

TREATIES AND OTHER INTERNATIONAL AGREEMENTS TO WHICH SPAIN IS A PARTY INVOLVING QUESTIONS OF PRIVATE INTERNATIONAL LAW, 1993 AND 1994

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This survey covers the treaties and other international agreements published in the *Boletín Oficial del Estado* (Official Journal of the State) during 1993 and 1994. Its 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 sphere of application, material scope, termination, abrogation and relations with other treaties or agreements.

I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

— Convention signed on 26 September 1988 in Lugano on jurisdiction and the enforcement of judgments in civil and commercial matters (*BOE* n. 251, 20.10.94 and *BOE* n. 8, 10.1.95 [s.e]).

Deposit of the instrument of ratification: 30 August 1994

Entry into force: 1 November 1994.

Note: Protocol no. 1 regarding certain problems related to competence, procedure and enforcement.

“Article 5. The judicial competence stipulated in article 6 section 2 and in article 10 for suits related to guarantee requirements or the intervention of third parties in a trial cannot be invoked in the Federal Republic of Germany, Spain, Austria or Switzerland. Anyone residing in another contracting State can be sued in the courts of:

(...)

Spain, in accordance with article 1482 of the *Código Civil*¹
(...)

The resolutions based on article 6, section 2 and on article 10, issued in the other contracting States, will be recognized and enforced in the Federal Republic of Germany, Spain, Austria and Switzerland in accordance with Title III. The effects on third parties produced by the application of the dispositions mentioned in the previous paragraph will also be recognized in the other contracting States in accordance with resolutions issued in those States”.

III. PROCEDURE AND JUDICIAL ASSISTANCE.

— Convention between the Kingdom of Spain and the People's Republic of China on judicial assistance in civil and commercial matters. Peking, 2 May 1992 (BOE n. 26, 31.1.1994 and BOE n. 60, 11.3.94 [s.e]).

Entry into force: 1 January 1994.

Note: Chapter I. *General Dispositions*

Article 1. Judicial protection

1. The nationals of one of the contracting parties will enjoy the same judicial protection in the other contracting State as do the nationals of that State, and will have access to the courts for cases related to civil or commercial matters under the same conditions as the nationals of that State.

2. No security bond will be required of the nationals of the other Party to cover court costs based solely on their status as aliens.

3. The two previous paragraphs will be applied equally to all corporations that are incorporated or authorized in accordance with the laws of either of the Parties.

Article 2. Sphere of judicial assistance

A. As regards this Treaty, judicial assistance in civil and commercial matters is understood to be:

1. Article 1482 of the *Código Civil* contemplates the possibility of the vendor intervening in the trial in order to deprive the purchaser of all or part of the purchase (eviction) by virtue of a prior right to purchase.

1. Notification and service of judicial and extrajudicial documents.
2. Enforcement of rogatory commissions for the presentation of evidence and the preliminary examination of the case.
3. The recognition and enforcement of judgments issued by Courts or arbiters.
4. Information on judicial matters, when requested by the other Party.

Article 3. Central Authorities

1. Judicial assistance will be given through the Central Authorities of both Parties, unless otherwise stipulated in the present Treaty.

(...)

3. The Central Authorities of each Party are their respective Ministers of Justice.

Article 4. Applicable law.

The law applicable to the enforcement of requests for judicial assistance is the domestic law of the Party in which the request is enforced, unless otherwise stipulated in this Treaty.

Article 5. Denial of judicial assistance.

The Party being petitioned can refuse the enforcement of the request for judicial assistance if it is believed that acceptance of the request would constitute a threat to its sovereignty, security, public order, public or social interests or if there appears to be a lack of judicial competence involved. The requesting party should be informed of the reasons for denial".

(...)

Chapter II. *Notification and service of judicial and extrajudicial documents.*

(...)

Article 7. Formalities for enforcement

(...)

2. Each Party can make notifications and serve judicial and extrajudicial documents on their own nationals without any type of coercion, through their diplomatic or consular offices.

(...)

Chapter III. Rogatory commissions

(...)

Article I2. Formalities of enforcement.

(...)

2. Each of the contracting Parties has the power to directly carry out preliminary examination procedures, through its consular or

diplomatic offices, related to any national of that contracting Party who finds himself in the territory of the other Party, provided that the laws of the latter are respected and no type of coercive measure is taken.

(...)

