seal, the State seal, the signatures of ministers, and public or official seals (*Falsedad del sello o firma real, del sello del Estado de las firmas de los Ministros y de sellos públicos u oficiales*, art. 390 and passim CrimC).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.3. PROTECTION OF THE STATE'S INTEREST (art. 23.3 Organic Act on the Judiciary)

List of offences:

e) Forgery of Spanish currency and its issuance (*Falsificación de moneda y su expedición*, art. 386 *passim* CrimC).

f) Any other forgery that directly occasions detriment to the credit or interests of the State, as well as the introduction or issuance of those forgeries (*Cualquier otra falsificación que perjudique directamente al crédito o intereses del Estado, e introducción o expedición de lo falsificado*).

g) Attacks against Spanish authorities or public servants (*Atentado contra autoridades o funcionarios públicos españoles*, art. 550 *passim* CrimC).

h) Crimes perpetrated by Spanish public servants residing abroad while exercising their duties, and crimes against the Spanish Public Administration (*Delitos contra la Administración pública*, arts. 404-445 CrimC).

i) Crimes relating to foreign exchange control (*delitos monetarios*, art. 6 Ley 40/1979, de Control de Cambios (Law on Exchange Control)); this law is in force but not applicable because in the EU there is **free movement of capital**.

j) Military offences and offences committed by the Spanish military abroad according to the Criminal Military Code.

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Governed by art. 23.4 Organic Act on the Judiciary
- **Universal jurisdiction** allows Spain to claim criminal jurisdiction over an accused person regardless of their nationality and where the deed was committed, for serious crimes that affect universal protected interests (genocide and other crimes against humanity, piracy, hijacking, drug trafficking, war crimes, etc.).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Evolution and controversy on universal jurisdiction:

1. **As originally drafted when the Organic Act on the Judiciary was enacted:**

a) The Law could be applied to a small number of offences according to our CrimC and also to offences that should be prosecuted according to international treaties and conventions.

b) Anybody could file a claim before the Spanish judiciary.

c) There was no need for a link to the crime with Spain and no requirement of subsidiarity when applying Spanish jurisdiction.

d) Prosecution was only restricted to *res iudicata* if the perpetrator had already been acquitted, pardoned or convicted abroad.

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Evolution and controversy in universal jurisdiction:

2. Surge of complaints related to crimes committed abroad:

- As a consequence of the so-called "Pinochet case", a flood of reports and complaints were filed (Chile (Ruling National Central Court, section 1, of 5 November 1998, and Judgement SC 319/2004, of 8 March); Argentina (Ruling National Central Court, section 3, 4 November 1998), and the Scilingo case (Judgment National Central Court, section 3, 16/2005, 19 April, Judgment SC 1362/2004, 15 November and Judgment SC 798/2007, 1 October); Guatemala (Judgment SC 327/2003, 25 February); Peru (Judgment SC 712/2003 of 20 May/3910); Tibet (Ruling National Central Court of 10 January 2006); Iraq (the Couso case) (Judgment SC 1240/2006, of December 11); China (the Falung Gong case) (Judgment SC 645/2006, 20 June); Nazi Germany (Mauthausen, Sachsenhausen and Flossenbürg cases), Ruling National Central Court of 17 July 2009); Rwanda (Ruling, Central Court of Investigation 4, 6 February 2008); Western Sahara (Ruling of the 5th Central Court of Instruction, December 2007); El Salvador (case of the Jesuits of the UCA, Ruling of the Central Court of Instruction 6, of January 13, 2009); Israel (Gaza) (*Ruling of the Central Investigative Court 4.º 29 January 2009*); Guantánamo (*Ruling of the Central Investigative Court 5.º, 27 January 2010*); and Israel (Gaza Freedom Flotilla case) (*Ruling National Central Court 30-7-10*)).

