

CRIMES AGAINST STATE AUTHORITY AND PUBLIC ORDER

ANALYSIS TAILORED FOR A MEMBER

Crimes against state authority and public order

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Crimes against state authority and public order

Question

Criminal law. EU. Legal asset to protect: state authority and public order

In which Member States are these behaviours criminalised and what are the penalties for them?
Collective resistance - carried out by a crowd - violence/intimidation - to prevent by force or out of the legal channels the exercise of public functions.

Reference academic article

[El delito de sedición. Un enfoque político criminal y de derecho comparado](#), Antonio María Javato Martín, Cuadernos de política criminal, Nº 126, 2018, págs. 51-88

Relevant articles in Spanish law - [Código Penal](#)

El CP1995. Art 544 (delitos contra el orden público)

“Son reos de **sedición** los que, sin estar comprendidos en el delito de rebelión, se alcen pública y tumultuariamente para impedir, por la fuerza o fuera de las vías legales, la aplicación de las Leyes o a cualquier autoridad, corporación oficial o funcionario público, el legítimo ejercicio de sus funciones o el cumplimiento de sus acuerdos, o de las resoluciones administrativas o judiciales.”

Art 545

“1. Los que hubieren inducido, sostenido o dirigido la sedición o aparecieron en ella como sus principales autores, serán castigados con la pena de prisión de ocho a diez años, y con la de diez a quince años, si fueran personas constituidas en autoridad. En ambos casos se impondrá, además, la inhabilitación absoluta por el mismo tiempo.

2. Fuera de estos casos, se impondrá la pena de cuatro a ocho años de prisión, y la de inhabilitación especial para empleo o cargo público por tiempo de cuatro a ocho años.”

The CP1995. Art 472 (delitos contra la Constitución)

“Son reos del delito de **rebelión** los que se alzaren violenta y públicamente para cualquiera de los fines siguientes:

- 1.º Derogar, suspender o modificar total o parcialmente la Constitución.
- 2.º Destituir o despojar en todo o en parte de sus prerrogativas y facultades al Rey o a la Reina, al Regente o miembros de la Regencia, u obligarles a ejecutar un acto contrario a su voluntad.
- 3.º Impedir la libre celebración de elecciones para cargos públicos.
- 4.º Disolver las Cortes Generales, el Congreso de los Diputados, el Senado o cualquier Asamblea Legislativa de una Comunidad Autónoma, impedir que se reúnan, deliberen o resuelvan, arrancarles alguna resolución o sustraerles alguna de sus atribuciones o competencias.
- 5.º Declarar la independencia de una parte del territorio nacional.
- 6.º Sustituir por otro el Gobierno de la Nación o el Consejo de Gobierno de una Comunidad Autónoma, o usar o ejercer por sí o despojar al Gobierno o Consejo de Gobierno de una Comunidad Autónoma, o a cualquiera de sus miembros de sus facultades, o impedirles o coartarles su libre ejercicio, u obligar a cualquiera de ellos a ejecutar actos contrarios a su voluntad.
- 7.º Sustraer cualquier clase de fuerza armada a la obediencia del Gobierno.”

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Art 473

“1. Los que, induciendo a los rebeldes, hayan promovido o sostengan la rebelión, y los jefes principales de ésta, serán castigados con la pena de prisión de quince a veinticinco años e inhabilitación absoluta por el mismo tiempo; los que ejerzan un mando subalterno, con la de prisión de diez a quince años e inhabilitación absoluta de diez a quince años, y los meros participantes, con la de prisión de cinco a diez años e inhabilitación especial para empleo o cargo público por tiempo de seis a diez años.

2. Si se han esgrimido armas, o si ha habido combate entre la fuerza de su mando y los sectores leales a la autoridad legítima, o la rebelión hubiese causado estragos en propiedades de titularidad pública o privada, cortado las comunicaciones telegráficas, telefónicas, por ondas, ferroviarias o de otra clase, ejercido violencias graves contra las personas, exigido contribuciones o distraído los caudales públicos de su legítima inversión, las penas de prisión serán, respectivamente, de veinticinco a treinta años para los primeros, de quince a veinticinco años para los segundos y de diez a quince años para los últimos.”

Explanations in English on behaviours related to the crimes of sedition and rebellion

Sedition in Spanish law

As defined by **Article 544 of Spain's Criminal Code**, a person is considered to have committed the crime of **sedition** if, "without [their actions] being covered in the crime of rebellion, they **rise up publicly and tumultuously to prevent, by force or outside of legal means, the application of the Law or any authority**, official corporation or public official **from legitimately carrying out their functions** or complying with their agreements or [to prevent the application] of administrative or judicial resolutions”. To put it in plainer language, in Spanish law, sedition requires a "**public and tumultuous uprising**" against the **law** or the **authorities**.

This is considerably different from how we generally understand the term in English, namely as being **speech or writing** that encourages such actions. The punishment for those who "incited, sustained or directed" sedition or were its "main perpetrators" is 8-10 years in prison, which rises to **10-15 years** for those in **positions of authority**. In either case, defendants will also be banned from holding any public office for the same length of time. "In other cases", those found guilty of sedition will be sentenced to 4-8 years behind bars and banned from any public office related to the crime for 4-8 years.

Rebellion in Spanish law

Article 472 of the Criminal Code defines **rebellion** as a "**violent and public uprising**" for certain defined ends, including:

- 1. To abolish, to suspend or to modify the Constitution in whole or in part.
- 5. To declare the independence of a part of the national territory.
- 7. To remove any kind of armed force [meaning any branch of the military or police force] from obedience to the government.

The sentencing guidelines for rebellion depend on various factors. At the low end, for "mere participants", they can be as short as **5-10 years in prison**. At the other end of the scale, for those who incited or were the main leaders of a rebellion which saw, among other compounding factors, "combat [... with] the sectors loyal to the legitimate authority, damage caused to public or private property [...] or the diversion of public funds from their legitimate investment", it is as high as **25-30 years in prison**. All cases also include bans from public office of different categories for different periods of time. (...) Comparing **rebellion** and **sedition**, we see that the former requires the uprising to be "**violent and public**", whereas the latter requires it to be "**public and tumultuous**". Similarly, rebellion is an uprising aiming to achieve one of a **specific set of goals** - such as those in the list above - in contrast to sedition which is an uprising based on **more general opposition to the law** or those who apply it.

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Source: [What do sedition and rebellion mean in Spanish law?](#) Rob King, October 2019

See also following articles in Spanish

- [¿Es la sedición delito en Bélgica?](#), por Antonio Javato Martín, profesor titular de Derecho Penal de la Universidad de Valladolid, 29/10/2019
- [Los delitos de rebelión y sedición en el ordenamiento jurídico español y su eventual aplicación al proceso independentista catalán](#), Miguel Ángel Cano Paños, Revista Electrónica de Estudios Penales y de la Seguridad, October 2019

Nota bene

Please note that the reference [article](#) in Spanish contains detailed explanations on relevant criminal offences in Belgium, Germany, France and Italy, and draws comparisons with Spanish criminal law.

Below you will find an overview, prepared by EPRS, of the relevant articles identified in the Criminal Codes of Belgium, Germany, France, Italy, Ireland, Poland, Latvia, Sweden and Finland.

Before proceeding with the overview, we would like to draw your attention on a few considerations that are essential for the correct understanding of the overview itself.

This overview is by no means an interpretation of these laws.

We caution against interpreting single law articles in a vacuum, because any article never stands on its own; it always 'interacts' with others.

Each legal system has its own unique legal concepts, terms and court procedures that sometimes have no equivalent in other legal systems. Therefore, an issue that appears simple and straightforward in a legal system, upon further examination, may be ambiguous or not directly addressed in other legal systems.

Furthermore, a law does not stand on its own either, but should always be read in conjunction with the relevant case law. Therefore, an in-depth analysis of the existing case law would be required for a correct understanding of any legal article.

For the different countries in the overview, articles and the relevant case law have been translated into English by colleagues within the Members Research Service and are by no means official translations.

Please also note that this overview does not constitute a legal analysis.

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Belgium

There is no offence called 'sedition' in Belgian law. Neither the [Belgian Constitution](#) nor the [Belgian Penal Code](#) mention it as such. There is instead offence of 'rebellion' similar to the definition of the sedition offence in Spanish law (Article 544 CP), while the term 'seditious' can be found in articles related to the offences against the internal security of the state.

Parts of the political establishment¹ see in Article 66 § 5 of the Belgian Penal Code (Chapter VII on the participation of several persons in the same crime or offense and dating back to 1867) elements of sedition:

CHAPTER VII. - THE PARTICIPATION OF SEVERAL PERSONS IN THE SAME CRIME OR MISDEMEANOUR.