Article 16. Immunity.

Any individual who travels to the requesting Party State to serve as an expert or witness, regardless of his nationality, cannot be criminally charged, pursued or detained for presumably criminal acts committed prior to his entry into the territory of the requesting State or for his testimony before the Courts of that State”.

— Convention between the Kingdom of Spain and the Republic of Bulgaria on judicial assistance in civil matters. Sofia, 23 May 1993 (BOE n. 155, 30.6.94).

Entry into force: 1 July 1994.

Note: “Article 1:

1. Each of the Contracting Parties pledges to provide judicial assistance to the other in civil matters. Within the objectives of this Convention, civil matters include civil, family and commercial law.

2. Judicial assistance will be provided through Central Authorities, in other words, through the Ministries of Justice, unless otherwise stipulated in this Convention.

3. (...)

Chapter I. *Access to justice.*

(...)

Article 2.

1. The personal and patrimonial rights of the nationals of each of the contracting Parties will enjoy the same protection in the territory of the other Party as do those of the nationals of that Party.

These nationals will have free access to the system of justice for the prosecution and defense of their rights in the territory of the other Contracting Party.

2. Corporations constituted in accordance with the law of one of the two Parties, and which have headquarters in the territory of one of the Parties, will enjoy the same judicial protection as the nationals of the two Parties.

Article 3.

No bond or deposit of any kind can be required of the nationals of either of the Contracting Parties in the territory of the other Contracting Party based solely on the fact that that national is an alien, is not domiciled or does not reside in that country.

Article 4.

The nationals of each of the Contracting Parties are entitled to the same free judicial assistance in the territory of the other Party as the nationals of that Party in accordance with the legislation of the Contracting Party in whose territory the free judicial assistance is being requested.

(...)

Chapter II. *Transmission and service of documents*

(...)

Article 7.

1. When a judicial or extrajudicial document is to be served on a person residing in the territory of the other Contracting Party, the competent authorities will send the request for notification to the central authority of the requested Party.

(...)

Article 9.

Each of the Parties is authorized to serve judicial and extrajudicial documents in a direct and non-coercive manner on the nationals of that Party who find themselves in the territory of the other Party.

Article 10.

The previous articles will not be an obstacle:

To sending the documents directly by mail.

(...)

Chapter III. *Transmission and enforcement of rogatory commissions*

Article 11.

1. By means of a rogatory commission the judicial authorities of one of the Contracting Parties can request that the judicial authorities of the other Party issue any order deemed necessary within the framework of the legal proceedings of which it forms part.

(...)

Article 14.

The enforcement of a rogatory commission can only be denied if it does not fall within the powers corresponding to the judicial authorities of the requested Party or if that Party believes that

enforcement would constitute a threat to its sovereignty or security.

(...)

Article 17.

Each of the Contracting Parties has the power to enforce, in a non-coercive manner, the rogatory commissions that concern its own nationals through its diplomatic or consular agents".

— Exchange of notes between the Kingdom of Spain and the United Kingdom constituting an agreement to abolish some rules (art. 24) of the Hague Convention of October 25, 1980 on the Civil Aspects of International Child Abduction, Madrid 22 July 1991 (*BOE* n. 64, 16.3.94).

Entry into force: 2 March 1994.

Note: "... regardless of the provisions of art. 24, by virtue of this Agreement, a stipulation is made that petitions, notifications or other documents sent by the central authorities of the United Kingdom to the central authorities of Spain will be written in or translated into English.

Likewise, petitions, notifications or other documents sent by the central authorities of Spain to the central authorities of the United Kingdom will be written in or translated into Spanish.

In spite of this agreement, the central authorities of Spain can continue to use the English language and the central authorities of the United Kingdom can continue to use the Spanish language".

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

— Exchange of notes between the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland, constituting a specific agreement on the non-application of the Spanish reservation to article 6 1 b) of the European Convention on the recognition and enforcement of child custody decisions and the reestablishment of this custody. Madrid, 12 May 1991 and 31 May 1993 (*BOE* n. 152, 26.6.93).

Entry into force: 31 May 1993.

Note: By virtue of this specific agreement, the central authorities of the

United Kingdom of Great Britain and Northern Ireland will accept messages that are written in or translated into Spanish, and will send their own messages either in English or accompanied by a translated English version. These will be accepted by Spanish central authorities. The central authorities of the United Kingdom will continue to accept messages sent by Spanish central authorities that are written in or translated into English.

