

SPANISH MUNICIPAL LEGISLATION INVOLVING QUESTIONS OF PUBLIC INTERNATIONAL LAW, 1992

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I. INTERNATIONAL LAW IN GENERAL

II. SOURCES OF INTERNATIONAL LAW

— Resolution issued 27 January 1992 by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* (Technical Secretariat of the Ministry of Foreign Affairs) on third state actions in regard to multilateral treaties to which Spain is a party (BOE n. 33, 7.2.92).

Note: This resolution provides for the publication, for public knowledge, of the communications related to international treaties received by the *Ministerio de Asuntos Exteriores* from 1 September 1991 to 31 December 1992.

— Resolution issued 28 May 1992 by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on third state actions in regard to multilateral treaties to which Spain is a party (BOE n. 152 and 170, 25.6.92 and 16.7.92).

Note: This resolution provides for the publication, for public knowledge, of the communications related to international treaties received by the *Ministerio de Asuntos Exteriores* from 1 January 1991 to 30 April 1992.

— Resolution issued 18 September 1992 by the *Secretaría General Técnica del Ministerio de Asuntos Exteriores* on third state actions in regard to multilateral treaties to which Spain is a party (BOE n. 33, 7.2.92).

Note: This resolution provides for the publication, for general knowledge, of

the communications related to international treaties received by the *Ministerio de Asuntos Exteriores* from 1 May 1992 to 31 August 1992.

III. RELATIONSHIP BETWEEN INTERNATIONAL AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

— Royal Decree 1514/1992, 11 December, establishing the Permanent Representation of Spain before the Council of the Western European Union with headquarters in Brussels (*BOE* n. 306, 22.12.92).

V. The Individual and International Law

1. European Citizenship

— Royal Decree 766/1992, 26 June, on the entry into and presence in Spain of nationals of the member States of the European Community (*BOE* n. 156 and 277, 30.6.92 and 18.11.92).

Note: This decree abolishes Royal Decree 1099/1986, 26 May.

— Constitutional Amendment of Article 13, 2, 27 August 1992, (*BOE* n. 207, 28.8.92).

Note: Art. 13.2 of the *Constitución* is worded in the following way:

“Only Spaniards are entitled to the rights recognized in article 23 except for the cases related to active *and passive* suffrage in municipal elections which are established by treaty or law in keeping with the concept of reciprocity”. This change is related to the words written in italics and had to be made before the ratification of the Treaty of the European Union, 7 February 1992.

2. Aliens

— Royal Decree 511/1992, 14 May, which creates the *Comisión Interministerial*

de Extranjería (Interministerial Commission on Foreign Subjects) (*BOE* n. 134, 4.6.92).

Note: The *Comisión Interministerial de Extranjería* is a body charged with coordinating the functions of the ministerial departments which have competence over the systems of entry, residency, work and social integration of foreigners in Spain.

— Resolution, 9 July 1992, *Subsecretaría del Ministerio de Relaciones con las Cortes y de Secretaría de Gobierno* (Under-Secretary of the Ministry of Congressional Relations and Secretariat of the Administration), which establishes instructions for the renewal of work and residency permits processed pursuant to the provisions of the Council of Ministers Agreement dated 7 June 1991 on the regularization of workers (*BOE* n. 166, 11.7.92).

3. Human Rights

— Law 24/1992, 10 November, which incorporates the Agreement for State Cooperation with the Federation of Evangelical Religious Organizations of Spain (*BOE* n. 272, 12.11.92).

— Law 25/1992, 10 November, which incorporates the Agreement for State Cooperation with the Israeli Communities of Spain (*BOE* n. 272, 12.11.92).

— Law 26/1992, 10 November, which incorporates the Agreement for State Cooperation with the Islamic Commission of Spain (*BOE* n. 272, 12.11.92).

VI. ORGANS OF THE STATES

1. Diplomatic Missions

— Royal Decree 159/1992, 21 February, establishing a Permanent Spanish Diplomatic Mission in Ukraine, at Kiev (*BOE* n. 47, 24.2.92).

