

TREATIES TO WHICH SPAIN IS A PARTY CONCERNING MATTERS OF PRIVATE INTERNATIONAL LAW, 1995 AND 1996

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The treaties and agreements listed below have been published in the Boletín Oficial del Estado (Official State Journal) during 1995 and 1996. Our purpose is to record the legal consequences of such agreements and instruments for Spain, such as signature, ratification or accession, entry into force, provisional application, reservations or declarations, territorial application, personal and material scope of application, termination, abrogation and relations with other treaties or agreements.

I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

III. PROCEDURE AND JUDICIAL ASSISTANCE

— Convention on Protection of Minors and Cooperation in respect of Intercountry Adoption, The Hague, 29 May 1993.

Deposit of the instrument of ratification: 11 July 1995.

Entry into force: 1 November 1995

(BOE 182, 1.8.95).

Note: In accordance with article 6, Spain appoints a number of Central Authorities equal to the number of Autonomous Communities which make up the Kingdom of Spain plus two: one for the city of Ceuta and another for the city of Melilla.

Under article 22, paragraph 4, Spain declares: "Adoptions of minors habitually resident in Spain may only take place by residents in those States where the functions of the Central Authorities are performed by public authorities or by bodies accredited in accordance with paragraph 21, article 22 of the Convention".

— Announcement of 5 September 1995, made by the Spanish Technical Secretariat-General for Foreign Affairs, on withdrawal of reservations made by Spain to articles

13 and 15 of the Convention Concerning the Powers of Authorities and the Law Applicable in respect of the Protection of Minors, The Hague, 5 October 1961.

Date of effective withdrawal: 9 August 1995.

(BOE 221, 15.9.95).

Note: Reservation to article 13: "Spain limits application of the Convention to minors who are nationals of one of the contracting States".

Reservation to article 15: "Spain reserves the jurisdiction of its authorities empowered to decide on a petition for annulment, dissolution and modification of the marital relationship of the parents of a minor, to take measures for the protection of his person or property".

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS AND DECISIONS

— Announcement of 4 October 1995, made by the Spanish Technical Secretariat-General for Foreign Affairs, on withdrawal of reservations made by Spain to article 2 of the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children, Luxembourg, 20 May 1980.

Date of effective withdrawal: 28 July 1995.

(BOE 248, 17.10.95).

Note: Under article 17.1 of the Convention, Spain reserves the right to refuse recognition and enforcement of decisions relating to custody of children in accordance with articles 8 and 9 on any of the following grounds:

(a) if it is found that the effects of the decisions are manifestly incompatible with the fundamental principles of the law relating to the family and children in Spain; or

(b) if at the time when the proceedings were instituted in the State of origin: (i) the child was a Spanish national or was habitually resident in Spain and no such connection existed with the State of origin; (ii) the child was both a national of the State of origin and a Spanish national and was habitually resident in Spain; or,

(c) if the decision is incompatible with a decision given in Spain or enforceable in Spain after being given in a third State, pursuant to proceedings begun before submission of the request for recognition or enforcement, and if the refusal is in accordance with the welfare of the child.

In the same cases, proceedings for recognition or enforcement may be adjourned on any of the following grounds: "(a) if an ordinary form of review of the original decision has been commenced; (b) if proceedings relating to the custody of the child, commenced before the proceedings in the State of origin were instituted, are pending in Spain; (c) if any other decision relating to the custody of the child is the object of enforcement proceedings or of any other proceedings concerning recognition of that

decision”.

V. INTERNATIONAL COMMERCIAL ARBITRATION

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. ALIENS, REFUGEES AND CITIZENS OF THE EUROPEAN COMMUNITY

– Resolution of 24 March 1995, passed by the Spanish Technical Secretariat-General for Foreign Affairs, suspends operation of the Convention on the Abolition of Visas for Canadian Nationals constituted by Exchange of Notes between Spain and Canada on 18 December 1959.

Date of effective suspension: 1 April 1995
(BOE 74, 28.3.95).

Note: “On 18 December 1959 the Spanish and the Canadian Ministers of Foreign Affairs exchanged Notes constituting a Convention allowing Canadian nationals to visit Spain on business, holidays or transit for periods not exceeding three consecutive months without the need to obtain a Spanish diplomatic or consular visa.

The Exchange of Notes entered into force on 25 January 1960.

Upon the Canadian Navy’s illegal seizure of the Spanish fishing vessel “Estais” in international waters, the Spanish Ministry of Foreign Affairs deemed it appropriate to request the Spanish Council of Ministers’ authorisation to suspend operation of the Convention on the part of Spain.

The Spanish Council of Ministers agreed to authorise on 17 March 1995 the suspension of operation of the Exchange of Notes constituting the Convention of 18 December 1959 between Spain and Canada on the Abolition of Visas for Canadian Nationals”.

– Spain-Portugal Convention on readmission of undocumented persons. Granada, 15 February 1993.

Entry into Force: 2 April 1995.
(BOE 77, 31.3.95).

Note: This Convention has been adopted taking into account the Convention for Enforcement of the Schengen Agreement of 14 June 1985 and, particularly, the provisions concerning suppression of control points at internal borders.

– Spain-Germany Convention on reciprocal recognition of higher education

qualifications and syllabi. Bonn, 14 November 1994.

Entry into Force: 6 April 1995.

(BOE 123, 24.5.95).

Note: Article 1. For the purposes of this Convention:

(a) "higher education institution" means any of the Universities and Higher Education Schools having such academic status by virtue of law, or on the basis of legal provisions to that effect, in the Federate States (Länder) of the Federal Republic of Germany or in the Kingdom of Spain, where courses leading to academic degrees or state examinations may be taken;

(b) "academic degree" means, in the case of Germany, any higher education degree granted by a higher education institution and, in the case of Spain, any official degree granted by a higher education institution;

(c) "examination" means any test, including intermediate exams, whose aim is to demonstrate knowledge, ability or skill acquired through education, or of progress in the learning tasks set according to domestic legal provisions on academic matters.

(d) "state examination" means, in the case of the Federal Republic of Germany, the intermediate or end-of-course examinations taken at a higher education institution".

(...)

Article 6: "The Convention shall only apply to nationals of either of the Contracting Parties. Nationality shall be determined by each of the Parties' domestic law provisions on the matter".

– Article 8 of the preceding Convention has been modified by Exchange of Notes, Madrid, 27 November 1995 and 28 October 1996.

Entry into Force: 28 October 1996.

(BOE 288, 29.11.96).

Note: "The Convention shall extend initially for a period of five years, to be renewed tacitly every two years, unless it be denounced by either of the Contracting Parties by notifying the other Party of its intention six months in advance".

– Spain-San Marino Exchange of Notes abolishing the requirement for passports. Madrid and San Marino, 9 January 1995.