Art. 66. The following shall be punished as perpetrators of a crime or misdemeanour:

Those who have performed it or who have directly cooperated in its completion;

Those who, by any act whatsoever, have lent such assistance for the completion of a crime or misdemeanour which, without their assistance, could not have been committed;

Those who, by gifts, promises, threats, abuse of authority or power, plots and or punishable false pretexts, directly provoked the crime or misdemeanour;

(Those who, either by speeches made in meetings or public places or by writings, printed matter, images or emblems of any kind, which have been displayed, distributed or sold, offered for sale or exposed to public view, have directly provoked to commit it, without prejudice to the penalties prescribed by law against the perpetrators of provocations to crimes or misdemeanours, even if such provocations have not been acted upon). <L 28-07-1934, art. 1, I>.²

According to [Jugement de l'Opinion Publique et la Repression des Provocations Collectives non Suivies d'Effet en Belgique \(1831-1914\)](#) (p. 225), Article 66 meant that a provocation that was not followed up by a crime or offence was in general not punished; it was only punished where specific dispositions were foreseen. This principle was immediately recognised by case law (see footnote 29 of the publication), for example by an article (now removed) that punished the provocation for a duel. In the last few decades article 66 § 5 has been rarely used. Article 66 nonetheless led to the [Göktepe vs Belgium arrest](#) in 2005, where the European Court of Human Rights said that Belgium had violated Article 6 § 1 of the European Convention on Human Rights on the right to a fair trial. A more recent example that I could find was [the Liege Prosecutor](#) who resorted not only to article 66 of the Penal Code but also to another law of 25 March 1891 - [still in force](#) - to face an increase in calls for violence against the police or the destruction of public property.

At the end of the nineteenth century, the Belgian authorities decided to qualify criminal provocation as an autonomous offence. Whereas in 1867 the thinking was that when no effect was given to seditious articles or subversive speeches, they were considered not to be punishable, since public

¹ [Geert Lambert from the Flemish Volksunie](#) party proposed in 2008 to repeal paragraph 5 of article 66 alleging it was contrary to the principle of freedom of speech but it expired in 2010 due to the dissolution of the Chambers.

² Non-official translation of the following text:

CHAPITRE VII. - DE LA PARTICIPATION DE PLUSIEURS PERSONNES AU MEME CRIME OU DELIT.

Art. 66. Seront punis comme auteurs d'un crime ou d'un délit :

Ceux qui l'auront exécuté ou qui auront coopéré directement à son exécution;

Ceux qui, par un fait quelconque, auront prêté pour l'exécution une aide telle que, sans leur assistance, le crime ou le délit n'eût pu être commis;

Ceux qui, par dons, promesses, menaces, abus d'autorité ou de pouvoir, machinations ou artifices coupables, auront directement provoqué à ce crime ou à ce délit;

(Ceux qui, soit par des discours tenus dans des réunions ou dans des lieux publics, soit par des écrits, des imprimés, des images ou emblèmes quelconques, qui auront été affichés, distribués ou vendus, mis en vente ou exposés aux regards du public, auront provoqué directement à le commettre, sans préjudice des peines portées par la loi contre les auteurs de provocations à des crimes ou à des délits, même dans le cas où ces provocations n'ont pas été suivies d'effet.) <L 28-07-1934, art. 1, I>

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opinion had not bothered to heed their incitements, the rise of the labour movement at the end of that century urged the authorities to change their policy towards this kind of provocations. In 1891 a new law came into force ([Loi portant répression à la provocation à commettre des crimes ou des délits](#)) which says the following :

*Article 1.<L 28-07-1934, art. 3> Anyone who, either by speeches held in meetings or public places, or by writings, printed matter, images or emblems of any kind, which have been displayed, distributed or sold, put up for sale or exposed to public view, **has directly and maliciously provoked to commit acts qualified as crimes by law, without such provocation having been followed by action**, shall be punished by imprisonment for eight days to three years and a 50 to 3,000 francs fine.*

*Anyone who, by one of the methods indicated in paragraph 1, **directly and maliciously provokes, without such provocation having been followed up, to commit one of the offences provided for either in Articles 269 to 274, 313, 463, 523, 528, 533 [1 and 534]1 of the Penal Code, or in the Military Penal Code**, shall be punished by imprisonment for eight days to three months and a 26 to 1.000 francs fine.*

Anyone who, by one of the methods indicated in § 1, or by systematic propaganda, directly and maliciously provoked, even if this provocation was not followed up, to refuse military service, either by not submitting to one of the recruitment operations, or by not obeying a call or recall to arms, or by failing to report for a review of personnel, shall be punished by the same penalties.

In the event of a second or subsequent offence within five years of conviction under this Article, the term of imprisonment provided for in § 1 may be increased to five years and that provided for in §§ 2 and 3 to one year; in addition, the prohibition of the exercise of the rights enumerated in Article 31 of the Criminal Code shall be imposed for a term of five to ten years.³

(1)<L 2014-05-05/09, art. 23, 002; In force: 18-07-2014>

The offenses being referred to in paragraph 2 are:

- 269 to 274: **rebellion (Article 269:** 'Is qualified as **rebellion**, any attack, any **resistance with violence or threats** against ministerial officers, rural or forest guards, depositaries or agents of the public force, tax and contribution collectors, bailiffs, customs officers, receivers, commissioned officers and personnel of the administrative or judicial police, acting for the execution of laws, orders or ordinances of the public authority, proxies.')

³ Non-official translation of the following text :

Article 1.<L 28-07-1934, art. 3> Quiconque, soit par des discours tenus dans des réunions ou lieux publics, soit par des écrits, des imprimés, des images ou emblèmes quelconques, qui auront été affichés, distribués ou vendus, mis en vente ou exposés aux regards du public, aura directement et méchamment provoqué à commettre des faits qualifiés crimes par la loi, sans que cette provocation ait été suivie d'effet, sera puni d'un emprisonnement de huit jours à trois ans et d'une amende de 50 à 3.000 francs.

Quiconque, par l'un des modes indiqués au § 1er, aura directement et méchamment provoqué, sans que cette provocation ait été suivie d'effet, à commettre l'un des délits prévus, soit par les articles 269 à 274, 313, 463, 523, 528, 533 [1 et 534]1, du Code pénal, soit par le Code pénal militaire, sera puni d'un emprisonnement de huit jours à trois mois et d'une amende de vingt-six francs à mille francs.

Quiconque, par l'un des modes indiqués au § 1er, ou par une propagande systématique, aura directement et méchamment provoqué, même si cette provocation n'a pas été suivie d'effet, à refuser le service militaire, soit en ne se soumettant pas à l'une des opérations du recrutement, soit en n'obéissant pas à un appel ou à un rappel sous les armes, soit en ne se présentant pas à une revue d'effectifs, sera puni des mêmes peines.

En cas de récidive dans les cinq ans qui suivent une condamnation encourue en vertu du présent article, l'emprisonnement prévu au § 1er pourra être porté à cinq ans et celui prévu aux §§ 2 et 3 à un an; en outre, l'interdiction de l'exercice des droits énumérés à l'article 31 du Code pénal sera prononcée pour un terme de cinq ans à dix ans. (1)<L 2014-05-05/09, art. 23, 002; En vigueur : 18-07-2014>

⁴ Non-official translation of the following text: Est qualifiée rébellion, toute attaque, toute résistance avec violences ou menaces envers les officiers ministériels, les gardes champêtres ou forestiers, les dépositaires ou agents de la force publique, les préposés à la perception des taxes et des contributions, les porteurs de contraintes, les préposés des douanes, les séquestres, les officiers ou agents de la police administrative ou judiciaire, agissant pour l'exécution des lois, des ordres ou ordonnances de l'autorité publique, des mandants de justice ou jugements.

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- 313: industry, trade and public auction offenses
- 463: thefts committed without violence or threats
- 523: destruction of constructions, steam machines and telegraphic devices
- 528, 533, [1 et 534]: destruction or damage to foodstuffs, goods, or other movable properties

Even though the term '**sedition**' is not mentioned here among the punishable offences, it can be observed that the definition of the offence of '**rebellion**' in **Articles 269 to 274** is quite close to the behaviour described in article 544 of Spanish Criminal Code.

Penalties for rebellion are fixed as follows:

Art. 271. Rebellion committed by a single person armed with weapons shall be punishable by imprisonment from three months to two years; if it took place without weapons, by imprisonment from eight days to six months.

