

No. 32302

**DENMARK
and
EUROPEAN CONFERENCE OF POSTS
AND TELECOMMUNICATIONS ADMINISTRATIONS**

**Agreement relating to the headquarters in Copenhagen of
the European Radiocommunications Office. Signed at
London on 18 September 1991**

Authentic text: English.

Registered by Denmark on 1 November 1995.

**DANEMARK
et
CONFÉRENCE EUROPÉENNE
DES ADMINISTRATIONS
DES POSTES ET DES TÉLÉCOMMUNICATIONS**

**Accord relatif au siège à Copenhague du Bureau européen
des radiocommunications. Signé à Londres le 18 sep-
tembre 1991**

Texte authentique : anglais.

Enregistré par le Danemark le 1^{er} novembre 1995.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF DENMARK
AND THE EUROPEAN RADIOCOMMUNICATIONS COMMIT-
TEE OF THE EUROPEAN CONFERENCE OF POSTS AND
TELECOMMUNICATIONS ADMINISTRATIONS RELATING TO
THE HEADQUARTERS IN COPENHAGEN OF THE EUROPEAN
RADIOCOMMUNICATIONS OFFICE

The Government of Denmark and the European Radiocommunications Committee of the European Conference of Posts and Telecommunications Administrations,

Considering that the European Radiocommunications Committee has accepted the offer of the Government of Denmark to provide facilities in Copenhagen for the European Radiocommunications Office;

Considering that the Memorandum of Understanding on the establishment of the European Radiocommunications Office came into effect on 16 November 1990;

Considering that the above-mentioned Memorandum of Understanding requires that a formal legal agreement be established for the European Radiocommunications Office and that work is in hand in preparing such a document;

Considering that it is desirable to conclude an agreement to regulate questions arising as a result of the establishment of the European Radiocommunications Office in Copenhagen;

Have agreed as follows:

Article 1

DEFINITIONS

In the present Agreement,

(a) The expression “ERC” means the European Radiocommunications Committee of the European Conference of Posts and Telecommunications Administrations;

(b) The expression “ERO, Copenhagen” means the ERC European Radiocommunications Office in Copenhagen;

(c) The expression “the Government” means the Government of Denmark;

(d) The expression “Headquarters” means the premises occupied by ERO, Copenhagen in accordance with provisions set forth from time to time in supplementary agreements;

(e) The expression “Chairman” means the Chairman of the ERC or his authorized representative;

(f) The expression “officials of ERO, Copenhagen” means the Head of ERO, Copenhagen and all members of the staff of ERO, with the exception of officials or employees who are locally recruited and assigned to hourly rates;

¹ Came into force on 18 September 1991 by signature, in accordance with article XI (3).

(g) The expression “Head of ERO, Copenhagen” means the senior official in charge of ERO, Copenhagen.

Article II

JURIDICAL PERSONALITY AND CAPACITY

The European Radiocommunications Committee acting through ERO, Copenhagen shall have the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property;
- (c) To institute legal proceedings.

Article III

HEADQUARTERS

1. The Government recognizes the extra-territoriality of the Headquarters seat, which shall be under the control and authority of ERO, Copenhagen as provided in this Agreement.

2. Except as otherwise provided in this Agreement and subject to any regulation enacted under paragraph 5, the laws of Denmark shall apply within the Headquarters seat.

3. Except as otherwise provided in this Agreement the courts or other appropriate organs of Denmark shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters seat.

4. The Headquarters shall be inviolable. No official of the Government shall enter the Headquarters to perform any duties except upon the consent of or at the request of the Head of ERO, Copenhagen and under conditions approved by him.

5. ERO, Copenhagen shall have the power to make regulations, operative within the Headquarters seat, for the purpose of establishing therein conditions in all respect necessary for the full execution of its functions. No law of Denmark which is inconsistent with a regulation of ERC authorized by this paragraph shall, to the extent of such inconsistency, be enforceable within the Headquarters seat. Any dispute between ERO, Copenhagen and Denmark as to whether a regulation of ERC is authorized by this section or as to whether a law of Denmark is inconsistent with any regulation of ERC authorized by this paragraph, shall promptly be settled by the procedure set out in Article X.

6. Juridical actions, including service of legal process and the seizure of private property, shall not take place within the Headquarters, except with the consent of, and under conditions approved by the Head of ERO, Copenhagen.