2. Consuls and Consulates

— Order issued 16 January 1992 by the *Ministerio de Asuntos Exteriores* establishing a consular office, with the category of consulate in Santo Domingo

(Dominican Republic) (*BOE* n. 20, 23.1.92).

Note: The Consulate will have jurisdiction over the complete territory of the Dominican Republic and will report to the Spanish Embassy.

— Order issued 13 January 1992, by the *Ministerio de Asuntos Exteriores* establishing an Honorary Consular Office in Tripoli, dependent on the Spanish Embassy at Beirut, Lebanon (*BOE* n. 26, 30.1.92).

— Order issued 1 June 1992, by the *Ministerio de Asuntos Exteriores* establishing an Honorary Consular Office in Marrakesh, dependent on the Spanish General Consulate at Casablanca, Morocco (*BOE* n. 152, 25.6.92).

— Order issued 3 December 1992 by the *Ministerio de Asuntos Exteriores*, establishing an Honorary Consular Office in Tallin, Estonia (*BOE* n. 300, 15.12.92).

Note: The Consulate will have jurisdiction over the complete territory of the Republic of Estonia and will report to the Spanish Embassy at Helsinki, Finland.

— Order issued 10 December 1992 by the *Ministerio de Asuntos Exteriores*, establishing an Honorary Consular Office in Mombasa, Kenya (*BOE* n. 309, 25.12.92).

Note: The Consulate will have jurisdiction over the Coast Province and be dependent on the Spanish Embassy at Nairobi, Kenya.

VII. TERRITORY

VIII. SEAS, WATERWAYS, SHIPS

1. Territorial Sea

— Royal Decree 600/1992, 5 June, which establishes exclusion or limitation measures on maritime traffic in the territorial waters affected by the celebration of the 1992 Olympic Games in Barcelona (*BOE* n. 151, 24.6.92).

2. Contiguous Zone

— Law 27/1992, 25 November, on State Ports and the Merchant Marine (*BOE* n. 283 and 298, 25.11.92 and 12.12.92).

Note: Article 7 establishes zones and types of navigation as matters of interest for the determination of Spanish maritime spaces:

“1. In addition to internal waters, Spain also exercises sovereignty, sovereign rights and jurisdiction over the territorial sea, the contiguous zone and the restricted Spanish economic zone.

— Spanish internal waters, for the purposes of this law, are those located within the base lines of the territorial sea including rivers, lakes and continental waters.

— The territorial sea extends 12 nautical miles from the base line at which the width of the territorial sea is measured.

— The contiguous zone extends from the outer limit of the territorial sea for a distance of 24 nautical miles counted from the base line at which width is measured.

— The restricted economic zone extends from the outer limit of the territorial sea for a distance of 200 nautical miles measured from the base lines at which width is measured.

Nevertheless, the transcribed precept did not outline the regulation of the contiguous zone which until now had been non-existent under Spanish law. Therefore an additional provision — provision 2 — was written as follows:

In the contiguous zone as defined in art. 7.1 of this law, the Government will be able to adopt the control measures it considers necessary in order to:

a) Prevent the infringement of customs laws and regulations regarding contraband, taxes, immigration or health in national territory or in the territorial sea.

b) Sanction any such infringement”.

At this time, the Government has not yet developed regulations and guidelines for these circumstances.

IX. INTERNATIONAL SPACES

X. ENVIRONMENT

1. Seas

— Order issued 28 October 1992 by the *Ministerio de Obras Públicas y Transportes* (Ministry of Public Works and Transportation) which expands the scope of application of Order 31, October 1989, to new hazardous substances that might be found in certain materials dumped into the sea (BOE n. 267, 6.11.92).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Scientific and Technical Cooperation

— Order issued 14 April 1992 by the *Ministerio de Asuntos Exteriores* which establishes rules for the concession of subsidies to researchers and public and private organizations for scientific research in the field of international cooperation (BOE n. 105, 1.5.92).