Art. 272. If the rebellion has been committed by several persons, and as a result of a prior concert, the rebels, bearing arms, shall be sentenced to (imprisonment from five to ten years), and the others to imprisonment from one to five years. <L 2003-01-23/42, ss. 54, 040; Effective: 13-03-2003

If the rebellion was not the result of a prior concert, the armed culprits will be punished by imprisonment for one to five years, and the others by imprisonment for three months to two years.

Art. 273. In the event of rebellion with a band or gathering, article 134 of this Code shall be applicable to rebels without functions or jobs in the band, who have withdrawn at the first warning of the public authority, or even since, if they have been seized outside the place of rebellion, without further resistance and without arms.

Art. 274. In all cases in which a prison sentence is pronounced for rebellion, the guilty parties may be sentenced to a fine of twenty-six [euros] to two hundred [euros]. <L 2000-06-26/42, art. 2, in force: 01-01-2002>.

The leaders of the rebellion and those who provoked it may, moreover, be condemned (...) to prohibition, in accordance with Article 33. <L 09-04-1930, art. 32>⁵

Finally, worth mentioning are articles 124-135 of the Penal Code on crimes against the internal security of the state, in particular articles 132 and 134, where the term '**sedition**' appears:

*Art. 132. Except in cases where the **sedition meeting** has had as its object or result one of the crimes set forth in Articles 101, 102, 103 and 104, individuals belonging to the above-mentioned gangs, without exercising any command or employment, and who are seized at the scene, shall be punished*

⁵ Non-official translation of the following text :

Art. 271. La rébellion commise par une seule personne, munie d'armes, sera punie d'un emprisonnement de trois mois à deux ans; si elle a eu lieu sans armes, d'un emprisonnement de huit jours à six mois.

Art. 272. (Voir NOTE sous TITRE) Si la rébellion a été commise par plusieurs personnes, et par suite d'un concert préalable, les rebelles, porteurs d'armes, seront condamnés à la (réclusion de cinq ans à dix ans), et les autres à un emprisonnement d'un an à cinq ans. <L 2003-01-23/42, art. 54, 040; En vigueur : 13-03-2003>

Si la rébellion n'a pas été le résultat d'un concert préalable, les coupables armés seront punis d'un emprisonnement d'un an à cinq ans, et les autres, d'un emprisonnement de trois mois à deux ans.

Art. 273. En cas de rébellion avec bande ou attroupement, l'article 134 du présent Code sera applicable aux rebelles sans fonctions ni emplois dans la bande, qui se seront retirés au premier avertissement de l'autorité publique, ou même depuis, s'ils ont été saisis hors du lieu de la rébellion, sans nouvelle résistance et sans armes.

Art. 274. Dans tous les cas où il sera prononcé, pour fait de rébellion, la peine d'emprisonnement, les coupables pourront être condamnés, en outre, à une amende de vingt-six [euros] à deux cents [euros]. <L 2000-06-26/42, art. 2, En vigueur : 01-01-2002>

Les chefs de la rébellion et ceux qui l'auront provoquée pourront, de plus, être condamnés (...) à l'interdiction, conformément à l'article 33. <L 09-04-1930, art. 32>

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with the penalty immediately lower than that pronounced against the directors or commanders of these gangs.

*Art. 134. No punishment shall be pronounced for **the act of sedition** against those who, having belonged to these bands without exercising any command or employment or fulfilling any function, withdrew at the first warning of the civil or military authorities, or even since then, when they were seized outside the place of the seditious meeting, without putting up any resistance and without arms. Nevertheless, they shall be punished for other crimes or offences they have personally committed.⁶*

The ‘**seditious gathering**’ or ‘meeting’ needs to be linked to the crimes as described in articles 101 to 104. These articles refer to attacks and plots against the king, against the royal family and against the form of government (Chapter I) - in this sense, these elements are closer to the offence of rebellion under Article 472 of Spanish Criminal Code.

Art 104: An attack whose aim is either to destroy or change the form of government or the order of succession to the Throne, or to cause citizens or inhabitants to take up arms against the royal authority, the Legislative Houses or one of them, shall be punishable by imprisonment (from twenty to thirty years). <L 2003-01-23/42, ss. 20, 040; in force: 13-03-2003>.⁷

Further reading

- [De deelneming in het Belgische Strafrecht - Preadvies door Mr Raymond Charles](#), 1953
- [Strafbare deelneming](#) / Vanheule J., Intersentia, 2010
- [De strafbare deelneming als mededader of medeplichtige... of is dat niet van belang?](#) / Flores Dewitte, Masterproef UGent, 2018-2019

⁶ Non-official translation of the following text: Art. 132. Hors le cas où la réunion séditionnaire aura eu pour objet ou pour résultat l'un des crimes énoncés aux articles 101, 102, 103 et 104, les individus faisant partie des bandes dont il est parlé ci-dessus, sans y exercer aucun commandement ni emploi, et qui auront été saisis sur les lieux, seront punis de la peine immédiatement inférieure à celle qui sera prononcée contre les directeurs ou commandants de ces bandes. Art. 134. Il ne sera prononcée aucune peine, pour le fait de sédition, contre ceux qui, ayant fait partie de ces bandes sans y exercer aucun commandement et sans y remplir aucun emploi ni fonction, se seront retirés au premier avertissement des autorités civiles ou militaires, ou même depuis, lorsqu'ils auront été saisis hors des lieux de la réunion séditionnaire, sans opposer de résistance et sans armes.

Néanmoins, ils seront punis à raison des autres crimes ou délits qu'ils auront personnellement commis.

⁷ Non-official translation of the following text: Art 104: L'attentat dont le but sera, soit de détruire, soit de changer la forme du gouvernement ou l'ordre de successibilité au trône, soit de faire prendre les armes aux citoyens ou aux habitants contre l'autorité royale, les Chambres législatives ou l'une d'elles, sera puni de la détention (de vingt ans à trente ans). <L 2003-01-23/42, art. 20, 040; En vigueur : 13-03-2003>

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Germany

There is no offence called ‘sedition’ in the current criminal legal framework in Germany. The word is usually translated as *Aufuhr*, which actually means revolt or rebellion in English and is not considered, like in several common law countries, as a provocation or an opinion. However, several elements of behaviours described in Spanish offences of sedition and rebellion can be found in German law.

Historical background

The difficulty to resist to oppression in Nazi Germany

The Nazi regime, between 1933 and 1945, fought violently and with no mercy any kind of political, intellectual or religious contestation, not speaking of what has been done to minorities, Jewish or Roma, as well as homosexuals and so-called “asocials”. One of the reasons of the very limited resistance to that oppression was the considerable risks taken by Germans willing to fight Nazism still free to move. Along with mass killings, Nazis organised a [repressive system](#) based on terror as from 1933, based notably on the 27 February 1933 [Reichstagsbrandverordnung](#) ([Reichstag Fire Decree](#)), the 21 March 1933 [Heimtückeverordnung](#) (Treachery Decree) and the 23 March 1933 Enabling Act (forbidding all parties, except the NSDAP). As from 1938, the offence of [Wehrkraftzersetzung](#) (which can be translated by ‘sedition against the military force’ or ‘disorganisation of the armed forces’) appeared in the Nazi legal framework, while the regime was preparing for the war. This offence was supposed to disappear with Nazi Germany.

Sedition in the former German Democratic Republic (DDR)

The political pressure on the people of DDR, although less violent than in Nazi Germany, was extremely oppressive as well. Even the participation to the activities of non-communist political parties [associated](#) to the regime (*National Front der DDR* - National Front of the German Democratic Republic) were under close watch in their expression and supervised by the leading Socialist Unity Party (SED). Dissidents were harshly repressed by the State Security (*Ministerium für Staatssicherheit* or STASI), including those who wanted to change the situation from inside the SED. This repression was called [Zersetzung](#) (‘[decomposition](#)’) in complement to the usual legal framework against dissidents by the STASI - after being used by the Nazis.

A survival

Even after May 1945 and the dissolution of the Nazi regime, the Federal Republic of Germany inherited of the old *Strafgesetzbuch* (StGB - Criminal Code) used by the 1st, 11nd and 111rd *Reiche*, including the legislation on *Wehrkraftzersetzung*. This had no importance, until the moment the *Bundeswehr* (Federal Armed Forces) was created in 1955. Offences similar to *Wehrkraftzersetzung* are currently regulated under the heading *Straftaten gegen die Landesverteidigung* (Crimes against national defence), articles 109-109k StGB. For instance, the [Article 109d](#) StGB provides for penalties against ‘*Disruptive propaganda against the Bundeswehr*’: imprisonment for up to 5 years or a fine.

The current framework

While there is no offence called sedition in Germany in the current StGB, the most relevant behaviours to be found in [German Criminal Code](#) (Strafgesetzbuch – StGB) are presented below.