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Evolution and controversy in universal jurisdiction:

3. Problems with investigating these crimes and political pressures

- *The only person convicted before the Audiencia Nacional (National Central Court) under the universal jurisdiction law between 1986 and 2009 was the retired Argentine naval officer Adolfo Scilingo.*

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Evolution and controversy on universal jurisdiction:

4. Law Reforms extending the Universal Jurisdiction:

a) On 10 December 2003, *Organic Law 18/2003*, on cooperation with the International Criminal Court (ICC), added the requirement of subsidiary universal jurisdiction for crimes that may fall within the jurisdiction of the ICC. Spain could therefore prosecute the crimes under the *Organic Act on the Judiciary* if the ICC, which was granted the first option, decided not to exercise its jurisdiction.

b) On 8 July 2005, *Organic Law 3/2005* added female genital mutilation to the list of crimes that could be prosecuted under universal jurisdiction. However, a previously non-existing requirement was introduced in art. 23.4 *Organic Act on the Judiciary* regarding the prosecution of this offence since, unlike other crimes falling under the universal jurisdiction provision, it was only allowed if the perpetrators were present in Spain.

c) On 19 November 2007, *Organic Law 13/2007* added human trafficking or the smuggling of persons to the list of crimes that could be prosecuted under universal jurisdiction.

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2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Evolution and controversy on universal jurisdiction:

5. Law reforms restricting Universal Jurisdiction: *Universal jurisdiction was restricted in 2009, and further severe limitations to its broad scope were added in March 2014.*

Overview of the new requirements:

- There should be a list of crimes,
- The alleged perpetrator should be in Spain,
- There should be Spanish victims, or
- Any other relevant link connecting the offence with Spain should be confirmed,
- There should be subsidiarity of prosecution to international courts or prosecution by the countries where the facts were committed,
- The offences should be prosecutable in Spain only after a complaint has been lodged by the injured party or by the Public Prosecutor's Office.

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION* (art. 23.4 *Organic Act on the Judiciary*)

- Evolution and controversy on universal jurisdiction:

6. Most of the controversial procedures were closed.

7. The 2014 Law Reform has

- created additional restrictions, and
- severely complicated the application of universal jurisdiction.

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Current situation:

- a) Genocide, crimes against humanity or against persons and property protected in the event of armed conflict, providing the proceedings are brought against a Spanish citizen or a foreigner whose habitual place of residence is in Spain, or a foreigner who is in Spain and whose extradition has been refused by the Spanish authorities.
- b) Crimes of torture and against moral integrity, as outlined in articles 174-177 of the Penal Code.
- c) Crimes of enforced disappearance included in the International Convention for the Protection of All Persons from Enforced Disappearance, signed in New York on 20 December 2006.
- d) Crimes of piracy, terrorism, the illegal trafficking of toxic drugs, narcotic drugs and psychotropic substances, trafficking in human beings, crimes against the rights of foreign citizens, and crimes against shipping safety perpetrated at sea, in those cases envisaged in the treaties ratified by Spain or in the regulatory acts of an international organisation of which Spain is a member.
- e) Terrorism.
- f) Crimes outlined in the Convention for the Suppression of Unlawful Seizure of Aircraft, signed in The Hague on 16 December 1970.

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Current situation:

- g) Crimes outlined in the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 23 September 1971, and in its supplementary protocol, signed in Montreal on 24 February 1988, in the authorised cases detailed therein.
- h) Crimes outlined in the Convention on the Physical Protection of Nuclear Material, signed in Vienna and New York on 3 March 1980, where the crime has been perpetrated by a Spanish citizen.
- i) Illegal trafficking of toxic drugs, narcotics or psychotropic substances.
- j) Crimes of setting up, financing or belonging to a criminal group or organisation or crimes perpetrated within such associations, where groups or organisations are acting for the purpose of perpetrating a crime in Spain that is sanctioned with a maximum sentence equal to or greater than three years of imprisonment.
- k) Crimes against sexual freedom and integrity, perpetrated against victims who are minors.

FRAMEWORKS OF APPLICATION

2. THE SPATIAL FRAMEWORK OF APPLICATION OF SPANISH CRIMINAL LAW

2.4. *UNIVERSAL JURISDICTION (art. 23.4 Organic Act on the Judiciary)*

- Current situation:

- l) Crimes regulated in the Council of Europe Convention on preventing and combating violence against women and domestic violence.
- m) Trafficking in human beings.
- n) Crimes of corruption between individuals or within international economic transactions.
- o) Crimes regulated in the Council of Europe Convention of 28 October 2011 on the counterfeiting of medical products and similar crimes involving threats to public health.
- p) Any other crime entailing mandatory prosecution under a Treaty that is in force in Spain, or other regulatory acts of an international organisation of which Spain is a member, in the cases and under the conditions therein stipulated.

Spanish jurisdiction will also have competence to try the above crimes where they are perpetrated outside Spanish territory by foreign citizens who are in Spain and whose extradition has been refused by the Spanish authorities, where this is stipulated by a Treaty that is in force in Spain.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.1. *Relevant categories.*

3.1.1. **Inviolability (*inviolabilidad*)**: Those who benefit from inviolability are exempt from criminal liability and cannot be prosecuted for acts covered by the scope of the application of inviolability.