Entry into Force: 22 April 1995

(BOE 128, 30.5.95).

– Spain-Venezuela Exchange of Notes abolishing the requirement for visas. Madrid, 17 February 1994.

Entry into Force: 30 June 1995.

(BOE 143, 16.6.95).

– Spain-Algeria Exchange of Notes abolishing departure visas for residents and the

basic visa scheme. Algiers, 14 December 1994.

Entry into Force: 14 February 1996.

(BOE 33, 7.2.96).

– Spain-Malaysia Agreement partially abolishing the requirement for visas. Kuala Lumpur, 4 April 1995.

Entry into Force: 14 February 1996

(BOE 33, 7.2.96).

– Spain-Morocco Agreement on residence and work permits. Rabat, 6 February 1996.

Provisional application: 6 February 1996.

(BOE 129, 28.5.96).

Note: 1. Duration of residence permits for Moroccan nationals in Spain and for Spanish nationals in Morocco shall be based on the principle of reciprocity.

2. Nationals of either Party to the Agreement, except for temporary workers, shall have access, successively, to the following residence permits:

The first permit shall be valid for one year.

The first renewal shall be valid for two years.

The second renewal shall be valid for three years.

Nationals of either Party who have resided regularly and continuously for six years in the other Party's national territory shall have access to a permanent residence permit, which will have to be renewed every five years.

3. This Agreement shall not prejudice any of the favourable provisions of domestic law or regulations in force concerning resident aliens in general or, specifically, resident nationals of either Party to the Agreement.

4. Both Parties agree that renewal of permanent residence permits shall not be subject to the prevailing employment situation in either country.

5. Upon entry into force of this Agreement, nationals of either Party who have resided regularly and continuously in the other Party's territory shall benefit from that period of residence for the purpose of calculating the period to which they are entitled regarding their residence permits. Such permits may be sought for first renewal, second renewal or permanent residence. Residence permits shall have to be renewed when they expire.

6. This Agreement may be denounced by either Party. Denunciation shall take effect three months after notification through diplomatic channels.

7. (...).

– Spain-Romania Agreement on readmission of undocumented persons. Bucharest, 29 April 1996.

Provisional application: 14 May 1996.

(BOE 150, 21.6.96).

Entry into Force: 1 November 1995.

(BOE 182, 1.8.95).

Note: See also heading III above.

– Announcement of 5 September 1995, made by the Spanish Technical Secretariat-General for Foreign Affairs, on withdrawal of reservations made by Spain to articles 13 and 15 of the Convention Concerning the Powers of Authorities and the Law applicable in respect of the Protection of Minors, The Hague, 5 October 1961.

Date of effective withdrawal: 9 August 1995.

(BOE 221, 15.9.95).

Note: See also heading III above.

– Announcement of 4 October 1995, made by the Spanish Technical Secretariat-General for Foreign Affairs, on withdrawal of reservations made by Spain to article 2 of the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, Luxembourg, 20 May 1980.

Date of effective withdrawal: 28 July 1995.

(BOE 248, 17.10.95).

Note: See also heading IV above.

X. SUCCESSION

XI. CONTRACTS

XII. TORTS

XIII. PROPERTY

1. Industrial Property

– Protocol to the Madrid Agreement on International Trademark Registration of 17 June 1989.

Deposit of the instrument of ratification: 17 April 1991.

Entry into Force: 1 December 1996.

(BOE 276, 18.11.95).

XIV. COMPETITION LAW

XV. INVESTMENTS AND FOREIGN EXCHANGE

– Spain-Nicaragua Agreement for the Promotion and Protection of Investments. Managua, 16 March 1994.

Entry into Force: 28 March 1995.

(BOE 98, 25.4.95).

Note: See also section on Treaties Concerning Matters of Public International Law.

– Spain-Cuba Agreement for the Promotion and Protection of Investments. Havana, 27 May 1994.

Entry into Force: 9 June 1995.

(BOE 276, 18.11.95).

Note: See also section on Treaties Concerning Matters of Public International Law.

– Spain-Romania Agreement for the Promotion and Protection of Investments. Bucarest, 25 January 1995.

Entry into Force: 7 December 1995.

(BOE 280, 23.11.95).

Note: See also section on Treaties Concerning Matters of Public International Law.

– Spain-Honduras Agreement for the Promotion and Protection of Investments. Tegucigalpa, 18 March 1994.

Entry into Force: 23 May 1996.

(BOE 175, 20.7.96 and BOE 275, 14.11.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

– Spain-Kazakhstan Agreement for the Promotion and Protection of Investments. Madrid, 23 March 1994.

Entry into Force: 22 June 1995.

(BOE 104, 30.4.96 and BOE 133, 1.6.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

– Spain-Lithuania Agreement for the Promotion and Protection of Investments. Vilna, 6 July 1994.

Entry into Force: 22 December 1995.

(BOE 22, 25.1.96 and BOE 98, 23.4.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-Pakistan Agreement for the Promotion and Protection of Investments. Madrid, 15 September 1994.

Entry into Force: 26 April 1996.

(BOE 142, 12.6.96).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-Peru Agreement for the Promotion and Protection of Investments. Madrid, 17 November 1994.

Entry into Force: 16 February 1996.

(BOE 59, 8.3.96 and BOE 157, 29.6.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-Algeria Agreement for the Promotion and Protection of Investments. Madrid, 23 December 1994.

Entry into Force: 17 January 1996.

(BOE 59, 8.3.96).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-El Salvador Agreement for the Promotion and Protection of Investments. San Salvador, 14 February 1995.

Entry into Force: 20 February 1996.

(BOE 114, 10.5.96 and BOE 207, 27.8.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-Dominican Republic Agreement for the Promotion and Protection of Investments. Santo Domingo de Guzmán, 16 March 1995.

Entry into Force: 7 October 1996.

(BOE 282, 22.11.96).

Note: See also section on Treaties Concerning Matters of Public International Law.

- Spain-Malaysia Agreement for the Promotion and Protection of Investments. Kuala Lumpur, 4 April 1995.

Entry into Force: 6 February 1996.

(BOE 59, 8.3.96 and BOE 156, 28.6.96 [s.e.]).

Note: See also section on Treaties Concerning Matters of Public International Law.

XVI. FOREIGN TRADE LAW

XVII. BUSINESS ASSOCIATIONS/CORPORATIONS

XVIII. BANKRUPTCY

XIX. TRANSPORT LAW

Note: See also section on Treaties Concerning Matters of Public International Law.

XX. LABOUR LAW AND SOCIAL SECURITY

– European Code of Social Security. Strasbourg, 16 April 1964.

Deposit of instrument of ratification: 8 March 1994.

Entry into Force: 9 March 1995.