Chapter of *Strafgesetzbuch* on ‘[Resistance to Public Authority](#)’ contain the following relevant articles:

- [Article 111](#) StGB on ‘Public incitement to commit offences’ punishes the act of inciting the commission of an unlawful act “in a meeting or by disseminating material” with the same penalty as an abettor ([Article 26](#)) or with imprisonment for up to 5 years or a fine if the incitement is not successful.
- [Article 113](#) StGB on ‘Resistance to Enforcement Officers’ states that “whoever, by force or threat of force, resists a public official or a soldier in the Federal Armed Forces charged with enforcing laws, statutory instruments, judgments, judicial decisions or directions in the performance of such an official act incurs a penalty of imprisonment for a term not exceeding 3 years or a fine”, or

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imprisonment from 6 months to 5 years “in especially serious cases” (carrying a weapon; causing danger of death or health damage; the act is committed jointly with another party to the offence).

- [Article 114](#) StGB on ‘Assault of Enforcement Officers’ punishes an assault on public official or soldier charged with enforcing laws while in the performance of an official act with imprisonment from 3 months to 5 years (and refers to Article 113(2) for serious cases).

Chapter of *Strafgesetzbuch* on ‘[Offences Against Public Order](#)’ contain the following relevant articles:

- [Article 125](#) StGB on ‘Breach of Peace’ punishes whoever participates in acts of violence against persons or property (or threats of violence), “committed by a crowd of people who have joined forces in a manner which endangers public safety”, or whoever “encourages a crowd of people to commit such acts”, with imprisonment up to 3 years or a fine; a reference is made to articles 113 and 114 quoted above⁸. [Article 125a](#) punishes ‘Especially Serious Breach of Peace’ by imprisonment from 6 months to 10 years (when perpetrator carries a firearm or another weapon, or causes danger of death or health damage).
- [Article 130 StGB](#) on *Volksverhetzung*, ‘incitement of masses’, could be relevant as well, but it is rather directed against hate crimes, while [Article 130a](#) punishes the action of giving instructions for committing criminal offences, in general.

Chapter of *Strafgesetzbuch* on ‘[Offences against peace, high treason and endangering democratic state under rule of law](#)’ contain the following relevant articles:

- Under [Article 81 \(1\)](#) StGB, persons who undertake, by force or threat of force, to undermine the continued existence of the Federal Republic of Germany or to change the constitutional order based on the Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*) are liable to imprisonment for life or for not less than 10 years; in less serious cases, the penalty is imprisonment for a term of between 1 year and 10 years.
- Under [Article 82 \(1\)](#) StGB, a person who undertakes, by force or through threat of force, to incorporate the territory of one member state (*Land*) in whole or in part into another member state of the Federal Republic of Germany or to separate a part of a member state from it shall be liable to imprisonment for from 1 to 10 years; in less serious cases, the penalty is imprisonment for a term of between six months and five years.
- Under [Article 92 \(1\)](#) StGB, a person undermines the continued existence of the Federal Republic of Germany if he or she causes the end of its freedom from foreign domination, the removal of its national unity, or the secession of one of its constituent territories.

Chapter of *Strafgesetzbuch* on ‘[Offences against constitutional organs and in context of elections and ballots](#)’ contain the following relevant articles:

- Under [Article 105](#) StGB on Coercion of constitutional organs, whoever unlawfully uses force or threats of force to compel a legislative body of the Federation or one of the *Länder* or one of its committees, or the Federal Convention or one of its committees, or the Federal Government, the Federal Constitutional Court, or the government or constitutional court of one of the *Länder*, not to exercise its functions or to exercise them in a particular manner incurs a penalty of imprisonment for a term of between 1 year and 10 years; in less serious cases, the penalty is imprisonment for a term of between six months and five years.
- Under [Section 106](#) StGB on Coercion of Federal President and members of constitutional organs, whoever unlawfully uses force or a threat of serious harm to compel the Federal President or a member of a legislative body of the Federation or of one of the *Länder*, the Federal Convention or the Federal Government or Federal Constitutional Court, or the government or constitutional court of one of the *Länder*, not to exercise their functions or to exercise them in a particular manner incurs a penalty of imprisonment for a term of between 3 months and 5 years; in especially serious cases, the penalty is imprisonment for a term of between 1 year and 10 years.

⁸ For detailed explanations about Article 125 as well as Articles 113 and 114, see [reference article](#) in Spanish.

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France

There is no offence called sedition in the criminal legal framework in France.

An apparently ambiguous meaning in France

A definition close to the idea of an illegal uprising

Sedition means in French, according to the *Centre national de ressources textuelles et lexicales* (CNTRL), a coordinated uprising against the established authority⁹. Prof. Jean-Paul Doucet [says](#) a sedition is when ‘a structured group, with leaders and weapons, decides to take action in order to impose its domination to the population¹⁰’. The French position requires a criminal intention - and according to Prof. Doucet, since the *Directoire*: article 617 of the 1795 - Year IV - Code of offences and penalties: any conspiracies and plots aiming at creating troubles in the Republic through a civil war, by arming the citizens one against the other... shall be punished by death¹¹

An offence that cannot in principle fit with French constitutional principles

The difference with Spain is that there should be a plot and a criminal intention. The provocation is not considered as an offence, as far that it is not leading to an insurrection or a coup. This is coherent: French Republican principles incorporate the [Declaration des droits de l'homme et du citoyen](#) of 1789, which in its article 2 recognises resistance to oppression as a natural and imprescriptible human right (along with liberty, property and safety). Several provisions also enshrine this principle of resistance, when for instance a civil servant or a military have the legal obligation to refuse to comply with an illegal order or leading to the commission of a crime against humanity (following the article [213-4](#) of the French Criminal Code). The Constitution Council, in its [16 January 1982 decision](#), gave a constitutional value to resistance to oppression, like all the principles set in the Declaration, as it is one of the goals of a political society. Freedom of speech, also recognised by the Declaration in its article 11 (‘the free communication of ideas and of opinions is one of the most precious rights of man. Any citizen may therefore speak, write and publish freely, except what is tantamount to the abuse of this liberty in the cases determined by Law.’), also blocks the idea of a sedition understood as a provocation to an uprising.

However, several lawyers, like [Léon Duguit](#) (1859-1928), one of the greatest theorists of the French modern public law, was speaking of ‘passive resistance’ and ‘defensive resistance’, saying that ‘the legitimacy of an insurrection will never be taken into account as a matter of positive law before a court¹²’. The same Declaration in its article 7 turns resistance into an offence... This has to be put in parallel with Article 35 of the 1793 Constitution - which never entered into force - which created a right to insurrection. In the 1795 Constitution, the principle of resistance has been repealed. The 1810 Napoleonic criminal code goes even further, in its section II on the crimes against the safety of the State.

Current legal framework

Until 1994

The 1810 criminal code remained into force until 1994.

The last versions of the 1810 *Code Pénal* were very much influenced by the Algerian War, then considered as an insurrection. Until 1994, a great part of the provisions of the 4 June 1960 Ordinance modifying some provisions of the criminal code, of the criminal proceeding code and of the military justice code for the Army and the Navy in order to facilitate law enforcement, State safeguard and

⁹ Non-official translation of ‘*soulèvement concerté contre l'autorité établie*’.

¹⁰ Non-official translation of ‘*il y a sédition lorsqu'un groupe structuré, ayant chefs et armes, décide de passer à l'action afin d'imposer sa domination à l'ensemble de la population.*’

¹¹ Non-official translation of ‘*toutes conspirations et complots tendant à troubler la République par une guerre civile, en armant les citoyens les uns contre les autres ... seront punis de mort.*’

¹² See Gros, D, [Qu'est-ce que le droit de résistance à l'oppression](#), *Seuil/ Le genre humain*, 2005 n°44 (p.21)

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pacification in Algeria ([60-529](#)) remained in force. Those in particular on treason, espionage, attacks against national defence, troubling the State by massacre or devastation, by participating to an insurrection.

But, even after being adopted in an insurrectional context, the law never mentions “sedition” as a crime by itself, the criminal intention being the problem, not the speech or the opinion leading to it.

After 1994

Promulgated in 1992, a new criminal code entered into force in 1994. A specific law, enacted on 22 July 1992, bears reform of the provisions of the criminal code related to crimes and misdemeanours against the nation, the State and the public peace ([92-686](#)), in order to repeal and replace the provisions of the 1810 and 1960 provisions. This law creates a specific set of principles - *intérêts fondamentaux de la nation* (the Nation’s fundamental interests): independence, territorial integrity, republican form of its institutions, defence and diplomatic means, safeguard of its population in France and abroad, balance of its natural milieu and environment and the essential elements of its scientific and economical potential and its cultural heritage.¹³

Please find below the text of relevant articles under the Chapter on protection of Nation’s fundamental interests in French:

Section 1 : De l'attentat et du complot

Article 412-1

Constitue un attentat le fait de commettre un ou plusieurs **actes de violence de nature à mettre en péril les institutions de la République ou à porter atteinte à l'intégrité du territoire national**.