2. Cultural Cooperation

— Resolution issued 28 November 1991 by the *Secretaría General Técnica del Ministerio de Educación y Ciencia* (General Office of the Ministry of Education and Science), applying the Official Order of 26 July 1991 establishing the equivalence of German and Spanish non-university studies (BOE n. 1, 1.1.92).

— Royal Decree 1/1992, 10 January, establishing official diplomas recognizing the knowledge of Spanish as a foreign language (BOE n. 13, 15.1.92).

— Order issued 17 February 1992, by the *Ministerio de Cultura* (Ministry of Culture) which regulates grants for the translation and editing in foreign languages of literary and scientific writings by Spanish authors (BOE n. 55, 4.3.92).

— Order issued 26 June 1992 by the *Ministerio de Cultura* which creates the

Advisory Commission for Cultural Relations with Foreign Countries (*BOE* n. 177, 24.7.92).

— Order issued 30 October 1992 by the *Ministerio de Educación y Ciencia* (Ministry of Education and Science) which regulates academic exchanges with schools in other member States of the European Community (*BOE* n. 268, 7.11.92).

3. Tariffs and Trade Cooperation

— Resolution issued 27 December 1991 by the *Secretaría de Estado de Comercio* (Secretary of State for Commerce), modifying the Annex to the Official Order of 31 January 1990 which regulates the importation of certain fertilizer products (*BOE* n. 1, 1.1.92). Resolution issued 30 December 1991, by the *Dirección General de Comercio Exterior* (Department of Foreign Commerce) applies the previous one (*BOE* n.2, 2.1.92).

— Royal Decree 177/1992, 28 February, which modifies the tariffs on the importation of certain products from third countries (*BOE* n. 58, 7.3.92).

— Circular dated 10 March 1992, *Departamento de Aduanas e Impuestos Especiales de la Agencia Estatal de Administración Tributaria* (Department of Customs and Special Taxes), on types of travelers (*BOE* n. 73, 25.3.92).

Note: Abolishes Circular 1002, dated 28 July 1989.

— Royal Decree 295/1992, 27 March, modifying Appendix II, part B, of the current Customs Tariffs (*BOE* n. 82, 4.4.92).

— Resolution issued 30 March 1992 by the *Secretaría de Estado de Comercio* establishing types of commercial exchanges with the Republics of Croacia and Slovenia and with the Yugoslavian Republics of Bosnia-Herzegovina, Macedonia and Montenegro (*BOE* n. 82, 4.4.92).

— Circulars 3/1992, 11 March, and 9/1992, 15 December from the *Departamento de Aduanas e Impuestos Especiales de la Agencia Estatal de Administración Tributaria*, which establish instructions for the use of the Single Customs Form and additional codes (*BOE* n. 90 and 308, 14.4.92 and 24. 12.92).

— Resolution issued 20 May 1992 by the *Secretaría de Estado de Comercio* modifying the types of commercial exchanges with certain third countries

(BOE n. 126, 26.5.92). This Resolution was modified by Resolution 28 May 1992 (BOE n. 134, 4.6.92).

Note: This modification is intended to eliminate quantitative restrictions in regard to Croatia, Slovenia, Bosnia-Herzegovina, the Yugoslav Republics of Macedonia and Montenegro; the substitution of the USSR by Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgystan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan; and the inclusion of Hungary, Poland and Czechoslovakia.

— Royal Decree 506/1992, 14 May, modifying the current Customs Tariffs (BOE n. 134, 4.6.92).

— Resolution of 29 May 1992 of the *Secretaría de Estado de Comercio* which stipulates prior monitoring of the importation of brute aluminum coming from the independent states of the former Soviet Union (BOE n. 134, 4.6.92).

— Order issued 9 June 1992 by the *Ministerio de Industria, Comercio y Turismo* (Ministry of Industry, Commerce and Tourism) which replaces the annex of the Order issued 23 July 1991 related to the list of goods subject to different commercial regimes (BOE n. 144, 16.6.92).