(BOE 65, 17.3.95 and BOE 110, 9.5.95 [s.e.]).

– Spain-Mexico Convention on Social Security, Madrid, 25 April 1994, and Administrative Agreement for its enforcement, Madrid, 28 November 1994.

Entry into Force: 1 January 1995.

(BOE 65, 17.3.95).

Note: TITLE I. *General Provisions*

Article 2. Objective scope of application

1. This Convention shall apply:

(A) in Spain:

to General and Special Social Security Schemes concerning contributory benefits, specifically to:

(a) industrial accident and occupational disease benefits;

(b) permanent disability, old age, death, and survivor's pension benefits; and

(B) in Mexico:

to Compulsory and Voluntary Social Security Schemes set out in the Social Security Act and Regulations, and specifically to:

(a) occupational risks insurance benefits; and

(b) permanent disability, old age, retirement and death insurance pension benefits.

2. This Convention shall also apply to legal provisions which may, in future, complement or modify the above.

3. This Convention shall apply to legal provisions which, in future, by agreement between the Parties, constitute new Special Social Security Schemes or include new categories of persons in a Scheme already in force.

4. The principles of this Convention may extend to other Social Security areas or benefits, by agreement between the competent authorities of the Contracting Parties to which article 23.1 refers.

Article 3. Subjective scope of application and equal treatment.

This Convention shall apply to workers who are nationals of either of the Contracting Parties, and who prove that they are, or were, registered in the appropriate Social Security system. It shall also apply to the members of their families considered their beneficiaries in application of that Party's national law on equal terms with the Party's own nationals.

Article 4. Recognition of acquired rights and payment of pensions abroad.

1. Pension benefits recognised by the Contracting Parties under legislation included in article 2 shall not be reduced, modified or deducted on the ground of the beneficiary's staying or residing in the territory of the other Party. However, this shall not prevent such pensions from being subject to pledging or mortgaging where the Parties' legislations so prescribe.

2. Pension benefits payable by one of the Contracting Parties to nationals of the other Party who reside in third countries shall be paid on the same basis as to the paying Party's own nationals who reside in third countries.

TITLE II. Provisions on applicable legislation

Article 5. General provision on the principle of insurance

All persons included in this Convention shall be subject exclusively and wholly to the legislation in force in the territory of the Contracting Party where they carry out their occupational activity, without prejudice to article 6 provisions and exceptions.

Article 6. Special provisions on the principle of insurance

The following special provisions and exceptions shall apply to the general provision set out in the preceding article:

1. An employee of an undertaking based in the territory of one of the Contracting Parties, who is sent by that undertaking to the territory of the other Party in order to carry out temporary work for a period which shall not exceed two years, shall be subject to the former Party's legislation provided that he has not been sent in substitution for another employee whose time of displacement has expired.

A self-employed person who carries out his occupational activity habitually in the territory of the Contracting Party where he is insured, shall still be subject to that Party's legislation when carrying out his activity in the territory of the other Party for a period which shall not exceed two years.

Notwithstanding the above, employees and self-employed persons shall be entitled to opt for the Social Security Scheme in force in the territory of the Contracting Party where they carry out their occupational activity.

2. If those employees or self-employed persons do not opt for the Social Security Scheme in force in the territory of the Contracting Party where they carry out their occupational activity, and the period of engagement exceeds two years due to unforeseeable circumstances, they shall continue to be subject to the former Party's legislation for an extended period which shall not exceed another two years, subject to the approval of the competent authority or authorised body in the other Party's territory.

3. Roving staff engaged by airlines to carry out their work in the territories of both

Contracting Parties shall be subject to the legislation in force in the territory of the Party where the airline has its principal place of business.

Notwithstanding the above, if the employee is paid by an undertaking or an individual based in the territory of the other Party, and if the employee also resides in that territory, he shall be subject to the legislation in force there. The undertaking or individual paying his remuneration shall be considered his employer for legal purposes under that legislation.

5. Employees who carry out the loading, unloading and repair of vessels, and port-watch services, shall be subject to the legislation in force in the territory of the Contracting Party where the port is situated.

6. This Convention shall neither prejudice the provisions in the Vienna Convention on Diplomatic Relations of 18 April 1961, nor those in the Vienna Convention on Consular Relations of 24 April 1963.

7. Those persons sent by one of the Contracting Parties to the territory of the other Party on missions of cooperation, shall be subject to the sending Party's Social Security legislation, unless otherwise provided in the cooperation agreement.

8. The Contracting Parties' competent authorities or appointed bodies shall be entitled to agree on establishing further exceptions, or modifying existing ones, in the interest of certain persons or categories of persons.

(...).

— Spain-Mexico Administrative Agreement for the enforcement of the Convention on Social Security.

TITLE 1: *General provisions*

(...)

Article 3

1. With regard to article 6, paragraph 1, of the Convention, the competent institution in the territory of the Party whose legislation prevails shall issue, upon the employee or the employer's application, a displacement certificate stating that the applicant continues to be subject to that Party's legislation and the time limitation thereof. The application shall be filed before displacement takes place.

If, on the date of entry into force of the Convention, the employee is already carrying out his work in the territory of the Party to which he has been sent, the two-year period shall be calculated from that date.

2. Application for extension under article 6, paragraph 2, of the Convention, shall be filed before the two-year period is over, and shall be addressed to the competent authority of the insuring Party for it to agree on the period of extension with the other Party's competent authority.

3. An individual carrying out his work under article 6, paragraph 1, of the Convention, or rendering his services at an Embassy or Consulate of one of the Parties in the other Party's territory under the Vienna Convention on Diplomatic Relations of 18 April 1961, when opting for the Social Security Scheme in force in

the territory of the receiving Party, shall inform the competent authority in that territory through his employer, and such authority shall itself notify the other Party's competent authority.

– International Labour Organisation (ILO) Protection of Workers' Claims (Employers' Insolvency) Convention No. 173. Geneva, 23 June 1992.

Deposit of the instrument of ratification: 16 May 1995.

Entry into Force: 16 May 1996.

(BOE 147, 21.6.95).

Note: Statement: Pursuant to article 3.1 of the Convention, Spain declares that it accepts the obligations laid down in Part II (protection of workers' claims by privilege) and Part III (protection of workers' claims by a guarantee institution).

Furthermore, pursuant to article 3.3 in relation to article 4.2 of the Convention, Spain excludes civil servants from the obligations laid down in Part II, and domestic employees with an employment relationship of a special nature from the obligations laid down in Part III.

– Spain-Brazil Convention on Social Security. Madrid, 16 May 1991.

Entry into force: 1 December 1995.

(BOE 13, 15.1.96 and BOE 96, 20.4.96 [s.e.]).