L'attentat est puni de trente ans de détention criminelle et de 450 000 euros d'amende.

Les peines sont portées à la détention criminelle à perpétuité et à 750 000 euros d'amende lorsque l'attentat est commis par une personne dépositaire de l'autorité publique.

Les deux premiers alinéas de [l'article 132-23](#) relatif à la période de sûreté sont applicables à l'infraction prévue au présent article.

Article 412-2

Constitue un complot la résolution arrêtée **entre plusieurs personnes de commettre un attentat lorsque cette résolution est concrétisée par un ou plusieurs actes matériels**.

Le complot est puni de dix ans d'emprisonnement et de 150 000 euros d'amende.

Les peines sont portées à vingt ans de détention criminelle et à 300 000 euros d'amende lorsque l'infraction est commise par une personne dépositaire de l'autorité publique.

Offences against the public authority are defined in French Criminal Code as **rebellion** (while they better correspond to the definition of sedition (art.544 CP) in Spanish law rather than rebellion (art.472). They form part of Section 5 (*De la rébellion*) of Chapter III on Offences against public administration committed by individuals (Articles 433-6 to 433-10). ‘Collective resistance’ is defined in Article 433-7 as *‘rébellion commise en réunion’*. Please find below the text of relevant articles in French.

Section 5 : De la rébellion

Article 433-6

Constitue une **rébellion** le fait d'opposer une **résistance violente** à une **personne dépositaire de l'autorité publique** ou chargée d'une mission de service public agissant, **dans l'exercice de ses**

¹³ Full text of the [Article 410-1](#) in French : « *Les intérêts fondamentaux de la nation s'entendent au sens du présent titre de son indépendance, de l'intégrité de son territoire, de sa sécurité, de la forme républicaine de ses institutions, des moyens de sa défense et de sa diplomatie, de la sauvegarde de sa population en France et à l'étranger, de l'équilibre de son milieu naturel et de son environnement et des éléments essentiels de son potentiel scientifique et économique et de son patrimoine culturel.* »

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fonctions, pour l'exécution des lois, des ordres de l'autorité publique, des décisions ou mandats de justice.

Article 433-7

La rébellion est punie de deux ans d'emprisonnement et de 30 000 euros d'amende.

La rébellion commise en réunion est punie de trois ans d'emprisonnement et de 45 000 euros d'amende.

Article 433-8

La rébellion armée est punie de cinq ans d'emprisonnement et de 75 000 euros d'amende.

La rébellion armée commise en réunion est punie de dix ans d'emprisonnement et de 150 000 euros d'amende.

Article 433-9

Lorsque l'auteur de la rébellion est détenu, les peines prononcées pour le délit de rébellion se cumulent, par dérogation aux [articles 132-2 à 132-5](#), sans possibilité de confusion, avec celles que l'intéressé subissait ou celles prononcées pour l'infraction à raison de laquelle il était détenu.

Article 433-10

La provocation directe à la rébellion, manifestée soit par des cris ou des discours publics, soit par des écrits affichés ou distribués, soit par tout autre moyen de transmission de l'écrit, de la parole ou de l'image, est punie de deux mois d'emprisonnement et de 7 500 euros d'amende.

Lorsque le délit prévu à l'alinéa précédent est commis par la voie de la presse écrite ou audiovisuelle, les dispositions particulières des lois qui régissent ces matières sont applicables en ce qui concerne la détermination des personnes responsables.

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Ireland

The last time someone was tried for sedition in Ireland was in 1901, but related offences, such as the printing or possession of "seditious documents", still exist, mostly for the purpose of controlling activities of organisations like the IRA who "seek to undermine the authority of the state" (which seems to go to the heart of Irish law's understanding of "seditious"). Proof of incitement to violence is also not a requirement for proving sedition, or that something is "seditious".

Constitutional Law

[Article 40.6.1.i](#) of the Irish Constitution (*Bunreacht na hÉireann*), provides that "[t]he publication or utterance of seditious or indecent matter is an offence which shall be punishable in accordance with law". Under the Constitution, the "right of the citizens to express freely their convictions and opinions" must be subject to "public order or morality". This includes the right of the media ("organs of public opinion") to criticise Government policy, but not insofar as to "undermine public order or morality or the authority of the State".

Criminal Law

Sedition is a **criminal offence in common law**, meaning that it was developed by the judiciary via the courts, and does not have a specific base in statute. The definition for sedition as a common law offence is defined in *R v Burns* [1886] 26 Cox CC 335, as "**the publication, orally or in writing, of words intended to bring into hatred or contempt, or to excite disaffection against the government or parliament, or to promote ill will and hostility between different classes of people.**" According to the [Irish Law Reform Commission](#) (LRC) unlike the English and Canadian offences, there is **no requirement of proof of incitement to violence** for proving sedition in Irish law.

Treason

Treason is an [act separate to sedition](#) in Irish law (paragraph 83). Under [Article 39](#) of the Irish Constitution, "**treason shall consist only in levying war against the State** or assisting any State or person or inciting or conspiring with any person to levy war against the State, or attempting by force of arms or other violent means to overthrow the organs of government established by this Constitution, or taking part or being concerned in or inciting or conspiring with any person to make or to take part or be concerned in any such attempt". The **penalty for treason** is [life imprisonment](#).

Constitutional Definition of "Seditious"

[Article 15.4.1](#) establishes the Constitution as the superior source of law in Ireland. Under [Article 25.5.4](#), "In case of conflict between the texts of any copy of this Constitution enrolled under this section, the text in the national language shall prevail." The Supreme Court in *Quinn's Supermarket v Attorney General* [1972] IR 1 reaffirmed this. The word "[ceannairceach](#)" is the term used for "seditious" in the Irish text of the Constitution. Direct translations for "ceannairceach" include "[mutinous / rebellious](#)", "[rising up against authority](#)", and "[rebellious](#)" / "[insurrectionist](#)". However, these translations **are yet to be applied in a court of law and cannot be considered as legally binding translations or interpretations of the term "seditious"**.

Related Offences

Aside from the common law offence of sedition, Irish law also provides for several criminal offences related to sedition, such as seditious libel, and the possession or printing of "seditious documents".

Seditious Libel

The crime of seditious libel was abolished by [section 35](#) of the **Irish Defamation Act 2009**. The last case of seditious libel in Ireland was *R v McHugh* [1901] 2 IR 569, in 1901 [before the foundation of the current Irish State](#). The court defined seditious libel as "**the written publication of words with seditious intention**". A publication may be found to constitute a seditious libel even where it is not described as such by the prosecution.

In its [Report on the Crime of Libel 1991](#), the LRC **recommended the abolition without replacement** of the common law offence of seditious libel. It stated that "this did not necessarily mean that [the offence] had no function: seditious libel is not an offence which one would expect to occur very often

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in a relatively settled society. At the same time we were of the view that it was not necessary to have duplicated forms of machinery to deal with such activity when it occurs.” The LRC’s other reasons for recommending the abolition of seditious libel were its unclear scope, its inconsistency with Article 40.6.1 of the Constitution, and its “unsavoury history of suppression of Government criticism and has been used as a political muzzle.” Seditious libel was abolished on [23 July 2009](#).

Seditious Documents

[Section 10\(1\)\(c\)](#) of the Offences Against the State Act 1939 (OASA 1939), **prohibits the printing, distribution or sale of “any document which is or contains or includes a seditious document”**. [Printing](#) includes “every mode of representing or reproducing words in a visible form”. The [publication of seditious material by foreign media](#), and [possession of a seditious document](#) are also criminal offences under the OASA 1939. The [penalties](#) for these offences include a fine, three months’ imprisonment, or an order to destroy copies of the documents found to be seditious.

[Section 2](#) OASA 1939 defines a **seditious document** as:

“(a) a document consisting of or containing matter calculated or tending to undermine the public order or the authority of the State, and

(b) a document which alleges, implies, or suggests or is calculated to suggest that the government functioning under the Constitution is not the lawful government of the State or that there is in existence in the State any body or organisation not functioning under the Constitution which is entitled to be recognised as being the government of the country, and

(c) a document which alleges, implies, or suggests or is calculated to suggest that the military forces maintained under the Constitution are not the lawful military forces of the State, or that there is in existence in the State a body or organisation not established and maintained by virtue of the Constitution which is entitled to be recognised as a military force, and

(d) a document in which words, abbreviations, or symbols referable to a military body are used in referring to an unlawful organisation”.

