

No. 12650

**DENMARK
and
SPAIN**

**Treaty on the punishment of road traffic offences (with annex).
Signed at Madrid on 3 February 1972**

Authentic texts : Danish and Spanish.

Registered by Denmark on 27 June 1973.

**DANEMARK
et
ESPAGNE**

**Traité sur la répression des infractions en matière de
circulation routière (avec annexe). Signé à Madrid le
3 février 1972**

Textes authentiques : danois et espagnol.

Enregistré par le Danemark le 27 juin 1973.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF SPAIN ON THE PUNISHMENT OF ROAD TRAFFIC OFFENCES

The Governments of the Kingdom of Denmark and Spain,

Taking into account the increase in motor traffic between the two States and the danger that may result from the violation of the rules regarding the safety of the users of public highways,

Considering that the establishment of adequate legal and regulatory provisions constitutes one means of averting an increase in traffic accidents and their harmful consequences,

Considering that the preventive value of such provisions depends essentially on the effectiveness with which the penalties provided for are applied,

Convinced of the need to establish co-operation between the two Parties with a view to improving the effectiveness of the punishment of road offences committed in the territory of one of the Parties by residents of the other Party, and of the advisability of abating the preventive measures which were hitherto justified by the absence of a treaty on the subject between the two States,

Have decided to conclude a treaty for the punishment of road traffic offences and to this end have appointed as their plenipotentiaries:

For the Government of Denmark, Mr. Aksel Christiansen, Ambassador of the Kingdom of Denmark in Spain, and

For the Government of Spain, Mr. D. Gregorio López Bravo, Minister for Foreign Affairs.

PART I. DEFINITIONS AND BASIC PRINCIPLES

Article 1. For the purposes of this Treaty:

(a) "Road traffic offence" means any offence specified in the list of offences annexed to this Treaty;

(b) "State of commission" means the State in whose territory the offence has been committed;

(c) "State of residence" means the State in which the perpetrator of the offence resides habitually;

(d) "Traffic regulations" means any regulations governing an offence mentioned in paragraphs 4 to 7 of the list of offences annexed to this Treaty;

(e) "Judicial decision" means a decision adopted by the judicial authorities and "extra-judicial acceptance of a fine" means acceptance of a fine in conformity with the provisions of article 931 of the Danish Act on the Administration of Justice;

¹ Came into force on 5 April 1973, i.e. two months after the date of the later of the notifications by which each Party notified the other of the fulfilment of its constitutional requirements, in accordance with article 27.

(f) "Administrative decision" means a decision adopted by the administrative authorities competent to impose the penalties legally provided for the punishment of certain road traffic offences.

Article 2. 1. Where a person who habitually resides in the territory of one of the Parties has committed a road traffic offence in the territory of the other, the State of commission may call upon the State of residence to prosecute that person, provided that the State of commission does not do so itself or that, having initiated such prosecution, it considers it expedient to desist and to submit the case to the State of residence in order to secure definitive administrative or judicial decision.

2. The State of residence shall deal with the request for prosecution in the manner indicated in this Treaty.

Article 3. 1. A road traffic offence which is the subject of a request for prosecution in pursuance of the foregoing article shall be punishable under the legislation of both the State of commission and the State of residence.

2. The legislation of the State of residence shall apply to the prosecution in all cases, although the only traffic regulations to be taken into account shall be those in force in the place of commission.

PART II. PROSECUTION IN THE STATE OF RESIDENCE

Article 4. When the State of commission so requests, the authorities of the State of residence shall be competent to prosecute for road traffic offences committed in the territory of the former State.

Article 5. The competent authorities of the State of residence shall examine any request for prosecution addressed to them under articles 2 and 3 and shall determine, in conformity with their own legislation and the provisions of this Treaty, the action to be taken on such request.

Article 6. 1. When the State of commission has transmitted to the State of residence a request for prosecution in pursuance of article 2, proceedings shall be suspended in the former State.

2. The State of commission may continue the proceedings :

- (a) if the State of residence has communicated its non-acceptance of the request ;
- (b) if, for reasons which have come to its notice after making the request, it has notified the State of residence of its withdrawal of the request before the institution of proceedings in the court of first instance or before an administrative decision is pronounced in the State of residence.

Article 7. Proceedings shall not be instituted in the State of residence for an offence when, if it had been committed in the territory of that State, prosecution would have been barred because of statutory limitations under its legislation.

Article 8. The judicial and administrative documents of the State of commission shall have in the State of residence the same legal value as if they had been issued by the authorities of that State, and vice versa.

PART III. GENERAL PROVISIONS

Article 9. The enforcement of judicial or administrative decisions and the extra-judicial acceptance of fines relating to traffic offences shall be regulated by the provisions of this Treaty relating to the enforcement of criminal sentences.

Article 10. 1. The requests provided for in this Treaty shall be formulated in writing.

2. The request for prosecution shall be accompanied by all original or certified copies of judicial documents, records, sketches, photographs and other evidence relating to the offence, and by a copy of the legal provisions applicable to the case in the State of commission. It shall also be accompanied by certificates regarding the offender's public record, and, where appropriate, by a copy of the legal provisions relating to statutory limitation period and orders which have interrupted it, and by a statement of the facts which have caused such interruption.

Article 11. 1. The request shall be transmitted by the Ministry of Justice of the State of commission to the Ministry of Justice of the State of residence. The reply shall be transmitted through the same channel.