Note: TITLE I. *General Provisions:*

(...)

Article 2

1. This Convention shall apply:

(A) in Spain:

to the General and Special Social Security Schemes that make up the Spanish Social Security System, concerning:

(a) medical assistance in the event of maternity, common or occupational disease, and accident, whether industrial or not;

(b) financial assistance in the event of temporary disability, maternity, common and occupational disease, and accident, whether industrial or not;

(c) permanent disability;

(d) old age;

(e) death and survival;

(f) protection of the family; and

(g) industrial accident and occupational disease; and--

(B) in Brazil:

to the General Social Security Scheme, concerning:

(a) medical, pharmaceutical and odontological assistance, hospital treatment as in-patient and out-patient;

(b) temporary disability;

(c) permanent disability;

- (d) time of service;
- (e) old age;
- (f) death;
- (b) birth;
- (h) industrial accident and occupational disease; and
- (i) family allowance.

2. This Convention shall also apply to legal provisions which may, in future, complement or modify the above.

3. This Convention shall apply to legal provisions which, in future, by agreement between the Parties, constitute new Special Social Security Schemes.

4. This Convention shall apply to legal provisions which, in future, develop the legislation in force in one of the Contracting Parties to include new groups of persons, provided that the competent authorities of the other Party do not file objections thereto within three months of notification.

Article 3

This Convention shall apply to all persons who are, or were, subject to the legislation of either or both Contracting Parties and to their families and beneficiaries.

Article 4

Without prejudice to any of the provisions in this Convention, anyone included in article 3 shall be bound by the Parties' legislation as prescribed by article 2, and shall be entitled, under the same conditions laid down for the nationals of each of the Parties, to the benefits which such legislations provide.

(...)

TITLE II. Provisions on applicable legislation

Article 6

1. All persons included in this Convention shall be subject exclusively to the legislation in force in the territory of the Contracting Party where they carry out their occupational activity, without prejudice to the exceptions in article 7.

2. A self-employed person whose occupational activity would allow him to be insured under the legislation of either of the Parties, shall only be subject to the legislation in force in the territory of the Party where he resides.

Article 7

The following exceptions shall apply to the general principle laid down in article 6:

1. An employee of an undertaking based in the territory of one of the Contracting Parties, who is sent by that undertaking to the territory of the other Party in order to carry out temporary work for a period which shall not exceed three years, shall be subject to the former Party's legislation provided that he has not been sent in substitution for another employee whose time of displacement has expired.

If the period of engagement exceeds three years due to unforeseeable circumstances, the employee shall continue to be subject to the former Party's legislation for an extended period which shall not exceed two more years, subject to

the approval of the other Party's competent authority.

A self-employed person who carries out his occupational activity habitually in the territory of one of the Parties, shall still be subject to that Party's legislation when carrying out his activity in the territory of the other Party for a period which shall not exceed two years.

2. Flight staff engaged by airlines shall be subject exclusively to the legislation in force in the territory of the Contracting Party where the airline has its principal place of business.

3. Employees who carry out their work on board a vessel flying the flag on one of the Contracting Parties shall be subject to that Party's legislation.

Notwithstanding the above, if an employee is paid by an undertaking or an individual based in the territory of the other Party, and if the employee also resides in that territory, he shall be subject to the legislation in force there. The undertaking or individual paying his remuneration shall be considered his employer for legal purposes under that legislation.

4. Employees who carry out the loading, unloading and repair of vessels, and the supervision thereof, shall be subject to the legislation in force in the territory of the Contracting Party where the port is situated.

5. Diplomatic mission and consular office personnel shall be subject to the provisions in the Vienna Convention on Diplomatic Relations of 18 April 1961 and in the Vienna Convention on Consular Relations of 24 April 1963 respectively.

6. Notwithstanding the above, administrative and technical staff, and diplomatic mission and consular office personnel of either of the Parties shall be entitled to opt between the legislation of the accrediting or the receiving Party, provided that:

- (a) they are not civil servants for the accrediting Party;
- (b) they are nationals of the accrediting Party; and
- (c) they make their choice within three months of this Convention's coming into force or, as the case may be, within three months of taking up employment in the receiving Party's territory.

7. Diplomatic mission and consular office private service staff shall also be entitled to opt as set forth in the preceding paragraph, subject only to conditions (b) and (c) thereof.

8. The Contracting Parties' competent authorities shall be entitled to agree on establishing further exceptions, and on withdrawing or modifying existing ones.

(...)

CHAPTER III. *Final Provisions*

(...)

Article 43

1. The Spain-Brazil Convention on Social Security of 25 April 1969, Additional Protocol thereto of 5 March 1980, and the Administrative Agreement for the enforcement of the said Protocol, of 5 November 1981, terminate operation upon this Convention's coming into force.

2. This Convention guarantees all rights acquired under the Convention and Protocol mentioned in the preceding paragraph.

– Spain-Russia Convention on Social Security, Madrid, 11 April 1994; and Administrative Agreement for enforcement thereof, Moscow, 12 April 1995.

Entry into Force (Convention and Administrative Agreement): 22 February 1996. (BOE 48, 24.2.96).

Note: TITLE 1. General Provisions

(...)

Article 2

1. This Convention shall apply to the legislation of the Contracting Parties on Social Security, concerning:

(A) in Spain:

- (a) temporary disability and maternity benefits;
- (b) permanent disability, retirement and survivor's benefits;
- (c) industrial accident and occupational disease benefits; and
- (d) family benefits; and--

(B) in the Russian Federation:

(a) temporary disability, pregnancy and childbirth, natality, child care and death subsidy benefits;

(b) retirement, permanent disability and survivor's benefit;

(c) social benefits; and

(d) family and maternity benefits.

2. This Convention shall also apply to legal provisions which modify or complement the above.

Article 3

This Convention shall apply to workers who are nationals of either the Contracting Parties' and are, or were, subject to the legislation of those Parties. It shall also apply to the members of their families and to their beneficiaries.

Article 4

Each of the Contracting Parties guarantees payment of benefits arising out of applying its legislation, unless otherwise provided in this Convention.

Article 6

1. All workers included in this Convention shall be subject exclusively to the legislation in force in the territory of the Contracting Party where they carry out their work, unless otherwise provided in this Convention.

2. With regard to benefits other than those included in article 2, the legislation of the Contracting Party to which the worker is subject shall apply.

Article 7

The following exceptions shall apply to article 6.1:

1. Workers subject to the legislation of one of the Parties, who are sent to work for a fixed period to the territory of the other Party, shall continue to be subject to the

legislation of the former Party for as long as the competent authorities of both Parties agree.

2. Roving staff engaged by haulage undertakings, who carry out their work in the territories of both Contracting Parties, shall be subject to the legislation in force in the territory of the Party where the undertaking has its principal place of business.