The [LRC](#) has identified the “essence” of the seditious document to be “**matter which undermines the authority of the organs of Government**”. (paragraph 82)

The [Committee to Review the Offences Against the State Acts, 1939-1998](#) (the Committee) has commented on the OASA 1939’s potential to clash with the constitutional requirement for a criminal offence to be [sufficiently specific](#) (paragraph 2.22). It recommended the removal of references to a “seditious document” on the basis that: “the offence of treason already embraces sedition”, “Sedition without advocacy of violence is another word for a harsh critique of existing political structures”, and that the criteria of the definition of “seditious document” are “too broad”.

The [Committee](#) has also **recommended the repeal of the offences of printing or the possession of seditious documents**, in the view that these offences are “overbroad, outdated in the modern era of the internet and effectively unenforceable”. It suggested a recast of the crime of possession to only be actionable as a criminal offence in limited circumstances, such as when possession is linked to other unlawful activities, such as [membership of an unlawful organisation](#) (paragraph 6.123).

Offences Against the State

[Section 7\(1\)](#) of the Offences Against the State Act 1939 foresees “penal servitude for a term not exceeding seven years or to imprisonment for a term not exceeding two years” for whoever **prevents or obstructs**, or attempts or is concerned in an attempt to prevent or obstruct, **by force of arms or other violent means or by any form of intimidation** the carrying on of the government of the State or any branch (whether legislative, judicial, or executive) of the government of the State or the exercise or performance by any member of the legislature, the judiciary, or the executive or by any officer or employee (whether civil (including police) or military) of the State of any of his functions, powers, or duties. Moreover, [section 9\(1\)](#) foresees the same penalties for whoever commits any **act of violence against or of interference with a member of a lawfully established military or police force** (whether such member is or is not on duty), with intent to **undermine public order or the authority of the State**.

Italy

Speaking of 'seditious' behaviours, i.e. intended to subvert the public order, the most pertinent article would be Art. 655 of Criminal Code. The jurisprudence seems to agree that the behaviour must be accompanied by the predetermined purpose of rebellion and hostility towards those who represent the authority and the law, with the consequent danger of creating or protracting a state of disturbance for public order. Moreover, other articles on offences against State or public order seem relevant.

Relevant articles under the Title I of Criminal Code on 'Crimes against the personality of the state'

Article 241 - Attacks against the integrity, independence and unity of the State

Criminal code> *BOOK SECOND - Of offences in particular*> *Title I - Of offences against the personality of the state*> *Chapter I - Of offences against the **international** personality of the State* ([source](#))

Unless the fact constitutes a more serious offence, anyone who commits **violent acts directed** and suitable to subject the territory of the State or a part of it to the sovereignty of a foreign State, or to impair the independence or unity of the State, is punished with imprisonment of not less than twelve years. **The penalty is aggravated if the offense is committed in violation of the duties inherent in the exercise of public functions**¹⁴.

Article 284 - Armed insurrection against State powers

Criminal code> *BOOK SECOND - Of offences in particular*> *Title I - Of offences against the personality of the state*> *Chapter II - Of offences against the **internal** personality of the State* ([source](#))

Anyone who promotes **an armed insurrection against State powers** is punished with life imprisonment and, if the insurrection occurs, with life imprisonment. Those who participate in the insurrection are punished with imprisonment for three to fifteen years; those who run it, with life imprisonment. The insurrection is considered armed even if the weapons are only kept in a storage location¹⁵.

Relevant articles under the Title II of Criminal Code on Offences against the public administration

Criminal Code→ *BOOK SECOND - Of offences in particular*→ *Title II - Of offences against public administration*→ *Chapter II - Of offences by private individuals against public administration* ([source](#))

Article 336 - Violence or threat against a public official

Anyone who uses violence or threats⁽¹⁾ against a public official or a person in charge of a public service, to force him/her to carry out an act contrary to his/her duties, or to omit an act of office or service [Art.328], shall be punished with imprisonment from six months to five years [Art.339].

The penalty is imprisonment of up to three years if the act is committed to force any of the above persons to perform an act of their office or service, or to influence it [Art.339].¹⁶

¹⁴ Non-official translation of the following text: 'Salvo che il fatto costituisca più grave reato, chiunque compie atti violenti diretti e idonei a sottoporre il territorio dello Stato o una parte di esso alla sovranità di uno Stato straniero, ovvero a menomare l'indipendenza o l'unità dello Stato, è punito con la reclusione non inferiore a dodici anni. La pena è aggravata se il fatto è commesso con violazione dei doveri inerenti l'esercizio di funzioni pubbliche.'

¹⁵ Non-official translation of the following text: 'Chiunque promuove un'[insurrezione](#) armata contro i [poteri dello Stato](#) è punito con l'ergastolo e, se l'insurrezione avviene, con l'ergastolo. Coloro che partecipano alla insurrezione sono puniti con la reclusione da tre a quindici anni; coloro che la dirigono, con l'ergastolo. L'insurrezione si considera armata anche se le armi sono soltanto tenute in un luogo di deposito.'

¹⁶ Non-official translation of the following text: 'Chiunque usa violenza o minaccia a un pubblico ufficiale o ad un [incaricato di un pubblico servizio](#), per costringerlo a fare un [atto contrario ai propri doveri](#), o ad omettere un atto dell'ufficio o del servizio [[328](#)], è punito con la reclusione da sei mesi a cinque anni [[339](#)]. La pena è della reclusione fino a tre anni, se il fatto è commesso per costringere alcuna delle persone anzidette a compiere un atto del proprio ufficio o servizio, o per influire, comunque, su di essa [[339](#)].'

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(1) The expression **violence or threat** constitutes an essential element of the case in point, since it is a question of instruments suitable to coerce the will of the public subject able to confer the necessary quid of disvalue to the criminal hypothesis. However, unlike the crime of resistance to a public official referred to in Article 337, in the case in question **the violence or threat precedes the performance of the act by the public official** or the person in charge of a public service, and therefore does not accompany the performance of the act.

Article 337 - Resistance to a public official

Anyone who uses violence or threats(1) to oppose a public official or a person in charge of a public service, while he/she is performing an act of office or service, or those who, upon request, provide him/her with assistance, is punished with imprisonment from six months to five years [Art.339]¹⁷.

(1) The expression **violence or threat** constitutes an essential element of the case in point, since they are suitable instruments to coerce the will of the public subject capable of conferring the necessary quid of disvalue to the criminal hypothesis. However, unlike the crime of violence against a public official referred to in Article 336, in the case in question the **violence or threat accompanies the performance of the act by the public official** or the person in charge of a public service, and therefore does not precede it. It must then be a question of violence or threat capable of concretely preventing the official from carrying out the act, hence the impossibility of configuring the crime in question in cases of passive resistance, as well as in the case of conduct of escape, dexterity or deception, which do not meet this requirement.

Two more articles can be relevant in this chapter:

- **Article 338 on Violence or threat against a political, administrative or judicial body or its individual components** provides for penalties (imprisonment from one to seven years) for violence or threats perpetrated against a political, administrative or judicial body or its members in order to disrupt or prevent - wholly or in part - their activity or influence their deliberations.
- **Article 339 on Aggravating circumstances** set out increased penalties for offences of Articles 336, 337 and 338 in following cases:
 - If the violence or threat is committed in the course of **demonstrations in a public place** or a place open to the public, or with weapons, or by a misrepresented person, or **by several persons gathered together**, or by anonymous writing, or in a symbolic way, or by using the intimidating force resulting from secret associations, existing or supposed;
 - If the violence or threat is committed **by more than five persons assembled**, by means of the use of weapons, even if by only one of them; or **by more than ten persons**, even without the use of weapons, the penalty is, in the cases envisaged by first part of article 336, and articles 337 and 338, imprisonment from three to fifteen years, and in the case envisaged by last paragraph of article 336, imprisonment from two to eight years;
 - The provisions of the second paragraph also apply (...) if the violence or threat is committed by throwing or using blunt objects or other objects designed to offend, including pyrotechnic devices, in such a way as to create danger to persons.¹⁸

¹⁷ Non-official translation of the following text: ‘Chiunque usa [violenza](#) o [minaccia](#) per opporsi a un [pubblico ufficiale](#) o ad un [incaricato di un pubblico servizio](#), mentre compie un atto di ufficio o di servizio, o a coloro che, richiesti, gli prestano assistenza, è punito con la reclusione da sei mesi a cinque anni [339]’.

¹⁸ Non-official translation of [Article 338](#) and [Article 339](#) of Criminal Code.