- Its rationale is disputed from the perspective of the general theory of crime. In my opinion, it is a case of exclusion of punishment.

3.1.2. **Immunity (*inmunidad*)**: Those covered by immunity cannot be arrested (unless *in flagrante delicto*) or subject to legal process unless express authorisation is given, normally by parliament. Immunity can be waived in cases involving members of parliament.

3.1.3. **Privileged jurisdiction (*aforamiento*)**: Those covered by privileged jurisdiction can be put to trial only in certain courts, which are normally those at the top of the legal system.

3.1.4. **Immunity from jurisdiction (*inmunidad de jurisdicción*)**: A State, or its property, cannot be prosecuted in the courts of another State. This also covers the immunity of Heads of State in the same manner, diplomatic relations and other cases of immunity (ships, aircrafts), according to International Law (art. 21.2 Organic Act on the Judiciary).

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.2. *Head of State*

Spanish Constitution

Art. 56.3. The King is inviolable and shall not be held accountable. His acts shall always be countersigned in the manner established in Article 64. Without this countersignature they shall not be valid, except as provided under Article 65.2.

Article 64. 1. The acts of the King shall be countersigned by the prime minister (*presidente del gobierno*) and, where appropriate, by the competent ministers. The nomination and appointment of the prime minister and the dissolution provided under Article 99 shall be countersigned by the speaker of Congress (lower chamber). 2. Those countersigning the acts of the King shall be liable for them.

Art. 65. 2. The King freely appoints and dismisses the civil and military members of his household.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.2. Head of State.

Article 55 bis. In addition to the competencies attributed to the Civil and Criminal Chambers of the Supreme Court in articles 56 and 57, these Chambers will process and try civil and criminal actions, respectively, lodged against **the Queen consort or the consort of the Queen, the Princess or Prince of Asturias and his or her consort, and a King or Queen who has abdicated and his or her consort.**

Art. 1 Organic Act 4/2014, 11 July 2014. [Ref. BOE-A-2014-7368](#).

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.2. *Head of State.*

Problems: scope of application and justification of the inviolability of the Spanish King

1. Two interpretations of the inviolability of the Head of State:

a) Restrictive

b) Extensive. This is the interpretation sustained by the Constitutional Court, the legal advisers of the *Cortes Generales* (Spanish parliament), and probably by most Courts.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.2. Head of State.

Problems: scope of application and justification of the inviolability of the Spanish King

“En este sentido, ambos términos significan que no se puede perseguir criminalmente al Monarca y que, en cuanto se refiere a la responsabilidad civil, no se le puede demandar ante la jurisdicción ordinaria; no se da, en cambio, la imposibilidad de someter a juicio a la Familia Real.

La irresponsabilidad del Rey, en el aspecto penal, fue uno de los aspectos criticados en el iter parlamentario del artículo 56 de la Constitución, llegándose incluso a plantear, por algún sector, la hipótesis del Rey asesino o violador. A nuestro juicio, acierta O. Alzaga cuando afirma que el texto constitucional es correcto y que si el Rey delinquiese, "nos encontraríamos ante el desprestigio y, por ende, ante el ocaso de la institución monárquica".

Text extracted from

<https://app.congreso.es/consti/constitucion/indice/sinopsis/sinopsis.jsp?art=56&tipo=2>

"In this sense, both terms mean that the Monarch cannot be criminally prosecuted and that, as far as civil liability is concerned, he cannot be sued before the ordinary courts; on the other hand, the impossibility of putting the Royal Family on trial does not exist. The King's irresponsibility, in the criminal aspect, was one of the aspects criticised in the parliamentary iter of article 56 of the Constitution, with some sectors even suggesting the hypothesis of the King as a murderer or rapist. In our opinion, O. Alzaga is right when he states that the constitutional text is correct and that if the King were to commit a crime, "we would be facing the discredit and, therefore, the decline of the monarchical institution".

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.2. Head of State.

Problems: scope of application and justification of the inviolability of the Spanish King

2. Justification of inviolability

- Restrictive interpretation: a non-punishable act because of their function.
- Extensive interpretation: a cumbersome justification in a State that applies the Rule of Law.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.3. *Members of the Spanish Parliament (Cortes Generales)*

Article 71.