3. A vessel's crew shall be subject to the legislation of the Contracting Party whose flag the vessel flies.

Employees who carry out the loading, unloading and repair of vessels, and port-watch services, shall be subject to the legislation in force in the territory of the Contracting Party where the port is situated.

4. Diplomatic mission and consular office personnel accredited by either of the Contracting Parties, and domestic staff at the service of diplomatic agents or members of the consular offices, shall be subject to the provisions in the Vienna Convention on Diplomatic Relations of 18 April 1961 and in the Vienna Convention on Consular Relations of 24 April 1963 respectively.

5. Workers from one of the Contracting Parties carrying out their work in the territory of the other Party for a Spanish-Russian undertaking shall be subject to the legislation in force in the territory where the undertaking is based, unless they opt for their national legislation.

— Agreement modifying article 9 of the Administrative Agreement on enforcement of the Spain-Australia Convention on Social Security of 10 February 1990. Madrid and Canberra, 13 June 1995.

Entry into force: 27 February 1996.

(BOE 112, 8.5.96).

XXI. CRIMINAL LAW

— Spain-Chile Treaty on Extradition and Assistance in Criminal Matters. Santiago de Chile, 14 April 1992.

Instrument of ratification: 20 December 1994.

Entry into force: 21 January 1995.

(BOE 8, 10.1.95 and BOE 53, 3.3.95 [s.e.]).

Note: TITLE I. *Extradition*

Article 1. Obligation to extradite

The Contracting Parties agree to surrender to each other, under the rules and conditions laid down in the following articles, any person charged with or convicted of an offence, to be prosecuted or punished with imprisonment or any other form of deprivation of liberty.

Article 2. Extraditable offences

1. Offences punishable under the domestic laws of both Parties by a sanction

involving deprivation of liberty for a maximum period of not less than one year, shall be considered extraditable offences.

2. If extradition is sought for purposes of enforcing a sentence, the remainder thereof shall not be less than six months.

3. If a request for extradition includes several offences and some of them do not satisfy the requirements regarding the duration of the sentence, set out in paragraphs 1 and 2 above, the requested Party may still accede to extradition in respect of the latter offences.

Article 3. Multilateral treaties

Offences included in multilateral treaties to which both Contracting States are party shall be deemed to be extraditable offences under this Treaty.

Article 4. Fiscal offences

Extradition shall not be refused in respect of offences concerning matters of rates and taxes, customs, or currency exchange, on the ground that both Parties' legislations do not include the same types of taxes or rates, or that their regulations concerning these matters are not identical, provided that such offences comply with the requirements set out in article 2.

Article 5. Political offences

1. Extradition in respect of political or related offences shall be refused. Merely alleging a political aim or motive when committing an offence shall not be sufficient grounds for establishing it as a political offence.

For the purposes of this Treaty, the following offences shall not be deemed to be political offences:

- (a) attempting against the life, physical integrity or freedom of a Head of State or Government, or of a member of his family;
- (b) acts of terrorism;
- (c) war crimes and those committed against the peace and security of mankind, as defined in international law provisions;

2. The requested Party shall not accede to an extradition request either where there are substantial grounds for believing that the purpose thereof is to prosecute or punish the accused on account of his race, religion, nationality or political opinion, or that compliance would cause prejudice for any of those reasons to the person affected by the request.

Article 6. Military offences

Extradition in respect of purely military offences is excluded from the scope of application of this Treaty.

Article 7. Extradition of nationals

1. The Parties shall be entitled to refuse to extradite their own nationals in application of their own law. Nationality shall be taken into account when deciding on extradition provided that it has not been acquired for the fraudulent purpose of evading extradition.

2. If the requested Party refuses to extradite on the ground of nationality, as

provided in paragraph 1, it shall be bound, upon the requesting Party's application, to submit the case to its competent authorities for the purpose of prosecution. All documents, information and objects relating to the offence, may then be sent free of charge through the channels provided in article 15.

The requesting Party shall be informed of the result of its request.

Article 8. Extradition and asylum

None of the provisions in this Treaty shall be construed as meaning any limitation to the right of asylum. Therefore, the requested Party shall be entitled to refuse to extradite refugees in accordance with its own domestic law.

If an extradition request is refused on this ground, the provisions in paragraph 2 of the preceding article shall apply.

Article 9. Grounds for obligatory refusal

Extradition requests shall be refused:

(a) where the requesting Party has no jurisdiction under its domestic laws to try the offence in respect of which extradition is requested;

(b) where the person whose extradition is sought is to be tried, or has been sentenced, by a special or "ad hoc" court or tribunal in the territory of the requesting Party;

(c) where, under either Party's domestic law, prosecution or punishment for the offence in respect of which extradition is requested is precluded by the lapse of time; or

(d) where the person whose extradition is sought has already been tried by the requested Party or by a third State for the offence in respect of which extradition is now requested.

Article 10. Death penalty and life imprisonment

When the offence giving rise to extradition is punishable by death or life imprisonment, extradition shall only be granted if the requesting Party sufficiently guarantees that the person whose extradition is sought shall not be executed, and that the maximum term he shall serve shall be that immediately below life imprisonment.

Article 11. Grounds for discretionary refusal

Extradition requests may be refused:

(a) where the courts of the requested Party are competent, under its domestic laws, to try the offence in respect of which extradition is requested. Nevertheless, the requested Party may grant extradition if it has decided or decides not to take proceedings or to drop proceedings already begun;

(b) where the offence has been committed outside the territory of the requesting Party, and the laws of the requested Party do not allow prosecution for that type of offence if committed outside its territory;

(c) where the person whose extradition is sought is under eighteen years of age at the time the request is made, or is domiciled or resides in the territory of the requested Party and extradition may prejudice his social rehabilitation, subject to that Party's taking the most appropriate measures under its domestic law.

Article 12. Judgment in absentia

If the person whose extradition is sought has been sentenced in absentia, the requested Party shall not grant extradition unless the requesting Party guarantees that the minimum rights to defence generally accorded to anyone charged with an offence have been complied with in the process.

Article 13. Rule of speciality

1. The requesting Party must seek the requested Party's authorisation before prosecuting, sentencing or punishing an extradited person with any restriction in his personal freedom in respect of any offences other than those giving rise to his extradition or prior to them. The requested Party shall have the power to demand from the requesting Party the documents referred to in article 15.

Authorisation may be granted even if the requirements as to the limits of the sentence laid down in article 2, paragraphs 1 and 2, are not met.

2. Such authorisation shall not be necessary if the extradited person expressly consents to be tried, sentenced or punished or, having had an opportunity to leave voluntarily the territory of the State to which he has been surrendered he has not done so within thirty days of his final discharge, or if he has returned to that territory after leaving it.