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Offences with 'seditious' elements under Section on Fines concerning public order and public peace
Criminal Code → *BOOK THREE - Of the fines in particular* → *Title I - Of the police fines* → *Chapter I - Of the fines concerning security police* → *Section I - Of the fines concerning public order and public peace*
([source](#))

Article 654 - Seditious shouts and demonstrations

Anyone who, in a meeting which is not to be considered as private pursuant to point 3 of article 266, or in a public place or a place open or exposed to the public, proceeds with seditious demonstrations or shouts(1) shall be punished, if the act does not constitute a crime [Art.266(2), 284, 303, 414, 415], with a pecuniary administrative sanction ranging from one hundred and three to six hundred and nineteen euros.¹⁹

(1) It is considered **seditious demonstration**, for example, the display of flags or emblems which are symbols of social subversion or vilification of the State, the Government, and the authorities.

Article 655 - Seditious assembly

Anyone who is part of a **seditious gathering** of ten or more people is punished, **for the mere fact of participation (1)**, with imprisonment of up to one year. If the person who is part of the gathering is armed, the penalty is of no less than six months' imprisonment. Is not punishable the person who, before the injunction of the Authority, or to obey such injunction, withdraws from the gathering²⁰.

(1) Part of the doctrine considers that the expression "**for the sole fact of participation**" denotes the punishability of any subject who takes part in the seditious gathering, even if in a passive form and out of mere curiosity, however, the majority doctrine and the same jurisprudence tend to consider an active contribution of the participant necessary.

Contentious elements concerning Article 655

Source: <http://www.penale.it/page.asp?mode=1&IDPaq=281>

Decisions revolve around what is considered the only sore point: the notion of **seditious**. The point is the vagueness of the term, in friction with the principle of the fundamental and constitutional principle of legality. The question of the compatibility with these principles of the crime of seditious gathering has been resolved in the affirmative by the Italian Constitutional Court which, with the sent. 15/1973 interpretative of rejection, declared the **legitimacy of the norm on condition of restricting the meaning of seditious**. (...) According to the Court, sedition in a juridical-penal sense indicates "**rebellion, hostility, incitement to the subversion of public institutions**", an act that must be "**in practice suitable to produce an event dangerous for public order**", that is many elements more than

¹⁹ Non-official translation of the following text: Chiunque, in una [riunione](#) che non sia da considerare privata a norma del numero 3 dell'articolo [266](#), ovvero in un [luogo pubblico](#), aperto o [esposto al pubblico](#), compie [manifestazioni](#) o emette [grida sediziose](#) è punito, se il fatto non costituisce [reato](#) [[266](#) 2, [284](#), [303](#), [414](#), [415](#)], con la sanzione amministrativa pecuniaria da centotré euro a seicentodiciannove euro. (1) Si considera sediziosa manifestazione, ad esempio, l'esposizione di bandiere o emblemi che sono simboli di sovversione sociale o di vilipendio verso lo Stato, il Governo, e le autorità.

²⁰ Non-official translation of the following text: 'Chiunque fa parte di una [radunata sediziosa](#) di dieci o più persone è punito, per il solo fatto della partecipazione, con l'[arresto](#) fino a un anno. Se chi fa parte della radunata è armato, la pena è dell'arresto non inferiore a sei mesi. Non è punibile chi, prima dell'ingiunzione dell'Autorità, o per obbedire ad essa, si ritira dalla radunata.' (1) Parte della dottrina ritiene che l'espressione "per il solo fatto della partecipazione" denoti la punibilità di qualunque soggetto che prenda parte alla radunata sediziosa, sia pure in forma passiva e per mera curiosità, tuttavia la dottrina maggioritaria e la stessa giurisprudenza propendono per considerare necessario un contributo attivo del partecipante.

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in the common sense of the term (which simply evokes rebellion, turmoil, riot). (...) Also the term 'radunata' in Italian is not a simple meeting of people but a strategic, paramilitary meeting, prearranged for an attack or - at least in our case - for carrying out seditious acts. The implicit requirement of pre-arrangement, however, is also reflected in the most widespread comments to the criminal code for which the 'radunata' is more than one meeting and exactly "the gathering of several people in the same place with the purpose of creating public disorder and, therefore, to endanger public order".²¹

Giurisprudenza - Case law on Article 655 / Radunata sediziosa - seditious gathering

Source: <https://www.brocardi.it/codice-penale/libro-terzo/titolo-i/capo-i/sezione-i/art655.html>

The crime of seditious assembly is integrated with the conduct of those who take part in a meeting or an assembly of ten or more people **with a pre-established purpose and manifest behaviour of rebellion and hostility towards those who represent the authority and force of law, with the consequent danger of creating or prolonging a state of disturbance to public order.** (A case in which the defendant, armed with a megaphone, directed a procession that chanted slogans of an intimidating and violent nature, threw blunt objects at the Law Enforcement officials and praised the death of a police inspector killed on duty). *Criminal cassation, section VI, no. 6347, 8 February 2013*

The material element of the offence of seditious gathering is the mere fact of participating in a gathering of ten or more persons, i.e. in a meeting or gathering in the same place, with a pre-established purpose that presents, in concrete terms, the characteristics of seditiousness. The seditious attitude should be understood as a criminally relevant seditious attitude that is substantiated in a manifestation of rebellion and hostility towards those who, at that moment, represent the Authority and the force of the law, with consequent danger of determination or even only the prolongation of a state of disturbance of public order. (In the present case, the crime was found to be committed against the defendant, who, with a megaphone, directed a procession of people who chanted slogans of an intimidating and violent nature, threw blunt objects at the police and praised the killing of a police inspector). *Criminal cassation, section VI, no. 6347, 8 February 2013*

The seditious gathering, referred to in Article 655 of the Italian Criminal Code, consists of a meeting of several persons (at least 10), in which participation takes the form of an unambiguous conduct with respect to the collective purpose, i.e. in relation to the seditious purpose of the gathering, which is to be considered a prevailing element with respect to the manner of the action. This contravention is recognisable when hostility towards the public authority is manifested and when the meeting itself is such as to disturb peaceful coexistence. The criminally relevant seditious attitude is only that which implies rebellion and hostility, and which is concretely capable of producing a dangerous event for public order. *Vallo Lucania Magistrate's Court, 20 April 1988*

The crime of seditious gathering pursuant to Article 655 of the Criminal Code is not integrated by the fact of several persons who, gathered in the Town Hall Square during a Council meeting concerning the management of water resources, limit themselves to sporadic expressions of protest, since seditiousness consists in an attitude that reveals rebellion, challenge and intolerance towards the powers and bodies of the State, such as to disturb peaceful coexistence. *Vallo Lucania Magistrate's Court, 08 April 1988*

For the purposes of the crime referred to in Article 655 of the Italian Criminal Code (seditious gathering), the conduct that reveals rebellion against public authorities and State bodies which have the right and duty to exercise them must be considered seditious. Therefore, the seditious gathering is recognisable when hostility towards the public authority is manifested and when the gathering itself is such as to disturb peaceful coexistence, without, however, the existence of a concrete danger to public order. *Criminal cassation, section VI, no.4860, 9 April 1977*²².

²¹ Non-official translation of the Italian text in the source document.

²² Non-official translation of the Italian text in the source document.

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Please note that for the following countries, it was not possible to carry out a more in-depth research, due to linguistic considerations and limited availability of documentation in English. However, you will find below a selection of provisions in national laws that seem relevant.

Poland

Source: Act of 6th June 1997 – The Criminal Code (Ustawa z dnia 6 czerwca 1997 r. - [Kodeks karny](#)).

Chapter XVII. Offenses against the Republic of Poland

Article 127

§ 1. Anyone who, acting to deprive the Republic of Poland of its independence, to detach a portion of its territory or to use force to overthrow its constitutional system, undertakes in agreement with others activities aiming at achieving this purpose, is liable to imprisonment for a minimum term of 10 years, imprisonment for 25 years or imprisonment for life.

§ 2. Anyone who makes preparations to commit such offence specified in § 1, is liable to imprisonment for a minimum term of three years.

Article 128

§ 1. Anyone who, in order to remove by force the constitutional body of the Republic of Poland, undertakes activities aimed directly at achieving this objective, shall be punishable by imprisonment for not less than 3 years.

§ 2. Whoever prepares to commit the offense specified in § 1, shall be punishable by imprisonment from 3 months to 5 years.

§ 3. Whoever, by force or unlawful threat, affects the official activities of the constitutional body of the Republic of Poland, shall be punishable by imprisonment from one year to 10 years.

Chapter XXIX. Offences against the Functioning of the State and Local Government Institutions

Article 222.

§ 1. Whoever violates the personal inviolability of a public official, or a person called upon to assist him, or in connection with the performance of official duties shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 3 years.