— Convention between the Kingdom of Spain and the People's Republic of China on judicial assistance in civil and commercial matters. Peking, 2 May 1992 (*BOE* n. 26, 31.1.1994 and *BOE* n. 60, 11.3.94 [s.e]).

Note: See above III.

“Chapter IV. *Recognition and enforcement of judicial decisions and arbitral awards.*

Article 17. Scope of application

1. Judicial decisions in civil and commercial matters issued by the courts of one Party (with the exception of those related to bankruptcy, insolvency or harm derived from nuclear energy) will be recognized, and when necessary, enforced by the courts of the other Party.

2. This Treaty will also be applicable to civil decisions derived from criminal acts or judicial transactions.

3. This Treaty will also be applicable to decisions and judicial transactions or arbitral awards issued after it enters into force, even if proceedings were initiated prior to it.

Article 18. Competent courts

Petitions for recognition or enforcement will be filed:

In the Kingdom of Spain before the Courts of First Instance. In the People's Republic of China, before the Popular Courts of Intermediate Appeal, in accordance with the Law on Civil Procedure of the People's Republic of China”.

— Convention between the Kingdom of Spain and the Republic of Bulgaria on judicial assistance in civil matters. Sofia, 23 May 1993 (*BOE* n. 155, 30.6.94).

Note: See above III.

Chapter IV. *Recognition and enforcement of judicial and arbitral awards*

“Article 18.

1. This chapter is applicable to resolutions issued by the courts of

the Contracting Parties and in relation to civil, family and commercial matters, including resolutions issued by the criminal courts that rule on civil actions to remedy harm.

2. The provisions of this chapter are also applicable *mutatis mutandis* to judicial transactions.

3. The provisions of this Chapter are not applicable to resolutions or transactions related to inheritance, bankruptcy, insolvency, settlements with creditors or any other proceedings of this nature.

(...)

Article 20.

(...)

4. Petitions for recognition and enforcement will be filed:

— In the Kingdom of Spain, before Courts of First Instance

— In the Republic of Bulgaria, before the City Court of Sofia.

(...)”.

— Convention signed 26 September 1988 in Lugano on jurisdiction and enforcement of judgments in civil and commercial matters (*BOE* n. 251, 20.10.94 and *BOE* n. 8, 10.1.95 [s.e]).

Note: See above II.

V. INTERNATIONAL COMMERCIAL ARBITRATION

— Convention between the Kingdom of Spain and the People's Republic of China on judicial assistance in civil and commercial matters. Peking, 2 May 1992 (*BOE* n. 26, 31.1.1994 and *BOE* n. 60, 11.3.94 [s.e]).

Note: See above III. and IV.

Chapter IV. *Recognition and enforcement of judicial decisions and arbitral awards.*

(...)

Article 24. Judicial transactions and arbitral awards.

(...)

2. Each of the Parties will recognize and enforce the arbitral awards in the territory of the other Party, in accordance with the provisions of the New York Convention of June 10, 1958 on the recognition and enforcement of foreign arbitral awards”.

— Convention between the Kingdom of Spain and the Republic of Bulgaria on judicial assistance in civil matters. Sofia, 23 May 1993 (*BOE* n. 155, 30.6.94).

Note: See above III. and IV.

“Chapter IV. Recognition and enforcement of judicial resolutions and arbitral awards.

(...)

Article 22.

1. Each of the two Contracting Parties will recognize and enforce the arbitral awards issued in the territory of the other Party in accordance with the provisions of the New York Convention of June 10, 1958 on the recognition and enforcement of foreign arbitral awards”.

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. ALIENS, REFUGEES AND CITIZENS OF THE EUROPEAN COMMUNITY

— Agreement between the contracting parties of the Schengen Agreement and Poland for the readmission of individuals whose status is irregular. Brussels, 29 March 1991 (*BOE* n. 16, 19.1.93 and *BOE* n. 30, 4.2.93 [s.e]).

Instrument of accession: 11 November 1992.

Entry into force: 1 January 1993.

— Announcement made by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* (Technical Secretariat of the Ministry of Foreign Affairs) on February 23, 1993, on the entry into force of the Exchange of Notes between the Kingdom of Spain and the United States of America on February 4, 1993, a component part of the agreement to amend the agreement on the suppression of visas in ordinary passports dated January 21, 1952. Madrid, 27 May and 2 July, 1992 (*BOE* n. 57, 8.3.93).