— Resolution issued 23 September 1992 by the *Dirección General del Patrimonio del Estado* (Department of State Patrimony) which includes a recommendation for the waiver of the application of the provisions of art. 24.2 of the General Regulations on Contracting for corporations pertaining to States that have signed the GATT Agreement on Public Purchases as regards supply contracts (BOE n. 249, 16.10.92).

— Resolutions issued 20 July, 15 September and 23 December 1992 by the *Departamento de Aduanas e Impuestos Especiales de la Agencia Estatal de Administración Tributaria* which update the TARIC (BOE n. 189, 222 and 314, 7.8.92, 15.9.92 and 31.12.92).

— Royal Decree 1626/1992, 29 December, on nomenclature and tariffs (BOE n. 314, 31. 12.92).

4. Economic Cooperation

— Order issued 4 May 1992 by the *Ministerio de Industria, Comercio y Turismo* on grants for the encouragement of international cooperation among

corporations (*BOE* n. 115, 13.5.92).

5. Rail Traffic and Transportation

— Order issued 24 February 1992 by *Ministerio de Economía y Hacienda* (Ministry of Economy and Finance), authorizing the Alicante-Benalúa train station to carry out customs functions (*BOE* n. 96, 21.4.92).

6. Air Traffic and Transportation

— Order issued 4 December 1991 by the *Ministerio de Economía y Hacienda*, classifying Villanubla (Valladolid) as an international airport (*BOE* n.14, 16.1.92).

— Order issued 4 December 1991 by the *Ministerio de Economía y Hacienda*, authorizing the airport in Sevilla to clear the importation of synthetic and reconstituted precious stones (*BOE* n. 14, 16.1.92).

— Order issued 4 December 1991, by the *Ministerio de Economía y Hacienda*, authorizing the airport in Santa Cruz de La Palma to clear goods (*BOE* n. 14, 16.1.92).

— Order issued 4 December 1991 by the *Ministerio de Economía y Hacienda*, authorizing the airport in Jerez de la Frontera to clear goods (*BOE* n. 14, 16.1.92).

— Royal Decree 73/1992, 31 January, adopts the Regulations on Air Traffic (*BOE* n. 43, 19.2.92).

Note: In keeping with point 2.3.8.1:

“In accordance with art. 3 d) of the Covenant on International Civil Aviation, the State promises to adequately consider the safety of civil aircraft navigation by establishing rules applicable to the State’s air fleet. As the interception of civil aircraft always presents a possible danger, the Council of the OACI has formulated a series of special recommendations and has urged all of the signator States to put them into practice by means of the appropriate regulatory and administrative measures. Uniform application by all of the interested parties is considered essential to the safety of civil aircraft and their occupants. For this reason, the State has adopted the special rules that follow:

Point 2.3.8.2.8:

Abstaining from the use of weapons in cases of interception which it has made.

Point 2.3.8.2.8.1: The use of tracer bullets to draw attention entails risks, and measures will be taken to avoid their use so as to not endanger the lives of people on board or the security of the aircraft”.

7. Investments

Note: See XVI. Investments and Foreign Exchange in Section on Private International Law.

8. Taxes

Note: See XXIII. Tax Law in Section on Private International Law.

9. Labour, Social Security and Emigration

Note: See XXI. Labour Law and Social Security in Section on Private International Law.

10. Recognition of Qualifications

— Order issued 21 October 1992 by the *Ministerio de Educación y Ciencia*, which regulates and coordinates the complementary training that graduates of universities in the Dominican Republic must complete as a prerequisite for the harmonization of their degrees to the Spanish degree of Licenciado in Orthodontics (*BOE* n. 259, 28. 10.92).

XII. INTERNATIONAL ORGANIZATIONS

— Resolution issued 26 March 1992 by the *Dirección General del Tesoro y Política Financiera* (Department of the Treasury and Financial Policy) authorizing the American Development Bank to issue simple equity capital in the amount of 10 billion pesetas (*BOE* n. 82, 4.4.92).