§ 2. If the act specified in § 1 has been in response to the inappropriate conduct of a public official or a person called upon to assist him, the court may apply an extraordinary mitigation of the penalty or even renounce its imposition.

Article 223.

Whoever, acting jointly and in co-operation with other persons, or using a firearm, knife or other similarly dangerous item or forceful means, commits an active assault on a public functionary or a person called upon to assist him, during or in connection with the performance of official duties shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

Article 224.

§ 1. Whoever, by using violence or an unlawful threat, affects the official acts of a government authority, other public authority or local government shall be subject to the penalty of deprivation of liberty for up to 3 years.

§ 2. The same punishment shall be imposed on anyone, who uses violence or an illegal threat with the purpose of forcing a public official or a person called upon to assist him, to abstain from a lawful official activity.

§ 3. When the consequence of the act specified in § 2 is the one specified in Article 156 § 1 or in Article 157 § 1, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

Latvia

Chapter X of the [Criminal Code of Latvia](#) contain provisions on '[Crimes against the State](#)'.

Section 80. Action Directed against the Republic of Latvia

(1) For an **action that is directed against national independence, sovereignty, territorial integrity, State power or administrative order of the Republic of Latvia** in a manner that is not provided for in the Constitution, the applicable punishment is the deprivation of liberty for a period of up to eight years, with probationary supervision for a period of up to three years.

(2) For a person who commits the same acts, if they have been committed **using violence** or if they have been committed **by an organised group**, the applicable punishment is deprivation of liberty for a period of five years and up to fifteen years and with probationary supervision for a period up to three years.

Section 80.¹ Merger in an Organised Group with the Purpose to Take Action against the Republic of Latvia

For a merger of more than two persons in an **organised group** with the purpose to take **action against national independence, sovereignty, territorial integrity, State power or administrative order of the Republic of Latvia** in a manner that is not provided for in the Constitution, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with probationary supervision for a period of up to three years.

Section 81. Invitation Directed against the Republic of Latvia

For a person who makes a **public invitation to take action against national independence, sovereignty, territorial integrity, State power or administrative order of the Republic of Latvia** in a manner that is not provided for in the Constitution or for distribution of materials containing such invitation, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with probationary supervision for a period of up to three years.

According to the Criminal Law Chapter X Section 81¹:

For a person who commits activities with the purpose to assist a foreign state or a foreign organisation to take action against national independence, sovereignty, territorial integrity, State power or administrative order of the Republic of Latvia, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with probationary supervision for a period of up to three years.

Chapter XX contains provisions on '[Criminal Offences against General Safety and Public Order](#)'.

Section 225. Mass Riot

For a person who commits organising of such **mass riot** which entails demolition, destruction, burning, destruction of property, or violence against individuals, or **resistance to representatives of public authority**, or who takes active participation therein, the applicable punishment is deprivation of liberty for a period of three and up to twelve years, with probationary supervision for a period up to three years.

Chapter XXII contains provisions on '[Criminal Offences against Administrative Order](#)'.

Section 269. Assault upon a Representative of Public Authority or Other Public Official

(1) For a person who commits an **assault upon a representative of public authority or other public official**, in connection with **lawful official activities** of such a person, or commits an assault upon a person who is participating in preventing or interrupting a criminal or otherwise unlawful offence, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine.

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(2) For the commission of the same acts, if as a result of the assault serious bodily injuries are caused or other serious consequences caused, or **if the assault was committed by an organised group**, the applicable punishment is deprivation of liberty for a period of two and up to ten years, with or without probationary supervision for a period up to three years.

Section 270. Resistance to a Representative of Public Authority or Other Public Official

(1) For a person who commits **resisting a representative of public authority, or other public official**, if he or she is performing **official duties** imposed on him or her, or commits resisting a person, if he or she is participating in preventing or interrupting a criminal or other unlawful offence, or commits compelling such person to perform manifestly unlawful acts, **if the resistance or compulsion was committed by using violence or threatening violence**, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, **if they have been committed by a group of persons**, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or community service, or a fine.

Sweden

The crime of *Sedition* exists in Sweden, in relation to the crime of *high treason*. These crimes are defined in the [Swedish Criminal Code](#) as follows.

Chapter 18, Section 1

A person who, with intent that the form of government will be overthrown by force of arms or otherwise **by violent means**, or that, in this way, a measure or decision of the Head of State, the Government, the Riksdag or the supreme courts will be forced or impeded, undertakes an action that involves danger of the intent being realised is, **if it is not high treason**, guilty of *sedition* and is sentenced to imprisonment for a fixed term of at least ten and at most eighteen years, or for life, or, if the danger was minor, to imprisonment for at least four and at most ten years.

Chapter 19, Section 1

A person who, with intent that the country or a part of it will, **by violent or otherwise illegal means** or with foreign assistance, be subjugated by a foreign power or made dependent on such a power, or that, in this way, a part of the country will be detached, undertakes an action that involves danger of this intent being realised is guilty of *high treason* and is sentenced to imprisonment for a fixed term of at least ten and at most eighteen years, or for life or, if the danger was minor, to imprisonment for at least four and at most ten years.

A person who, with intent that a measure or decision of the Head of State, the Government, the Riksdag or the supreme courts will be forced or impeded with foreign assistance, undertakes an action that involves danger of this is also guilty of *high treason*.

Chapter 16 contains provisions 'On offences against public order'

Section 1

A **crowd of people who disturb public order** by demonstrating intent to use **concerted violence against a public authority**, or to otherwise force or impede a certain measure, and do not disperse at the command of a public authority, are guilty of rioting, and the instigators and leaders are sentenced to imprisonment for at most four years, and other participants in the crowd's actions are sentenced to a fine or imprisonment for at most two years. If the crowd disperses at the order of a public authority, the instigators and leaders are guilty of rioting and are sentenced to a fine or imprisonment for at most two years.

Finland

The Criminal Code of Finland contains provisions on *high treason* defined in the following way.

Chapter 13 - High treason

Section 1 - High treason

(1) A person who **by violence or the threat of violence or by another comparable manner**, by unlawful coercion or in violation of the Constitution, for the purpose of (1) abrogating the Finnish Constitution or altering it, or (2) altering the political foundations of Finland commits an act which causes the danger of said purpose being attained shall be sentenced for **high treason** to imprisonment for at least one and at most ten years.

(2) Also a person who **by violence or the threat of violence** overthrows or attempts to overthrow the President of the Republic, the Council of State or Parliament or completely or partially prevents or attempts to prevent them from exercising their authority shall be sentenced for **high treason**.

Chapter 16 contains provisions on Offenses Against a Public Authority and Public Order

1(1) A person who **by violence or threat of violence** forces or attempts to force an official into performing or refraining from performing an **official function**, or in said manner **resists him in the performance of his duties**, or otherwise employs violence against an official in the performance of his duties or in revenge upon him for an official function, shall be sentenced for resisting an official to imprisonment for at most four years and at least three months or, if the circumstances are very mitigating, to imprisonment for at most six months or to a fine. (2) The same applies if the aforesaid act is directed at a person appointed or elected to assist in a public function or performance, or otherwise is assisting an official in the performance of his duties, or when the act is directed at a soldier in service.

2(1) A person who intentionally, albeit without the use or threat of violence, impedes an official in the performance of his duties shall be sentenced to imprisonment for at most three months or to a fine.

(2) The same applies if the offence is directed against a person mentioned in s1(2), or against a person authorized to carry out a lawful search.

3 If a **large crowd** gathers and the crowd shows intent by general agreement to commit the offence mentioned in s1 or otherwise disturb public security or order and does not heed the order to disperse given three times by the official mentioned in s6, the instigator and the leader shall be sentenced for **rioting** to imprisonment for at most two years and everyone else who did not heed the order shall be sentenced for rioting to imprisonment for at most six months or to a fine.

4 If the crowd by general agreement commits the offence stated in s1, the instigator, the leader and everyone who participated in said offence shall be sentenced for **rebellion** to imprisonment for at least one year and at most nine years, or if the circumstances are very mitigating, to imprisonment for at least six months. Other participants in the rebellion shall be sentenced to imprisonment for at least six months and at most three years or, if the circumstances are very mitigating, to a fine.

5 If the crowd has by general agreement in cases other than that mentioned in s1 assaulted an individual or, **through the use of violence** seized public or private property or forcibly taken property, the instigator, the leader and everyone who participated in the violence or the forcible taking shall be sentenced to imprisonment for at least six months and at most eight years or, if the circumstances are very mitigating, to imprisonment for at least three months and at most four years; the others shall each be sentenced to imprisonment for at most six months or to a fine.