— Notice of the Seychelles Islands denouncing the agreement with

Spain on the suppression of visas dated July 16, 1992 (*BOE* n. 70, 2.3.93).

Effects of the denunciation: with effect from 15 August 1992.

— Resolution of the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on 19 May 1993, denouncing the agreement between the Kingdom of Spain and the Dominican Republic on the suppression of visas, dated 27 September 1966 (*BOE* n. 125, 26.5.93).
Effects of the denunciation: with effect from 1 June 1993.

— Announcement made by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on May 12, 1993, on the provisional suppression as of June 1, 1993, of the Exchange of Notes between the Kingdom of Spain and the Socialist Republic of Yugoslavia on the suppression of visas dated March 3, 1978. Belgrade, 11 May 1993 (*BOE* n. 127, 28.5.93).

Note: "The note from the Spanish Embassy indicates that as of June 1, 1993, citizens of Serbia and Montenegro will be required to obtain a visa in order to enter, transit or spend time in Spanish territory".

— Exchange of Notes between Spain and Tunisia, a component part of the agreement on free-of-charge visas. Madrid 13 and 15 July 1992 (*BOE* n. 157, 2.7.93).

Entry into force: 24 June 1993.

— Exchange of Notes between Spain and Poland on the suppression of visas. Madrid, 26 October 1992 (*BOE* n. 1, 20.1.94).

Entry into force: 31 January 1994.

— Agreement for the accession of Spain, signed in Bonn on June 25, 1991, to the Application Convention of the Schengen Agreement on 14 June 1985, between the States of the Benelux Economic Union, the Federal Republic of Germany and the Republic of France on the gradual removal of controls at common borders, signed in Schengen on June 19, 1990, to which Italy acceded through an Agreement signed in Paris on November 27, 1990 (*BOE* n. 81, 5.4.94).

Deposit of the instrument of ratification: 30.7.93.

Entry into force: 1 March 1994.

Note: The agents contemplated in sections 1 and 2 of article 40 and in sections 1 to 6 of article 41 are, in the case of Spain: the National

Police and the Civil Guard in the exercise of their duties as judicial police, and the civil servants assigned to the Customs Department in the terms specified in the appropriate bilateral agreements and those that are mentioned in article 40, paragraph 6, and article 41, paragraph 6, of the 1990 Convention related to their powers in matters regarding the illegal trafficking of narcotics and psychotropic substances, the traffic of arms and explosives and the illegal transport of toxic and hazardous wastes.

The authority mentioned in article 40, paragraph 5 of the 1990 Convention, in the case of Spain is: the *Dirección General de Policía* (Central Police Authority).

The Ministry recognized as competent in these matters in article 65, paragraph 2 of the 1990 Convention, in the case of Spain is: the Ministry of Justice.

(...)

The Government of Spain made unilateral declarations on the definition of the means of trans-border pursuit after entering into agreements with the governments of France and Portugal. Both declarations have the same content: As regards the common border between the Kingdom of Spain and the Republic of France/Republic of Portugal, pursuits carried out by the agents authorized in article 41, paragraph 7 of the Convention for the Application of the Schengen Agreement, will be undertaken for the time being in the following ways:

- a) agents in pursuit will not be able to interrogate the individual being pursued;
- b) agents in pursuit can enter ten kilometers into Spanish territory
- c) pursuit can only take place in cases involving the infractions listed in article 41, paragraph 4, point a) of the Convention.

— Exchange of Notes between Spain and Israel on the suppression of visas. Madrid and Jerusalem, 9 November 1993 (*BOE* n. 159, 5.7.94).
Entry into force: 31 July 1994.

— Announcement made by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on 4 January 1994, on the extension of the provisional suppression of the Exchange of Notes between Spain and Peru on the suppression of visas dated 14 April 1959 (*BOE* n. 40,

16.2.94).

Extension of the suppression of visas: with effect from 15 February 1994.

VIII. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

— Convention of the International Commission on Civil Status on the international exchange of information on matters related to civil status. Istanbul, 4 September 1958 (*BOE* n. 173, 21.7.94).

Deposit of the instrument of accession: 14 June 1994.

Entry into force for Spain: 14 July 1994.