(...)

*TITLE II. Mutual assistance in criminal matters**Article 28. Obligation to provide mutual assistance*

1. The Parties agree, as provided in this Treaty, to assist each other in conducting enquiries and other procedures concerning criminal proceedings instituted in respect of offences subject to trial under the jurisdiction of the requesting Party at the time assistance is sought.

2. Assistance may be provided in the interest of justice even if the act giving rise to the request for assistance is not punishable under the requested Party's domestic law. Notwithstanding this, that act must also constitute an offence under the requested Party's domestic law for assistance to be granted in the search of houses and the seizure of objects.

Article 29. Grounds for refusal of requests for judicial assistance

Requests for judicial assistance may be refused:

(a) if, in the view of the requested Party, such request refers to political or related offences. Article 5, paragraph 1 shall apply thereto;

(b) if the request refers to purely military offences;

(c) if, in the view of the requested Party, the request manifestly runs counter to its public policy.

(...)

FINAL PROVISIONS

(...)

Article 44. Entry into force and termination of operation

(...)

3. Entry into force of this Treaty terminates operation of the Convention for Reciprocal Extradition of Criminals, of 30 December 1985 and the Protocol thereto modifying article 14 thereof, of 1 August 1986, without prejudice to paragraph 5 below.

(...)

5. Extraditions requested before entry into force of this Treaty shall be dealt with in accordance with the Convention of 30 of December 1985".

— Spain-South Korea Treaty on Extradition. Seoul, 17 January 1994.

Entry into force: 15 February 1995.

(BOE 30, 4.2.95).

Note: Article 1. Obligation to extradite

Each of the Contracting Parties agrees to surrender, when requested by the other Party, as provided in this Treaty, any individual charged with, or convicted of, an extraditable offence, to be prosecuted or punished by the requesting Party in respect of that offence.

Article 2. Extraditable offences

1. Offences punishable under the domestic laws of both Parties by a sanction involving deprivation of liberty for a maximum period of at least one year, or by a more severe penalty, shall be considered extraditable offences.

2. If an extradition request refers to a person sentenced to a sanction involving deprivation of liberty on account of an extraditable offence, by a court in the requesting Party, extradition may only be acceded to if the remainder of the sentence is not under six months.

3. In determining whether an offence is punishable under the legislation of both Contracting Parties, it shall be irrelevant:

(a) whether the legislations of both Parties include the offence in the same category of crimes, or designate it using the same terms;

(b) whether the elements which constitute the offence are different under the legislations of both Parties, provided all the elements which constitute the offence under the requesting Party's legislation are taken into account.

4. Extradition shall not be refused in respect of offences concerning matters of rates and taxes, customs, or currency exchange, on the ground that the legislation of the requested Party does not include the same type of taxes or rates, or that its regulations concerning revenue, customs or exchange are not identical to those of the requesting Party.

5. If a request for extradition includes several offences which are different and punishable separately under both Parties' legislations, even if some of them do not meet the rest of the requirements laid down in paragraphs 1 and 2 above, the requested Party may still accede to extradition in respect of the latter offences, provided that the offender is extradited in respect of at least one extraditable offence.

Article 3. Grounds for obligatory refusal to extradite

1. Extradition requests shall be refused on the following grounds:

(a) if, in the view of the requested Party, extradition is requested in respect of political or related offences;

(b) if the person whose extradition is sought is being prosecuted, or has been tried and acquitted or convicted by the requested Party of the offence in respect of which extradition is requested;

(c) if, under either of the Party's domestic laws, the person whose extradition is sought cannot be prosecuted or punished for some reason, including preclusion by the lapse of time;

(d) if the requested Party has substantial grounds for believing that the purpose of the request is to prosecute or punish the person whose extradition is sought, on account of his race, religion, nationality, political opinion or sex, or that compliance would cause prejudice for any of those reasons to the person affected by the request.

(e) if the offence in respect of which extradition is requested constitutes a statutory offence under military law but not under ordinary criminal law;

(f) if the person whose extradition is sought has been sentenced, or could be tried and sentenced, by an extraordinary or special court or tribunal in the territory of the requesting Party. For the purposes of this subparagraph, a court created and constituted pursuant to the constitutional law of that Party shall not be deemed to be extraordinary or special.

2. For the purposes of application of subparagraph (a), paragraph 1, of this article, the following crimes shall not be deemed to be political offences:

(a) attempting against the life, or attacking the person, of a Head of State or Government, or of a member of his family;

(b) any offence in respect of which the Contracting Parties have undertaken, by virtue of a multilateral international convention, to prosecute when not granting extradition; and

(c) crimes of terrorism.

Article 4. Grounds for discretionary refusal of extradition requests

Extradition requests may be refused:

(a) if, under the law of the requested Party, the offence in respect of which extradition is requested has been committed, in whole or in part, in the territory of that Party;

(b) if, under the law of the requesting Party, the offence in respect of which extradition is requested is punishable by death, unless that Party guarantees to the satisfaction of the requested Party that such penalty shall not be imposed or that, if imposed, shall not be executed;

(c) if the person whose extradition is sought has been acquitted or convicted by a third State for the same offence in respect of which extradition is requested and, if sentenced, he has served his full term or he cannot be compelled to serve it any longer.

(d) if the requested Party, taking into account the nature of the offence and the requesting Party's interests, deems that the particular circumstances of the person

whose extradition is sought would make it incompatible with humanitarian considerations;

(e) if the offence in respect of which extradition is requested has been committed outside the territory of either Party, and the requested Party has no jurisdiction to try offences committed under similar circumstances outside its territory;

(f) if the requested person has not been tried, nor is he likely to be tried with the minimum guarantees provided in article 14 of the International Covenant on Civil and Political Rights.

(...)

Article 6. Extradition of nationals

1. Each of the Contracting Parties shall be entitled to refuse extradition of its own nationals.

2. If the requested Party refuses to extradite one of its nationals, it shall be bound, upon the requesting Party's request, to submit the case to its competent authorities for the purpose of prosecution. All documents, information and objects relating to the offence may then be sent free of charge through the channels provided in article 7, paragraph 1.

The requesting Party shall be informed of the result of its request.

3. Nationality shall be determined subject to the time when the offence in respect of which extradition is requested was committed.

(...)

Article 15. Rule of speciality

1. An individual extradited under this Treaty shall not be prosecuted, sentenced, imprisoned, extradited to a third State, or subjected to any measures of restriction of his personal freedom in the territory of the requesting Party for an offence which he committed prior to being surrendered, unless such offence was:

(a) an offence in respect of which extradition was granted;

(b) any other offence, provided the requested party consents to it. Consent shall be given when the offence in respect of which it is sought is an extraditable offence under this Treaty.

