



Spanish Law on Double Jeopardy and The Spain-USA Extradition Treaty

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**SPANISH LAW ON DOUBLE JEOPARDY
AND THE
SPAIN-USA EXTRADITION TREATY**

Double jeopardy

Even when the Spanish Constitution¹ does not expressly provide for the *non bis in idem* principle (double jeopardy), this principle has always been judicially applied by the Constitutional Court² as included in the *legality principle* provided for under the Constitution³ that provides as follows:

No one may be convicted or sentenced for actions or omissions which, when committed did not constitute a crime, misdemeanor or administrative infringement as established by legislation in force at that moment.

The *non bis in idem* principle as applied by the Spanish Constitutional Court forbids that the same actions be punished twice by the competent authorities. This principle also applies when a sanction is applied by judicial and administrative authorities for the same action.⁴

Extradition treaty

On May 29, 1970, Spain signed an Extradition Treaty with the United States of America. It was ratified on June 16, 1971.⁵ The Treaty provides that its parties do not have to extradite nationals.⁶

Prepared Graciela I. Rodriguez-Ferrand
Senior Legal Specialist
Directorate of Legal Research
Law Library of Congress
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¹ L. Lopez-Guerra, CONSTITUCION ESPAÑOLA (Madrid, Tecnos, 1994).

² Resol. del Tribunal Constitucional, Sentencia 94/1986 of July 8, 1986, in II DERECHO PENAL CONSTITUCIONAL, JURISPRUDENCIA DEL TRIBUNAL CONSTITUCIONAL 1304 (Barcelona, PPU, 1993).

³ *Id.* art. 25.1.

⁴ *Id.*

⁵ BOLETIN OFICIAL DEL ESTADO (Sept. 14, 1971).

⁶ *Id.* art. 4.