- 1. Deputies (MPs) and Senators shall enjoy indemnity for opinions expressed when in office.*
- 2. During their terms of office, Deputies and Senators shall likewise enjoy immunity and may only be arrested in the event of delicto flagrante. They may be neither indicted nor tried without prior authorisation of the respective Houses.*
- 3. In criminal proceedings brought against Deputies and Senators, the competent court shall be the Criminal Section of the Supreme Court.*
- 4. Deputies and Senators shall receive a salary to be fixed by the respective Houses.*

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.3. *Members of the Spanish Parliament (Cortes Generales)*

Judgment of the Constitutional Court nº 243/1988:

"La inviolabilidad es un privilegio de naturaleza sustantiva que garantiza la irresponsabilidad jurídica de los parlamentarios por las opiniones manifestadas en el ejercicio de sus funciones, entendiendo por tales aquellas que realicen en actos parlamentarios y en el seno de cualquiera de las articulaciones de las Cortes Generales o, por excepción, en actos exteriores a la vida de las Cámaras que sean reproducción literal de un acto parlamentario, siendo, finalidad específica del privilegio asegurar a través de la libertad de expresión de los parlamentarios, la libre formación de la voluntad del órgano legislativo al que pertenezcan".

"Inviolability is a privilege of a substantive nature that guarantees the legal irresponsibility of parliamentarians for the opinions expressed in the exercise of their functions, understanding as such those expressed in parliamentary acts and within any of the articulations of the *Cortes Generales* or, by exception, in acts outside the life of the Chambers that are a literal reproduction of a parliamentary act, the specific purpose of the privilege being to ensure through the freedom of expression of parliamentarians, the free formation of the will of the legislative body to which they belong".

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.4. *Members of the Parliaments of the Autonomous Communities*

Approximately the same as that of the Spanish Parliament:

ARTICLE 23.3 Statute of the Valencian Autonomous Community

“Els membres de Les Corts, fins i tot després d’haver cessat en el mandat, gaudiran d’inviolabilitat per les opinions manifestades i pels vots emesos en l’exercici de les seues funcions. Durant el seu mandat no podran ser detinguts ni retinguts per actes delictius realitzats en el territori de la Comunitat Valenciana, si no en cas de flagrant delicte, corresponent decidir en tot cas sobre la seua inculpació, presó, processament si és el cas, i juí al Tribunal Superior de Justícia de la Comunitat Valenciana. Fora de tal territori la responsabilitat penal serà exigible, en els mateixos termes, davant de la Sala Penal del Tribunal Suprem. Igualment, gaudiran d’aforament en matèria de responsabilitat civil per actes comesos i opinions emeses en l’exercici del seu càrrec”.

“Members of the Corts, until after they have ceased to hold office, shall enjoy inviolability for the opinions expressed and the votes cast in the exercise of their functions. During their term of office, they may not be arrested or detained for criminal acts carried out in the territory of the Valencian Community, except in cases of flagrant crime, and in all cases the decision on their indictment, imprisonment, trial if appropriate, and trial shall be taken by the High Court of Justice of the Valencian Community. Outside this territory, criminal liability will be enforceable, in the same terms, before the Criminal Chamber of the Supreme Court. Likewise, they will enjoy immunity in matters of civil liability for acts committed and opinions issued in the exercise of their post”.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.5. Members of the European Parliament

Article 8 (ex Article 9): Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9 (ex Article 10) During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.6. The prime minister (presidente del gobierno) and other members of the Government

Article 102.

1. The prime minister (presidente del gobierno) and other members of the Government shall be held criminally liable, should the occasion arise, before the Criminal Section of the Supreme Court.
2. If the charge is of treason or of any offence against the security of the State committed in the exercise of their office, it may only be brought on the initiative of one quarter of the members of Congress and with the approval of the absolute majority thereof.
3. The Royal prerogative of pardon shall not be applicable in any of the cases provided for under the present article.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.7. Presidents and members of the Government of the Autonomous Communities.