2. Applications seeking the requested Party's consent as set out in this article shall be accompanied by the documents referred to in article 7, paragraph 2, and by a judicial instrument where the extradited person gives evidence relating to the offence.

3. Paragraph 1 of this article shall not apply when the extradited person having had an opportunity to leave the territory of the requesting Party has not done so within forty-five days from being finally acquitted from criminal responsibility for the offence in respect of which he was extradited or when he has returned to that territory after leaving it".

— Spain-Canada Treaty on Mutual Legal Assistance in Criminal Matters. Madrid, 4 July 1994.

Entry into force: 3 March 1995.

(BOE 47, 24.2.95).

Note: PART I. General Provisions

Article 1. Obligation to afford one another mutual assistance

1. The Parties shall afford one another, pursuant to this Treaty, the widest measure of mutual legal assistance in criminal matters.

2. For the purposes of the preceding paragraph mutual legal assistance shall mean any assistance afforded by the requested Party in respect of investigations, prosecutions or judicial proceedings being conducted in the territory of the requested Party by a competent authority in relation to criminal offences.

3. "Competent authority" shall mean the authority requesting legal assistance, emanating from a judicial authority or one accredited by the Prosecutor General of Canada, of a province, or by one of its delegates.

4. For the purposes of paragraph 1 criminal matters shall mean investigations, prosecutions and judicial proceedings in relation to criminal offences which, for Spain, are subject to the jurisdiction of its criminal courts, and, for Canada, are established by an act of Parliament or by the legislative body of a province.

5. Criminal matters shall also cover investigations or other actions concerning offences in respect of taxes, rates, customs, and international payment or transfer of capital.

6. Mutual legal assistance shall include:

- (a) taking evidence or statements from persons;
- (b) providing information, documents and data, including criminal records, judicial documents, and official records;
- (c) tracing and identifying persons and objects;
- (d) executing searches and seizures;
- (e) delivering property, including the loan of evidentiary items;
- (f) facilitating the presence or availability of persons, including persons in custody as well as any other persons, to give evidence in proceedings or assist in investigations;
- (g) effecting service of judicial documents, including those whose purpose it is to summon certain persons to appear in court;
- (h) taking measures to identify, trace, freeze or seize, and confiscate the proceeds of the offence; and
- (i) providing whatever assistance is compatible with the purposes of this Treaty.

Article 2. Execution of requests for legal assistance

1. Requests for legal assistance shall be executed promptly, in accordance with the domestic law of the requested Party and, to the extent not contrary to that law, in accordance with the procedures specified in the request.

2. The requested Party shall not decline to render mutual legal assistance on the ground of bank secrecy.

Article 3. Refusal or postponement of mutual legal assistance

1. Mutual legal assistance may be refused if the requested Party considers that

execution of the request is likely to prejudice its sovereignty, security, public policy, or other essential interests, or to endanger the safety of any person concerned, or is not justified on other grounds.

2. The requested Party may postpone mutual legal assistance on the ground that it interferes with an ongoing investigation, prosecution or proceeding being conducted in its territory.

3. The requested Party shall inform the requesting Party promptly of any refusal to comply, in whole or in part, with a request for mutual legal assistance, or of any postponement thereof, and shall give reasons for the refusal or postponement.

4. Before refusing to comply with a request for legal assistance or postponing execution thereof, the requested Party shall consider if the assistance may be rendered subject to the conditions it deems necessary. If the requesting Party accepts the assistance subject to those conditions it shall abide by them.

(...)

PART IV. *Final Provisions*

Article 19. Other assistance

This Treaty shall not prejudice existing obligations between the Parties under other treaties, agreements or any other undertaking, nor shall it prevent the contracting Parties from rendering or continuing to render one another mutual assistance under other treaties, agreements or other undertakings.

– Agreement between the Member States of the European Communities relating to Simplification and Modernisation of Procedure for Transmission of Requests for Extradition. Donostia-San Sebastian, 26 May 1989.

Deposit of instrument of ratification: 23 December 1991.

Provisional application between Spain, Luxembourg and the Netherlands: 7 April 1995.

(BOE 117, 17.5.95).

Note: Statements:

For the purposes of article 1 of this Agreement, the Spanish Government designates the Technical Secretariat-General for the Ministry of Justice (*Secretaría General Técnica del Ministerio de Justicia*) as central authority.

The Spanish Government declared on 7 April 1995 as follows: “Under article 5, paragraph 3, the Kingdom of Spain declares that, concerning Spain, this Agreement shall apply to its relations which the States which have declared the same”.

– Spain-Bolivia Treaty on the Transfer of Sentenced Persons. Madrid, 24 April 1990.

Exchange of instrument of ratification: 27 February 1995.

Entry into force: 27 May 1995.

(BOE 128, 30.5.95).

Note: Article 2

“For the purposes of this Treaty:

(...)

(c) ‘Sentenced person’ means anyone who, in the territory of one of the Parties, has been found guilty of an offence or sentenced to any punishment or measure involving deprivation of liberty and is subject, by virtue of a court order or decision in execution thereof, to imprisonment, conditional discharge, or preparatory or conditional release or any other kind of release subject to supervision or rehabilitation.

Article 3

1. Any punishment or measure involving deprivation of liberty ordered by a Spanish court in respect of a Bolivian national on account of a criminal offence, may be served by the offender in a penal establishment in Bolivia or under the supervision of the Bolivian authorities.

2. Any punishment or measure involving deprivation of liberty ordered by a Bolivian court in respect of a Spanish national on account of a criminal offence, may be served by the offender in a penal establishment in Spain or under the supervision of the Spanish authorities.

3. Transfer may be requested by the sentencing State or by the administering State.

(...)

Article 5

This Treaty shall only be applied under the following conditions:

1. When the acts or omissions on account of which the sentence has been imposed are also subject to punishment or sanction according to the law of the administering State, irrespective of whether criminal characterisation is identical under both legal systems.

2. When the offence is not of a political or purely military nature.

3. When the sentenced person is a national of the administering State.

4. When the sentenced person is not domiciled in the sentencing State.

5. When the judgment is final, without prejudice to the provisions set out in article 17.

6. When the sentenced person consents to his transfer.

7. When, in case of mental or physical disability of the sentenced person, his legal representative consents to his transfer.

8. When, at the time of receipt of the request for transfer referred to in article 13, paragraph 2, subparagraph (b), the sentenced person still has at least six months of the sentence to serve. In exceptional cases, the Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified hereinbefore.

– Spain-Bolivia Treaty on Extradition. Madrid, 24 April 1990.

Exchange of instruments of ratification: 27 February 1995.

(BOE 128, 30.5.95 and BOE 160, 6.7.95 [s.e.]).