7. Without prejudice to the provisions of this Agreement, ERO, Copenhagen shall prevent the Headquarters from being used as a refuge by persons who are avoiding arrest under any law of Denmark, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

8. (a) The appropriate Danish authorities shall exercise due diligence to ensure that the tranquillity of the Headquarters is not disturbed by any person or groups of persons from attempting unauthorized entry into or creating disturbances in the immediate vicinity of the Headquarters seat.

(b) If so requested by the Head of ERO, Copenhagen, the appropriate Danish authorities shall provide necessary assistance for the preservation of law and order in the Headquarters and for the removal therefrom of persons as requested by the Head of ERO, Copenhagen.

9. The appropriate Danish authorities shall make every possible effort to secure upon the request of the Head of ERO, Copenhagen, the public services needed by ERO, Copenhagen, including, without limitation by reason of this enumeration, postal, telephone, and telegraph services and power, water and fire protection services. Such public services shall be supplied on equitable terms.

10. In case of any interruption or threatened interruption of the aforesaid services, the appropriate Danish authorities shall consider the needs of ERC as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of ERC is not prejudiced.

Article IV

FREEDOM OF ACCESS TO THE HEADQUARTERS

1. The competent Danish authorities shall not impede the transit to or from the Headquarters of persons holding official posts therein or of persons invited thereto in connection with the official work and activities of ERC upon their arrival in or departure from Denmark.

2. The Government undertakes, for this purpose, to allow the entry into and residence in Denmark of the persons listed hereunder during their assignment or during the performance of their duties for ERC, without charging visa fees and without delay as well as exemption from any requirements of exit visa formalities upon departure from Denmark of:

(a) Representatives of States, representatives of United Nations organs, specialized or related agencies, and observers from intergovernmental, non-governmental and other organizations, with which ERC has established official relations, invited or entitled to participate in conferences or meetings convened in Denmark by ERC including alternate representatives or observers, advisers, experts and assistants, as well as their spouses and dependent members of their families;

(b) ERC officials, as well as their spouses and dependent members of their families;

(c) Those who have official duties with ERO, Copenhagen, as well as their spouses and dependent members of their families;

(d) All persons invited to the Headquarters on official business.

3. Without prejudice to the special immunities which they may enjoy, persons referred to in paragraph 2 above may not be forced by Danish authorities to leave Danish territory unless they abuse their recognized residence privileges by exercising an activity outside their official capacity, and subject to the provisions mentioned hereunder:

(a) No action to force the persons referred to in paragraph 2 above to leave Danish territory may be taken except with the prior approval of the Ministry of Foreign Affairs. Such approval shall be given only after consultation with the Chairman;

(b) Persons enjoying diplomatic privileges and immunities under this Agreement may not be requested to leave Danish territory except in accordance with the practices and procedures applicable to diplomats accredited to the Government;

(c) It is understood that persons referred to in paragraph 2 above shall not be exempt from application of quarantine or other health regulations.

Article V

COMMUNICATIONS FACILITIES

1. For all official postal, telephone, telegraph, telephoto and electronic communications, the Government shall accord to ERO, Copenhagen a treatment equivalent to that accorded to all other Governments including their diplomatic missions, or to other intergovernmental organizations in regard to any priorities, tariffs and charges on mail, cablegrams, telephotos, telephone calls and other communications, as well as such rates for news reported to the press and radio as may be accorded.

2. The Government shall secure the inviolability of the official correspondence of ERO, Copenhagen and shall not apply any censorship to such correspondence. Such inviolability shall extend, without limitation by reason of this enumeration to publications, still and moving pictures, films and sound recording dispatched to or by ERO, Copenhagen.

3. ERO, Copenhagen shall have the right to use codes and to dispatch and receive its correspondence and other materials by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Article VI

PROPERTY, FUNDS AND ASSETS

The Government shall apply to the property, funds and assets of ERO, Copenhagen, wherever they are and by whomsoever held the provisions of the Convention.

Article VII

DIPLOMATIC FACILITIES, PRIVILEGES AND IMMUNITIES

1. Without prejudice to the provisions of Article VIII, paragraphs 1 and 4, the Head of ERO, Copenhagen shall enjoy during his/her residence in Denmark the facilities, privileges and immunities granted to heads of diplomatic missions accredited in Denmark.

2. Other officials having the grade equivalent to the United Nations professional grade of P5 and above, and such additional categories of officials as may be designated, in agreement with the Government and the Chairman on the ground of the responsibilities of their positions in the ERO, Copenhagen, shall be accorded the same privileges and immunities, exemptions and facilities as the Government

accords to members, having comparable rank, of the staff of diplomatic missions accredited in Denmark.