2. Communications necessary for the implementation of this Treaty shall also be exchanged through the channel indicated in the previous paragraph.

Article 12. If the State of residence considers that the information provided by the State of commission is insufficient to enable it to implement this Treaty, it shall request the necessary additional information and may set a time-limit for receiving it.

Article 13. The Contracting Parties shall give each other all mutual assistance necessary for the implementation of this Treaty, in particular by communicating documents issued by the administrative authorities and notifying each other of any order for payment, which shall not be considered as an enforcement measure.

Article 14. The State of residence shall inform the State of commission without delay of the action taken on the request for prosecution. Once the proceedings have been completed, it shall also transmit to the latter a certificate of the definitive administrative or judicial decision and, where appropriate, to the effect that the sentence has been enforced.

Article 15. Requests for prosecution and the documents attached to them and other documents relating to the implementation of this Treaty shall be translated before transmission on the Danish side, into Spanish and on the Spanish side, into Danish or English.

Article 16. All legalization formalities shall be waived in respect of evidence and documents transmitted in implementation of this Treaty.

Article 17. The proceeds of fines paid as a result of requests for prosecution shall accrue to the State of residence.

Article 18. The State of residence shall be empowered, at the request of the State of commission, to collect the costs of proceedings instituted in the latter State, although it shall be required to repay to the State of commission only such experts' fees as it has collected.

Article 19. Neither Party may require the other Party to pay the expenses incurred by it in connexion with a prosecution.

PART IV. FINAL PROVISIONS

Article 20. 1. The list of offences in the annex shall form part of this Treaty.

2. Nevertheless, the Governments of both Parties may, by mutual agreement, at any time review the list of offences annexed to this Treaty with a view to making additions or deletions.

Article 21. This Treaty shall not limit the competence to prosecute for offences conferred on the State of residence by its own legislation.

Article 22. The authorities of each Contracting Party shall seek to ensure that measures which are privative of liberty and any preventive measures that may be taken with regard to persons resident in the territory of the other Party who have committed an offence are reduced to the minimum.

Article 23. This Treaty shall not prevent the Parties from regulating their relations with other States by acceding to multilateral conventions on the same subject. Such accession shall not affect the content of this Treaty for as long as it remains in force.

Article 24. Any difficulties which may arise in respect of the implementation and interpretation of this Treaty shall be resolved through the diplomatic channel.

Article 25. This Treaty shall apply exclusively to road traffic offences committed after its entry into force.

Article 26. This Treaty shall apply to the entire territory of each of the Parties, with the exception of Greenland and the Faroe Islands. However, the Danish Government may include Greenland and the Faroe Islands within the scope of application of this Treaty by means of an exchange of notes. Such extension of scope shall enter into effect two months after the date of the Danish note.

Article 27. Each Party shall notify the other of the fulfilment of the constitutional requirements for the entry into force of this Treaty. The entry into force shall occur two months after the date of the later of such notification.¹

Article 28. 1. This Treaty shall remain in force indefinitely.

2. Either Contracting Party may terminate this Treaty. Termination shall take effect six months after the date of receipt of the notification.

DONE at Madrid, on 3 February 1972, in duplicate in the Danish and Spanish languages, both texts being equally authentic.

For the Spanish State :

GREGORIO LÓPEZ BRAVO

For the Kingdom of Denmark :

AKSEL CHRISTIANSEN

¹ In the Spanish original, the last sentence of article 27 reads as follows: (*Translation — Traduction*) "The entry into force shall occur on the first day of the second month after the date of the later of such notification."

In this regard, the Government of Denmark has informed the Secretariat that the discrepancy between the two texts resulted from the fact that they were established separately by the two Governments and that, while the difference was not likely to cause any practical problems, the Government of Denmark considered for its part that the Agreement had entered into force on 5 April 1973.

ANNEX

LIST OF OFFENCES

1. Homicide or involuntary injuries caused in road traffic.
2. Violation of the obligation of the driver of a vehicle, following a traffic accident, to remain at the scene of the accident and, where appropriate, to provide assistance to the victim.
3. Driving a vehicle while :
 - (a) In a state of inebriation or under the influence of alcohol;
 - (b) Under the influence of narcotics or substances which produce similar effects;
 - (c) In a state of incapacity as a result of excessive fatigue.
4. Violation of the rules regarding the obligation to take out civil liability insurance in respect of the use of motor vehicles.
5. Refusal to obey the orders of an authorized officer concerning road traffic.
6. Failure to observe the rules concerning :
 - (a) The speed of vehicles;
 - (b) The position of moving vehicles and the direction of their movement, road crossings, overtaking, change of direction and driving across level crossings;
 - (c) Yielding the right of way;
 - (d) The movement of certain vehicles, such as fire-brigade vehicles, ambulances and police vehicles;
 - (e) Respect for traffic signals and roadway markings, especially the stop signal;
 - (f) The parking and stopping of vehicles;
 - (g) Access of vehicles to certain roads, especially by reason of their weight or size;
 - (h) Safety measures in respect of vehicles and their loads;
 - (i) Markings on vehicles and their loads;
 - (j) Vehicle lights and their use;
 - (k) The load and capacity of vehicles;
 - (l) Registration of vehicles, registration plates and distinctive nationality markings.
7. Driving a vehicle without a valid licence.

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For the Kingdom of Denmark :

AKSEL CHRISTIANSEN

For the Spanish State :

GREGORIO LÓPEZ BRAVO