— Additional Protocol of the Convention of the International Commission on Civil Status on the international exchange of information on matters related to civil status. Patrás, 6 September 1989 (*BOE* n. 174, 22.7.94).

Deposit of the instrument of accession: 14 June 1994.

Entry into force for Spain: 1 September 1994.

IX. FAMILY LAW

— Exchange of notes between the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland, constituting a specific agreement on the non-application of the Spanish reservation to article 6 1 b) of the European Convention on the recognition and enforcement of child custody decisions and the reestablishment of this custody. Madrid, 12 May 1991 and 31 May 1993 (*BOE* n. 152, 26.6.93).

Note: See above IV.

— Exchange of notes between the Kingdom of Spain and the United Kingdom constituting an Agreement to abolish some rules (art. 24) of the Hague Convention of 25 October 1980, on the Civil Aspects of International Child Abduction, Madrid 22 July 1991 (*BOE* n. 64, 16.3.94).

Note: See above III.

X. SUCCESSION

XI. CONTRACTS

— Convention signed in Funchal on May 18, 1992, regarding the accession of Spain and Portugal to the Convention on the law applicable to contractual obligations. Rome, 9 June 1980 (*BOE* n. 171, 19.7.93 and *BOE* n. 189, 9.6.93 [s.e]).

Deposit of the instrument of ratification: 2 June 1993.

Entry into force for Spain: 1 September 1993.

XII. TORTS

XIII. PROPERTY

1. Intellectual Property

2. Industrial Property

— Announcement by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on 26 October 1994, publishing the decision of the Administrative Council of the European Patent Organization on 9 December 1993, which approves the modification of rule 102 paragraph 1 of the Rules for the Enforcement of the European Patent Convention, done in Munich, 9 December 1993 (*BOE* n. 271, 12.11.94).

Entry into force: 9 December 1993.

XIV. COMPETITION LAW

XV. INVESTMENTS AND FOREIGN EXCHANGE

— Agreement between Spain and Poland on the reciprocal protection and promotion of investment, Madrid 30 July 1992 (*BOE* n. 133, 4.6.93 and *BOE* n. 192, 12.8.93 [s.e]).

Entry into force: 1 May 1993.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and the People's Republic of China on the reciprocal protection and promotion of investment, Madrid, 6 February 1992 (*BOE* n. 237, 4.10.93).

Entry into force: 1 May 1993.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and Chile on the reciprocal protection and promotion of investment. Santiago de Chile, 2 October 1991 (*BOE* n. 67, 19.3.94).

Entry into force: 29 March 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and Uruguay on the reciprocal promotion and protection of investment. Madrid, 7 April 1992 (*BOE* n. 126, 27.5.94).

Entry into force: 6 May 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and Egypt on the reciprocal protection and promotion of investment. Madrid, 3 November 1992 (*BOE* n. 155, 30.6.94).

Entry into force: 26 April 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and Tunisia on the reciprocal promotion and protection of investment. Madrid, 28 May 1991 (*BOE* n. 172, 20.7.94).

Entry into force: 20 June 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Convention on the settlement of investment disputes between States and nationals of other States. Washington, 18 March 1965 (*BOE* n. 219, 13.9.94).

Instrument of ratification: 20 June 1994.

Entry into force for Spain: 17 September 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and the Philippines on the reciprocal promotion and protection of investment. Madrid, 9 October 1993 (*BOE* n. 275, 17.11.94).

Entry into force: 21 September 1994.

Note: See Section on Treaties Involving Questions of Public International Law

— Agreement between Spain and South Korea on the reciprocal promotion and protection of investment, Seoul, 17 January 1994 (*BOE* n. 297, 13.12.94).

Entry into force: 19 July 1994

Note: See Section on Treaties Involving Questions of Public International Law

XVI. FOREIGN TRADE LAW.

— Agreement between Spain and the United States on reciprocal assistance between customs services. Madrid, 3 July 1990 (*BOE* n. 24, 28.1.93).

Entry into force: 1 March 1993.

Note: "Article 1. Definitions

1. 'Customs Legislation', the set of laws and regulations applied by Customs Administrations to the importation, exportation and

transit of goods, as well as those to duties and other taxes or to the prohibitions, restrictions and other types of control on the movement of goods or other articles controlled at national border crossings.

2. 'Customs Administrations' in Spain, the Dirección General de Aduanas e Impuestos Especiales (General Customs and Special Taxes Office) of the Ministerio de Economía y Hacienda (Ministry of Economy and Finance), and in the United States of America, the Customs Service of the United States Department of Treasury.