— Resolution issued 10 March 1992 by the *Dirección General del Tesoro y Política Financiera* authorizing the International Financial Corporation to issue simple equity capital in the amount of 10 billion pesetas (BOE n. 92, 16.4.92).

— Law 11/1992, 26 May, authorizing Spanish participation in the sixth reinvestment in the African Development Fund (BOE n. 126, 26.5.92).

— Law 16/1992, 15 June, authorizing an increase in the quota and payment of the Spanish quota to the International Monetary Fund (BOE n. 147 and 168, 19.6.92 and 14.7.92).

XIII. EUROPEAN COMMUNITY

— Resolutions issued 22 January 1992 and 4 March 1992, by the *Dirección General del Tesoro y Política Financiera*, authorizing the European Investment Bank to issue simply equity capital in the amount of 15 billion pesetas (BOE n. 31, 5.2.92 and 62, 12.3.92).

— Resolution issued 5 May 1992, by the *Dirección General del Tesoro y Política Financiera*, authorizing the European Investment Bank to issue simple equity capital in the amount of 25 billion pesetas (BOE n. 122, 21.5.92).

— Law 30/1992, 26 November, on the Legal Regime of Public Administration and Common Administrative Procedures (BOE n. 285 and 311, 27.11.92 and 28.12.92).

Note: It is interesting to point out that art. 10, which confirms the provisions of arts. 93 and 148.1.3 of the *Constitución*, show that as regards communications issued by the European Community:

“When by virtue of an obligation derived from the Treaties of the European Union or the acts of its institutions, it is necessary to inform these institutions about general provisions, resolutions, proposed provisions, or any other type of information which is mandated to be sent to them by the Community legal system, the corresponding public officials will proceed to send this information within 15 days to the appropriate organ of the *Administración General del Estado* (Government Administrative Office) so that this office can then inform the aforementioned institutions”.

— Organic Law 10/1992, 28 December, authorizing the ratification by Spain of

the Treaty of the European Union, signed in Maastricht, 7 February 1992 (BOE n. 312, 29.12.92).

Note: This is the purpose of its only article. However, Organic Law 10/1992 does not include the text of the European Union Treaty.

XIV. RESPONSIBILITY

— Instruction issued 19 December 1991 by the *Dirección General de Aduanas e Impuestos Especiales* regarding the import and export of substances used for the illicit elaboration of narcotic drugs and psychotropic substances (BOE n. 10, 11.1.92).

— Royal Decree 673/1992, 19 June, regulates the compensation paid to victims of armed gangs and terrorists (BOE n. 156, 30.6.92).

Note: This decree abolishes Royal Decree 131/1988, 28 October.

— Circular issued 19 December 1991 by the *Departamento de Aduanas e Impuestos Especiales de la Agencia Estatal de Administración Tributaria* on the control of exportations of substances that are classified as being susceptible to use in the illicit elaboration of narcotic drugs and psychotropic substances (BOE n. 135, 5.6.92).

— Real Decreto 1176/1992, 2 October, which regulates the registration of sentences for unlawful traffic in narcotics and psychotropic substances dictated by the Court of Hispano-Luso-American countries (BOE n. 238, 3.10.1992).

Note: This is a measure that is classified as a “new instrument of centralization of available information” independent of the bilateral relationships that exist as a result of the Covenant on the Communication of Criminal Records and Information on Judicial Sentences for Unlawful Trafficking in Narcotics and Psychotropic Substances done in Lisbon on 12 October 1984.

In accordance with art. 5:

“The Registry will issue certificates when requested to by the judicial organs and public Ministries as agreed to in a trial or specific case on the unlawful trafficking in narcotics or psychotropic substances in which the person accused, tried or convicted is the one named in the request, and in each case a statement must be made as to whether or not the offense has been taken off the record. Certificates can also be issued at the request of the interested party”.

In accordance with art. 7:

“Offenses can only be taken off the record by order of the party who issued the decision. If an individual asks the Registry to take an offence off his record, the registrar is required to remit the request to that party”.