Note: The content of this Treaty is similar to that of Title I of the Spain-Chile Treaty on Extradition and Legal Assistance in Criminal Matters. Santiago, Chile, 14 April 1992 (see *supra* this heading).

— Spain-Egypt Treaty on Transfer of Sentenced Persons. Cairo, 5 April 1995.

Entry into force: 1 August 1995.

(BOE 151, 26.6.95).

— Spain-Paraguay Treaty on Transfer of Sentenced Persons. Asunción, 7 September 1994.

Entry into force: 12 September 1995.

(BOE 263, 3.11.95).

— Spain-Venezuela Convention on Enforcement of Judgments concerning Criminal Matters. Caracas, 17 October 1994.

Entry into force: 18 December 1995.

(BOE 276, 18.11.95).

Note: Article 1. Scope of application

(...)

2. Any punishment or measure involving deprivation of liberty ordered by a Venezuelan court in respect of a Spanish national on account of a criminal offence, maybe served by the offender in a penal establishment in Spain or under the supervision of the Spanish authorities as provided in this Treaty.

3. Any punishment or measure involving deprivation of liberty ordered by a Spanish court in respect of a Venezuelan national on account of a criminal offence, may be served by the offender in a penal establishment in Venezuela or under the supervision of the Venezuelan authorities as provided in this Treaty.

(...)

Article 3. Conditions for application

This Convention shall be applied under the following conditions:

1. When the acts or omissions on account of which the sentence has been imposed are also subject to punishment according to the law of the administering State, irrespective of whether criminal characterisation is identical under both legal systems.

2. When the sentenced person is a national of the administering State.

3. When the transfer is requested by the sentenced person or, if requested by either the sentencing or the administering State, it is expressly consented to by the sentenced person. In cases of mental or physical disability of the sentenced person, consent must be given by his legal representative.

4. When, at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve.

5. When the judgment is final and no other criminal proceedings are being conducted against the sentenced person in the sentencing State.

6. When all measures included in the sentence, except for deprivation of liberty, have been complied with, including those relating to civil liability unless the sentenced person has been declared insolvent.

(...)

Article 9. Execution of sentence

1. The sentenced person shall continue to serve, in the administering State, the term of the punishment or measure involving deprivation of liberty imposed on him by the court in the sentencing State, in accordance with the law of the administering State, without the need for exequatur proceedings. The nature or duration of the punishment or measure involving deprivation of liberty imposed by the sentencing shall not be modified under any circumstances.

2. Under no circumstances may the sentence imposed by the sentencing State be aggravated by the administering State.

3. Each of the Parties shall adopt the necessary legal measures and administrative procedures for the sentences imposed to take effect in their respective territories”.

– European Convention on the International Validity of Criminal Judgments. The Hague, 28 May 1970.

Deposit of the instrument of ratification: 2 September 1994.

Entry into force: 3 December 1992.

(BOE 78, 30.3.96)

Note: Spain formulated the following reservations and declaration in the instrument of ratification:

1st Reservation: Under paragraph 2 of article 19, Spain reserves the right to require that requests for enforcement and supporting documents be accompanied by their translation into Spanish.

2nd Reservation: Under paragraph 4 of article 44, Spain reserves the right to enforce a sanction involving deprivation of liberty of the same nature as that imposed in the requesting State even if the duration of that sanction exceeds the maximum provided for by its national law for a sanction of the same nature. Nevertheless, this rule shall only apply in cases where Spanish law allows in respect of the same offence, for the imposition of a sanction of at least the same duration as that imposed in the requesting State but which is of a more severe nature. The sanction imposed under this paragraph may, if its duration and purpose so require, be enforced in a penal establishment intended for the enforcement of sanctions of another nature.

3rd Reservation: Under paragraph 1 of article 61 Spain reserves the right:

(a) to refuse enforcement, if it considers that the sentence relates to a fiscal or religious offence;

(b) to refuse enforcement of a sanction for an act which according to Spanish law could have been dealt with only by an administrative authority;

(c) to refuse enforcement of a European criminal judgment which the authorities of the requesting State rendered on a date when, under Spanish law, the criminal

proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;

(d) to refuse enforcement of sanctions rendered in absentia;

(e) to refuse the application of the provisions of article 8 where Spain has an original competence and to recognise in these cases only the equivalence of acts interrupting or suspending time limitation which have been accomplished in the requesting State.

Declaration:

In pursuance of Article 63, Spain declares that, for the purposes of the application of the Convention, sanctions imposed by judgments rendered by Spanish Criminal Courts and Judges and enforcement of sanctions of deprivation of liberty or writs of habeas corpus in judgments under article 8.1 of the Spanish Penal Code.

– Agreement between the Member States of the European Community on application of the European Convention on the Transfer of Sentenced Persons. Brussels, 25 May 1987.

Deposit of instrument of ratification: 11 March 1996.

Provisional application between Italy, Denmark, Belgium and Spain: 19 January 1994.

(BOE 132, 31.5.96).

– Spain-El Salvador Treaty on the Transfer of Sentenced Persons. San Salvador, 14 February 1995.

Entry into force: 30 June 1996.

(BOE 139, 8.6.96).

– Protocol modifying the Spain-Mexico Treaty on Extradition and Mutual Assistance in Criminal Matters of 21 November 1978. Mexico, 23 June 1995.

Entry into force: 1 September 1996.

(BOE 190, 7.8.96 and BOE 207, 27.8.96 [s.e.]).

XXII. TAX LAW

– Spain-India Convention on the Avoidance of Double Taxation and the Prevention of Tax Evasion, relating to income tax and capital gains tax. New Delhi, 8 February 1993.

Exchange of instruments of ratification: 25 October 1994.

Entry into force: 12 January 1995.

(BOE 32, 7.2.95).

- Exchange of Notes between the Parties to the Spain-United Kingdom Convention on the Avoidance of Double Taxation and the Prevention of Tax Evasion, relating to income tax and capital gains tax, of 21 October 1975. Madrid, 13 December 1993.

Entry into force: 26 May 1995.

(BOE 124, 25.5.95).

- Protocol modifying the Spain-Austria Convention on the Avoidance of Double Taxation and the Prevention of Tax Evasion, relating to income tax and capital gainst tax, of 20 December 1966. Vienna, 24 February 1995.

Exchange of instruments of ratification: 19 September 1995.

Entry into force: 1 November 1995.

(BOE 235, 2.10.95).

- Spain-Portugal Convention and Protocol on the Avoidance of Double Taxation and the Prevention of Tax Evasion, relating to income tax and capital gains tax. Madrid, 23 October 1993.

Exchange of instruments of ratification: 3 March 1995.

Entry into force: 28 June 1995.

(BOE 266, 7.11.95 and BOE 299, 15.12.95 [s.e.]).