3. 'Infraction', any violation or attempted violation of customs law.

Article 2. Extension of assistance.

1. The Parties agree to provide mutual assistance through their Customs Administrations to prevent, investigate and suppress any infraction in accordance with the provisions of this agreement.

2. The assistance stipulated in this agreement also includes, when requested, all the information needed to ensure the accurate determination of Customs duties or other taxes by the Customs Administrations.

3. The mutual assistance stipulated in paragraphs 1 and 2 will be provided for use in all types of procedure, be they judicial, administrative or investigatory, and will include classification, appraisal and other aspects derived from the application of customs law, and procedures relating to fines, penalties, attachments, and liquidation for damages.

4. All of the actions undertaken within the framework of this agreement by either of the Parties will be carried out in accordance with its own laws.

5. This agreement proposes to enhance and expand the mutual assistance given between these Parties prior to this.

(...)

Article 4. Exemptions from assistance

1. When, in the judgment of the requested Party, compliance with a petition constitutes an attack on its sovereignty, security or national policy or on any other essential national interest, assistance can be denied or granted subject to certain conditions or requirements.

2. When one Party presents a petition for assistance that that Party itself could not comply with if the petition were made by the other Party, the requesting party will so state in the petition. The

requested party is free to decide whether or not to respond to that petition”.

XVII. BUSINESS ASSOCIATION CORPORATION

XVIII. BANKRUPTCY

XIX. TRANSPORT LAW.

Note: See Section on Treaties involving questions of Public International Law

XX. LABOUR LAW AND SOCIAL SECURITY.

— Administrative Agreement between Spain and the Philippines enforcing article 21 of the Social Security Convention of May 20, 1988. Madrid, 21 May 1991 (*BOE* n. 75, 29.3.93).
Entry into force: 1 April 1992.

XXI. CRIMINAL LAW.

— Cooperation Agreement between Spain and the United States to reduce the demand for narcotic drugs. Madrid, 25 November 1991 (*BOE* n. 84, 8.4.93).
Entry into force: 7 May 1993.
Note: “Article I. The Parties agree to cooperate on the reduction of the demand for narcotic drugs and psychotropic substances in the following areas:

a) Prevention and educational programmes on the use of narcotic drugs and psychotropic substances designed for the general public and for specific groups, especially school and community-based programmes.

b) The development and implementation of treatment and rehabilitation methods for persons with problems resulting from the use of narcotic drugs or psychotropic substances.

c) The development and implementation of mechanisms for data collection in order to determine the nature, extent and consequences of the use of narcotic drugs and psychotropic substances.

(...)

Article IV. In order to apply this agreement, a Spanish–American Commission is created comprised of an equal number of members appointed by the competent authorities of each Party.

From Spain, the Commission members will include representatives of the *Ministerio de Sanidad y Consumo* (Ministry of Health), *Ministerio de Educación y Ciencias* (Ministry of Science and Education), and *Ministerio de Asuntos Exteriores* (Ministry of Foreign Affairs).

From the United States, the Commission members will include representatives of the State Department (Office of International Drug Affairs), the Department of Health and Human Services, and the Drug Control Office of the National Police (Office of Demand Reduction)".

— Treaty between the Kingdom of Spain and the United States of America on mutual legal assistance in criminal matters. Washington, 20 November, 1990 (*BOE* n. 144, 17.6.93 and *BOE* n. 170, 17.7.93 [s.e]).
Entry into force: 30 June 1993.

Note: "Article 1. *Object of the Treaty*

1. The contracting States will provide mutual assistance in accordance with this Treaty, as regards investigation and criminal proceedings undertaken in either of the Party States.

2. Assistance will comprise, specifically,

a) taking of testimony or declarations;

b) making available documents, prior records and evidence;

c) serving documents;

d) locating and identifying persons or objects;

e) transferring detained individuals for the purpose of giving testimony or for other purposes;

- f) enforcing search warrants and embargos,
- g) freezing assets,
- h) issuing orders related to embargos or compensation,
- i) initiating criminal proceedings in the requested State,
- j) providing any other type of assistance that is not prohibited by the legislation of the requested State.

