Jurisdictions of Domestic Violence/Divorce Case of American & Spanish Nationals within Spanish Courts

American Jurisdiction & Law

American Constitution

Federal Tort Act & Alien Tort Act

22 USC 2715, 22 USC 3904(1), & 22 USC 807

22CRF 71.1, 22CFR 71.6, 22CFR 10.735-215, 22CFR 10.735-217

(17), 22CFR 101.1, 22CFR 101.2, & 22CFR 101.3

FAM 1900s, FAM 1700s, & FAM 400s

(* Art. 36 of VCCR - US Supreme Court Abbott vs. Abbott -"ne exeat order" = "detention by foreign courts")

Spanish Jurisdiction & Law¹

Spanish Legal Hierarchy

Spanish Constitution

Intl. Conventions (under art. 10²)

- ECHR, CEDAW, ICERD, CRC, MWC, ICCPR, ICESCR, CPT, CAT & RSICC Civil & Penal Code

- Art. 607 bis - Crimes Against Humanity (penal)

Organic Law

- Equality Act, Domestic Violence legislation

Regular Law

Administrative Law

VCCR

VCCR*

Intl. Law

VCCR*

Avena, Mexico vs. USA (ICJ)

(Art. 36 of VCCR – consular notification in cases of "detention" – calls for revision/retrial of case)

Gonzales vs. USA, Velasquez vs Honduras, A vs. UK

(obligation to protect under due diligence)

VCCR, ECHR, CEDAW, ICERD, CRC, MWC, ICCPR, ICESCR, CPT, CAT & RSICC

Wilcox vs. Gonzalez & Gonzalez vs. Wilcox – Spanish Jurisdiction

Husband – Spanish & French national Wife – American & French national Minor children – American, French, & Spanish nationals

International Conventions & Treaties

VCCR – Convention of Consular Relations

ECHR - European Convention on Human Rights

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

ICERD - Intl. Convention on the Elimination of All Forms of Racial Discrimination

CRC - Convention on the Rights of the Child

MWC - Intl. Convention on the Protection of the Rights of All Migrant Workers & Their Families

ICCPR - Intl. Covenant on Civil and Political Rights

ICESCR - Intl. Covenant on Economic, Social and Cultural Rights

CPT - European Conv. for the Prevention of Torture & Inhuman or Degrading Treatment or Punishment

CAT - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

RSICC - Rome Statute of the Intl. Criminal Court

Spain

- ¹ **Art. 9.3 of the Spanish Constitution** "the Constitution guarantees the principle of legality, the hierarchy of legal provisions"
- ²**Art. 10 of the Spanish Constitution -** "the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and Intl.treaties and agreements thereon ratified by Spain."
- **Art. 607 bis,** Spanish Penal Code *Crimes Against Humanity* "whoever commits the acts…as part of a widespread or systematic attack on the civil population 1) Due to the victim pertaining to a group or community persecuted for political, racial, national, ethnic, cultural, religious or <u>another kind of reasons</u> (ie. women), disability, or other motives universally recognised as unacceptable under <u>Intl.Law</u>"