3. The facilities, privileges and immunities granted to the officials mentioned in paragraphs 1 and 2 above shall extend to their spouses and dependent members of their families.

Article VIII

OFFICIALS OF ERO, COPENHAGEN

1. Officials of ERO, Copenhagen shall enjoy in Denmark the following privileges and immunities:

(a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity;

(b) Immunity from seizure of their personal and official baggage;

(c) Immunity from inspection of official baggage, and if the official comes within the scope of paragraph 1 or 2 of Article VII, immunity from inspection of personal baggage;

(d) Exemption from taxation on the salaries and all other remuneration paid to them by the ERC;

(e) Exemption from military service obligations provided that, with respect to Danish nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Chairman and approved by the Government;

(f) Exemption for themselves and for their spouses and dependent members of the families, from immigration restrictions on alien registration procedures;

(g) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to members of comparable rank of diplomatic missions accredited to the Government;

(h) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their household as are accorded in time of international crises to members, having comparable rank, of the staffs of diplomatic missions accredited to Denmark;

(i) If they have been previously residing abroad, the right to import their furniture, personal effects and all household appliances, including one automobile, intended for personal use free of duty when they come to reside in Denmark, which privilege shall be valid for a period of one year from the date of arrival in Denmark;

(j) Officials of ERO, Copenhagen, except those who are locally recruited staff in the equivalent of the United Nations General Service or related categories, shall have the right to import free of customs and excise duties, limited quantities of certain articles for personal consumption (food products, beverages, etc.) in accordance with a list to be approved by the Government of Denmark;

(k) Officials of ERO, Copenhagen, except those who are locally recruited staff in the equivalent of the United Nations General Services or related categories shall have the right, once every three years to import one motor vehicle free of customs and excise duties, including value added taxes, it being understood that permission

to sell or to dispose of the vehicle in the open market will normally be granted two years after its importation only. It is further understood that customs and excise duties will become payable in the event of the sale or disposal of such motor vehicle within three years after its importation to a person not entitled to this exemption.

2. ERO, Copenhagen shall communicate to the Government a list of persons within the scope of this Article and shall revise such a list from time to time as may be necessary.

3. The Government shall furnish persons within the scope of this Article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to Danish Authorities.

4. The terms and conditions of employment for locally recruited personnel shall be in accordance with the relevant ERC Regulations and Rules.

5. The privileges and immunities referred to in this Article are granted in the interests of the ERC and not for the personal benefit of the officials themselves. The Chairman of the ERC shall waive the immunity granted to any official whenever, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the ERC.

Article IX

COOPERATION WITH THE APPROPRIATE DANISH AUTHORITIES

ERC shall cooperate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the facilities, privileges and immunities mentioned in this Agreement.

Article X

SETTLEMENT OF DISPUTES

1. Any disputes between ERC and the Government concerning the interpretation or application of this Agreement or of any supplemental agreement or arrangement or any question affecting the Headquarters or the relationship between ERO, Copenhagen and the Government, which is not settled by negotiation or other agreed mode of settlement shall be referred for final decision to a tribunal of three arbitrators, one to be chosen by the Chairman, one to be chosen by the Minister for Foreign Affairs of Denmark, and the third, who shall be the chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon a third within six months following the appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Court of Justice at the request of the Chairman of the ERC or the Government.

2. The Chairman of the ERC or the Government may request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

Article XI

FINAL PROVISIONS

1. The provisions of this Agreement shall be considered supplementary to the provisions of the Memorandum of Understanding on the establishment of the ERO and the Convention that is to be drawn up to replace that Memorandum of Understanding and provide the legal basis for the establishment of the ERO. When a provision of this Agreement and a provision of the Memorandum of Understanding or subsequent Convention deal with the same subject, both provisions shall be considered complementary whenever possible; both of them shall be applied and neither shall restrict the force of the other.

2. Consultations with respect to amendments to this Agreement shall be entered into at the request of either party and such amendments shall be made by mutual consent. If the consultations do not result in an understanding within one year the present Agreement may be terminated by either party on giving two years notice.

3. This Agreement shall enter into force upon signature.

DONE in duplicate in the English language and signed at London on 18 September 1991.

For the Government
of Denmark:

R. THORNING-PETERSEN
Ambassador of Denmark

For the European
Radiocommunications Committee:

MICHAEL GODDARD
Chairman