3. Assistance will be provided regardless of whether the act that gave rise to the request for assistance is considered a crime in the requested State. However, if assistance is requested for the purposes stated in section h) paragraph 2, the act that gives rise to the proceedings must be considered a punishable crime according to the law of both contracting States and must carry a sentence of more than one year of prison.

4. This Treaty is understood to be exclusively for the purpose of mutual legal assistance between the contracting Parties. The provisions of this Treaty do not create any type of right for individuals related to obtaining, eliminating or excluding evidence or obstructing compliance with a request.

Article 2. Central Authority

1. Each of the contracting States will appoint a Central Authority responsible for the transmission and reception of the requests referred to in this Treaty.

2. As regards the United States of America, the Central Authority will be the Attorney General's office or other persons so designated. As regards Spain, the Central Authority will be the *Secretaría General Técnica del Ministerio de Justicia* (Technical Secretariat of the Ministry of Justice) or other persons so designated.

3. The Central Authorities will communicate with each other directly for the purposes of this Treaty.

Article 3. Limits of assistance

1. The Central Authority of the requested State can deny assistance if:

- a) The request has to do with a crime classified under military and not ordinary criminal law; or
- b) compliance with the request constitutes an attack on the security or other essential interests of the requested State.

2. Prior to the denial of assistance for protection of the provisions of this article, the Central Authority of the requested State will consult with the Central Authority of the requesting State about the possibility of providing the assistance subject to the

conditions that the former considers necessary. If the requesting State accepts the assistance subject to said conditions, the necessary adjustments will be made.

3. If the Central Authority of the requested State denies assistance, the Central Authority of the requesting State must be informed of the reasons for the denial”.

— Exchange of Notes on the correction of some differences detected in the Spanish text with regard to the English text of the Treaty on mutual legal assistance in criminal matters between the Kingdom of Spain and the United States of America. Madrid, 12 and 19 June 1991 (BOE n. 144, 17.6.93).

— Second Supplementary Treaty on extradition between the Kingdom of Spain and the United States of America. Madrid, 9 February 1988 (BOE n. 156, 1.7.93 and BOE n. 192, 12.8.93 [s.e]).

Exchange of instruments of ratification: 2 June 1993.

Entry into force: 2 July 1993.

— Exchange of Letters between Spain and France for the extension of the European Convention on mutual legal assistance in criminal matters on April 20, 1959, to the French overseas territories. Madrid, 23 March 1992 and 3 May 1993 (BOE n. 156, 1.7.93).

Entry into force: 1 August 1993.

— Exchange of Notes between Spain and Belgium modifying article 11 of the Convention of June 17, 1870, on the repression of crime. Madrid, 30 April 1992 and 13 April 1993 (BOE n. 177, 26.7.93).

Entry into force: 30 June 1993.

— Treaty on extradition between Spain and Peru . Madrid, 28 June 1989 (BOE n. 21, 25.1.94).

Entry into force: 31 January 1994.

Note: “Article 2.

1. Extradition will be granted for acts punishable according to the laws of both Parties with prison sentences or security measures that deprive an individual of his liberty for a period greater than one year.

(...)

Article 5.

1. Extradition will not be granted for crimes considered to be

political or those somehow connected to crimes of this nature ... For the purposes of this Treaty, the following will not, under any circumstances, be considered political crimes:

- a) An attempt on the life of a head of State or of the Government or on a member of their families,
- b) Acts of terrorism,
- c) War crimes or crimes against the peace and security of mankind.

2. Extradition will also be denied if the requested Party has reason to believe that the request for extradition is being presented in order to pursue or punish a person on the grounds of his race, religion, nationality or political opinions, or if that persons's situation will be affected for those reasons.

(...)

Article 7.

1. When the person being extradited is a national of the requested Party, this Party can refuse extradition in accordance with its own law. An individual's nationality will be determined at the point in time in which the decision on extradition is made, provided that nationality was not acquired for the fraudulent purpose of preventing extradition.

(...)

Article 8.

1. None of the provisions of this Treaty is to be interpreted as a limitation on asylum, when this is appropriate. Consequently, the requested Party can also deny the extradition of an individual who has been granted asylum according to its own law.

(...)"

— Agreement, signed in Bonn on 25 June 1991, on the accession of Spain to the Application Convention of the Schengen Agreement, dated 14 June 1985, between the States of the Benelux Economic Union, the Federal Republic of Germany and the Republic of France on the gradual removal of controls at common borders, signed in Schengen on 19 June 1990, to which Italy acceded by an Agreement signed in Paris on 27 November 1990 (*BOE* n. 81, 5.4.94).