—Organic Law 8/1992, 23 December, which modifies the *Código Penal* (Criminal Code) and the *Ley de Enjuiciamiento Criminal* (Criminal Procedure Act) in matters related to drug trafficking (*BOE* n. 308, 24.12.92).

Note: This reform was compulsory for Spain to become a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, concluded at Vienna on 20 December 1988. As a result the following articles were modified: 344 bis a), 344 bis c), 344 bis d) and 344 bis e) and five new articles were incorporated. They were 344 bis g) to 344 bis k), all in the *Código Penal*. Likewise, art. 273 bis of the *Ley de Enjuiciamiento Criminal* was also incorporated.

XV. PACIFIC SETTLEMENT OF DISPUTES

XVI. COERCION AND USE OF FORCE SHORT OF WAR

— Royal Decree 336/1992, 3 April, lifting the suspension of direct Spanish investments (*BOE* n. 87, 10.4.92).

Note: Abolishes Royal Decree 744/1987, 5 June, suspending direct Spanish investments in the Republic of South Africa.

— Order issued 21 May 1992 by the *Ministerio de Industria, Comercio y Turismo* which modifies the system of commercial export exchanges with Lybia (*BOE* n. 124, 23.5.92).

Note: All aircraft and aircraft components classified in chapter 88 of the current Customs Tariffs are subject to administrative authorization if they are destined for export to Lybia.

— Royal Decree 597/1992, 5 June, submits certain transactions between Spain and Serbia and Montenegro to authorization (*BOE* n. 136, 6.6.92).

— Order issued 9 June 1992 by the *Ministerio de Industria, Comercio y Turismo* which modifies the system of commercial exchanges with Serbia and Montenegro (*BOE* n. 140, 11.6.92). Modified by an Order issued 31 July 1992

(BOE n. 219, 11.9.1992).

Note: Pursuant to Security Council Resolution 724 (1992), all imports and exports, except for medical items, coming from or destined for Serbia or Montenegro are prohibited. In accordance with art. 1 of the Second Order:

“Art. 2 of the Order issued 9 June 1992, is modified. Section a) of this article is replaced by: a) The exportation to the Yugoslav republics of Serbia and Montenegro of goods and products for strictly medical purposes and of food items once the Committee created by Resolution 724 (1191) of the United Nations Security Council is notified, and the exportation to these republics of goods and products destined to meet basic human needs, with prior approval of said Committee through its simplified and quick ‘no objection’ procedure”.

— Order issued 30 October 1992 by the *Ministerio de Industria, Comercio y Turismo* on the system of commercial exchanges with the republics of Croatia and Bosnia-Herzegovina and the Yugoslav republic of Macedonia (BOE n. 268, 7.11.92).

Note: This order submits all exports to prior administrative authorization except food items or goods or products to be used for strictly medical purposes, those used to meet basic human needs, those destined for activities related to Unprofor, the Yugoslav Conference or the supervisory mission of the European Community, or those products whose value is less than 1.000 ECUs each.

XVII. WAR AND NEUTRALITY

— Organic Law 3/1992, 30 April, establishes the definition of contraband in matters of defense material or materials with a double use (BOE n. 105, 1.5.92).

Note: In keeping with art. 1, various articles of Organic Law 7/1982 dated 13 July on Crimes and Administrative Infractions related to Contraband are modified. This modification states that those who

“export defense material or material with a double use without authorization or with authorization obtained through false or incomplete declarations as to the nature or final destination of this material or by any other illegal means”

are committing a crime of contraband. Also, defense material will be considered

“arms and all kinds of products and technologies conceived specifically or modified for military use such as instruments of force, information or

protection during armed conflicts, as well as those destined for the production, testing or utilization of these instruments which are included in the list approved by the Government through a Royal Decree for these purposes”.

Materials with dual uses are considered to be

“products and technologies that are normally used for civil purposes but which can be used for some of the purposes enumerated in the previous paragraph and which are found on the list that the Government has approved through a Royal Decree for these purposes”.