Practically all the Statutes of Autonomy stipulate that the respective High Court of Justice shall be responsible for hearing criminal acts committed by members of the Governing Council in the territory of the Autonomous Community, and the Criminal Division of the Supreme Court for those committed outside this territory

- (Article 33. 7 of Organic Law 4/1982, of 9 June 1982, Statute of Autonomy of Murcia; Article 55 of Organic Law 5/2007, of 20 April 2007, Statute of Autonomy of Aragon; Article 35 bis of Organic Law 7/1981, Statute of Autonomy of the Principality of Asturias; Articles 56. 7 y 57. 5 of Organic Law 1/2007, of 28 February, on reform of the Statute of Autonomy of the Balearic Islands; Article 19 of Organic Law 10/1982, of 10 August, on the Statute of Autonomy of the Canary Islands; Article 20 of Organic Law 8/1981, Statute of Autonomy for Cantabria; Article 17 of Organic Law 9/1982, of 10 August 1982, Statute of Autonomy of Castile-La Mancha; Article 29 of Organic Law 14/2007, of 30 November 2007, on the reform of the Statute of Autonomy of Castile and León; Article 70. 2 of Organic Law 6/2006, of 19 July, on the Statute of Autonomy of Catalonia; Article 35.2 c) of Organic Law 1/2011, of 28 January, on the reform of the Statute of Autonomy of the Autonomous Community of Extremadura; Article 18 of Organic Law 1/1981, of 6 April, on the Statute of Autonomy of Galicia; Article 24. 4 of Organic Law 3/1982, Statute of Autonomy of La Rioja; Article 25 of Organic Law 3/1983 of 25 February 1983, Statute of Autonomy of the Community of Madrid; Article 32 of Organic Law 3/1979 of 18 December 1979, Statute of Autonomy of the Basque Country; Article 31 of Organic Law 5/1982 of 1 July 1982, Statute of Autonomy of the Community of Valencia; Article 118. 5 of Organic Law 2/2007 of 19 March 2007, Statute of Autonomy of Andalusia.) On the other hand, Article 27 of Organic Law 13/1982, of 10 August, on Reintegration and Improvement of the Foral Regime, establishes that "The criminal liability of the President and other members of the Foral Deputation shall be enforceable, where appropriate, before the corresponding Chamber of the Supreme Court".

Valencian Community

Art. 31 Statute of the Valencian Community

The criminal and civil liability of the members of the Council and, if applicable, that of the President, shall be demanded in the same terms as this Statute determines for the members of parliament.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.8. Magistrates of the Constitutional Court

"Article 22 Constitutional Court Organic Act

The Magistrates of the Constitutional Court shall exercise their function in accordance with the principles of impartiality and dignity inherent to it; **they may not be prosecuted for the opinions expressed in the exercise of their functions**; they shall be irremovable and may not be removed or suspended except for one of the causes established by this Law".

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.9. *Ombudsman and their deputies*

“Article 6 Organic Act 3/1981, *Defensor del Pueblo* (Ombudsman of the People)

One. The Ombudsman shall not be subject to any imperative mandate. They shall not receive instructions from any authority. They shall carry out their functions autonomously and at their own discretion.

Two. The Ombudsman shall enjoy inviolability. They may not be arrested, reprimanded, fined, prosecuted or tried on account of opinions expressed or acts performed by them in the exercise of the powers proper to their office.

Three. In all other cases, and while in the performance of their duties, the Ombudsman may not be arrested or detained except in the case of flagrante delicto, and the decision on their indictment, imprisonment, prosecution and trial shall be taken exclusively by the Criminal Division of the Supreme Court.

Four. The foregoing rules shall apply to the Ombudsman's Deputies in the performance of their duties”.

FRAMEWORKS OF APPLICATION

3. PERSONAL FRAMEWORK APPLICATION OF SPANISH CRIMINAL LAW

3.10. Ombudsman of the Autonomous Communities and the Valencian Community.

Art. 38, par. 2 Statute of Autonomy of the Valencian Community

Art. 6 Act 11/1988, December 16th, on the *Síndic de Greuges* (Ombudsman)

1. The *Sindic de Greuges* shall exercise the functions entrusted to them by the Statute of Autonomy and this Act, with total independence of criteria with respect to the other institutions of the Generalitat, and during their management they shall not be subject to any instructions or imperative mandate whatsoever.

2. The Ombudsman, even after leaving office, shall enjoy **inviolability for acts performed, opinions expressed, and statements made in the exercise of their functions.**

3. During their term of office, **they may not be arrested or detained for criminal acts committed within the territory of the Region of Valencia, except in the event of flagrante delicto, and any criminal proceedings which may be brought against them shall be investigated, heard and decided by the High Court of Justice of the Region of Valencia. Outside the territory of the Community, any criminal liability shall be enforceable, in the same terms, before the Criminal Division of the Supreme Court.**

FRAMEWORKS OF APPLICATION

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