Note: See above VII.

— Convention on extradition and mutual legal assistance in criminal matters between Spain and Bulgaria. Sofia, 23 May 1993 (*BOE* n. 156, 1.7.94).

Entry into force: 1 July 1944.

Note: "Title I. Extradition

(...)

Article 2. Extradition will be granted when:

a) the act or acts constitute crimes punishable by sentences of more than one year of prison, or any other more severe sentence, according to the law of both contracting Parties,

(...)

Article 3.

1. The contracting Parties will not grant extradition of their own nationals. Nationality will be determined at the point in time when the decision on extradition is made.

2. The requested Party can deny extradition of expatriates domiciled in its territory and of persons who have been granted asylum in its territory.

Article 4. Extradition will not be granted

a) if the requested Party considers the crime on which the extradition request is based to be a political crime or related to a political crime. An attempt on the life of a Head of State or members of his family, and acts of terrorism which endanger people's lives are not considered political crimes.

b) if the requested Party considers the crime on which the extradition request is based to be one of non-compliance with military obligations.

Article 5. Extradition will not be granted

a) if the crime was committed in the territory of the requested Party,

b) if the crime on which the extradition request is based was committed outwith the territory of the requesting Party and the law of the requested Party does not authorize this type of crime to be pursued outwith its territory,

c) if, according to the law of the requesting Party, criminal actions were based on the existence of a complaint made by an individual and this complaint had not been filed,

d) if, according to the law of one of the Parties, the statute of limitations had passed for the crime or the sentence,

e) if an amnesty or pardon had been granted by the requesting State,

f) if, in the requested State, a resolution had been adopted with the status of *res judicata* on the same crime in relation to the person whose extradition was being sought.

(...)

Title II. Judicial Assistance

Article 23. The contracting Parties pledge to provide the broadest possible mutual judicial assistance in criminal matters pursuant to the conditions stipulated in this Convention, especially as regards the search for and identification of individuals, the service of summons and other judicial orders, the taking of depositions of defendants, the gathering of evidence, the deposing of witnesses and experts, the inspection and investigation of the crime sites, the search for registration or embargo of goods, the delivery of objects or documents, the transfer of detainees in order to obtain evidence, information related to certain sentences and the exchange of legislative documents, the enforcement of rogatory commissions, the notification of judicial acts and the exchange of certificates of prior criminal records.

Article 24. The provisions of Title II of this Convention will not be applied:

- a) to crimes for which extradition should not be granted pursuant to article 4 of this Convention;
- b) when the requested Party feels that the enforcement of the request for judicial assistance might affect its sovereignty or security or contradicts the fundamental principles of its legal system”.

XXII. TAX LAW

— Convention between Spain and Ecuador to prevent double taxation and tax evasion in matters relating to income and state taxes. Quito, 20 May 1991 (*BOE* n. 10, 5.5.93).

Entry into force: 19 April 1993

— Convention between Spain and Argentina to prevent double taxation and tax evasion in matters relating to income and state taxes. Madrid, 21 July 1992 (*BOE* n. 216, 9.9.94).

Entry into force: 28 July 1994.

— Convention between Spain and Mexico to prevent double taxation

and tax evasion in matters relating to income and state taxes. Madrid, 24 July 1992 (*BOE* n. 257, 27.10.94).

Entry into force: 6 October 1994.

— Convention between Spain and the Philippines to prevent double taxation and tax evasion in matters relating to income. Manila, 14 March 1989 (*BOE* n. 299, 15.12.94).

Entry into force: 12 September 1994.

— Convention between Spain and South Korea to prevent double taxation and tax evasion in matters relating to income. Seoul, 17 January 1994 (*BOE* n. 299, 15.12.94).

Entry into force: 21 November 1994.

— Convention (EC) on the suppression of double taxation in the event of a correction of the profits of joint ventures. Brussels, 23 July 1990 (*BOE* n. 304, 21.12.94).

Deposit of the instrument of ratification: 14 May 1992.

Entry into force: 1 January 1995.

— Convention between Spain and Ireland to prevent double taxation and tax evasion in matters relating to income and capital gains. Madrid, 10 February 1994 (*BOE* n. 309, 27.12.94).

Entry into force: 21 November 1994.