



Passage through the Great Belt (Finland v. Denmark)

ARGUED: 19 November 2023

DECIDED: 19 November 2023

1 The Majority Opinion was signed by and agreed to by President Patel of Mexico, Vice President Kalla of the
2 Netherlands, Justice Damron of Ecuador, Justice Dorsch of Costa Rica, Justice Farooqi of Qatar, Justice Jimenez of
3 India, Justice Koziolk of Australia, Justice Lercher of Namibia, and Justice Policastro of Ghana on 19 November
4 2023.

5 The Court has jurisdiction over this case, as stipulated by both parties, according to Article 36, 2 of the
6 Statute of the International Court of Justice, “ The States Parties of the present Statute may at any time declare
7 that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting
8 the same obligation, the jurisdiction of the Court in all legal disputes concerning:

9 (a) the interpretation of a treaty;

10 (b) any question of international law;

11 (c) the existence of any fact which, if established, would constitute a breach of an international obligation;

12 (d) the nature or extent of the reparation to be made for the breach of an international obligation.”

13 In regards to the Republic of Finland’s request for the Indication of Provisional Measures: Per Article 75, 1
14 of the Rules of the Court, “the Court may at any time decide to examine *proprio motu* whether the circumstances
15 of the case require the indication of provisional measures which ought to be taken or complied with by any or all of
16 the parties.” Therefore, the Court has determined the following:

17 The Court refers to the Rules of the Court to determine whether or not the request for provisional measures
18 is justified:

19 (a) The Court notes that Article 74, 1 of the Rules of the Court indicate that “ A request for the indication
20 of provisional measures shall have priority over all other cases.”

21 (b) The Court holds that with the required preferential treatment of provisional measures, there also comes
22 a responsibility to justify the request as urgent. The Court categorizes a case as “urgent” if there is a possibility that
23 the parties involved may take any action that infringes on the rights of the other before the Court is able to provide
24 a ruling.

25 (c) The Court deems the Republic of Finland’s claim that the Great Belt Bridge violates the Republic of
26 Finland’s right to free passage as not urgent, due to the fact that the Bridge will not be completed until 1994, and
27 that the Republic of Finland’s request comes out of concern regarding innocent passage upon the completion of the
28 Bridge.

29 As a fundamental precept of international law, the principle of sovereignty affirms that states inherently
30 retain the authority to regulate and govern activities transpiring within their territorial confines, thereby exercising
31 jurisdiction over said territory. The sovereign entity, the Kingdom of Denmark, indisputably possesses this inherent
32 right to specifically erect structures upon its territorial expanse, subject to any additional adherence to established
33 conventions and principles of international law. As delineated within the articulated contentions proffered by the
34 Republic of Finland in its Memorial and arguments, a consensus prevails between the involved parties regarding
35 the imminent construction of a bridge. Nevertheless, a discernible contention emerges in relation to the proposed
36 specifications of said bridge, which fall short of accommodating the height of the loftiest segment of Finnish maritime
37 vessels.

38 In conformity with the stipulations articulated in the 1958 Convention on the Territorial Sea and the Con-
39 tiguous Zone (1958 Convention), requiring that any bridge spanning international waters must not impede maritime
40 navigation or trade, the Kingdom of Denmark, evincing due diligence, elevated the initially proposed height by three
41 meters, pursuant to a recommendation put forth by the Soviet Union.

42 It is noteworthy that the Kingdom of Denmark, mindful of the potential ramifications of the proposed
43 structure, initiated communication with the Republic of Finland on two discrete occasions spanning over a decade.
44 Regrettably, no substantive response was received until the year 1989. In light of the Kingdom of Denmark's
45 established territorial entitlement encompassing the seabed, shelf, slope, and rise, extending to any of its additional
46 territories, the proposition set forth by the Republic of Finland advocating alterations that fail to mutually benefit
47 both parties and, rather, singularly accede to the demands of one, is deemed inherently untenable. Consequently, the
48 Court finds that the Kingdom of Denmark, bound by the analogous principles of state sovereignty as applicable to
49 the Republic of Finland, possesses the legal prerogative to undertake the construction of the bridge without causing
50 an undue impediment to Finnish maritime commerce and navigation.

51 The Court was asked to examine the 1958 Convention of the Territorial Sea and the Contiguous Zone.
52 The passage of ships through the international waters of the Great Belt is not inhibited in full by any means by
53 the Kingdom of Denmark's proposed bridge; thus, it remains in accordance with the 1958 Convention. In light
54 of the widely held definition of 'suspension of passage', though passage through the Great Belt may be limited by
55 construction and for a limited number of Finnish ships, there is not complete inhibition of Finnish foreign ship travel.
56 There is true, unimpaired passage through viable route alternatives provided by the Kingdom of Denmark in times
57 of construction of the Bridge and when issues of ship height arise. Under the provisions of Article 17 of the 1958
58 Convention, foreign ships must comply with the regulations of the coastal state under the provisions of other rules of
59 international law. As the Republic of Finland stated undisputedly, because the Kingdom of Denmark has the right to
60 construct the Bridge, the Republic of Finland must comply with regulations put in place by the Kingdom of Denmark
61 regarding the Bridge. Its construction is in line with existing international water law and satisfies requirements of
62 due process.

63 In regards to the Kingdom of Denmark's claims concerning the Republic of Finland's position as a third-party
64 beneficiary of the 1857 Treaty of Copenhagen on the Abolition of the Sound Dues (1857 Treaty of Copenhagen),
65 the Court holds that the Republic of Finland does not possess the right to challenge the Kingdom of Denmark's
66 compliance with the Treaty. On the authority of the 1857 Treaty of Copenhagen on the Abolition of Sound Dues,
67 the following countries agreed to comply with the conditions of the Treaty: Austria, Belgium, France, Great Britain,
68 Hanover, The Hansa Towns, Mecklenburg-Schwerin, the Netherlands, Oldenburg, Prussia, Russia, Sweden, and
69 Norway.

70 Per the 1857 Treaty of Copenhagen, the Great Belt is defined as "international waters" and all states reserve
71 the right to use the passage as they wish with respect and regard to its neighboring countries. The Republic of
72 Finland, as a third-party beneficiary to the 1857 Treaty of Copenhagen, does have the right and benefit of using the
73 Great Belt for the advancement of their international trade and economic prosperity.

74 However, it is the Court's opinion that due to the Republic of Finland's status as a third-party beneficiary
75 to the 1857 Treaty of Copenhagen, the Republic of Finland does not possess the right to bring a challenge of breach
76 of the treaty against other members of the treaty. Per Article 34 of the 1986 Vienna Convention on the Law of
77 Treaties between States and International Organizations, "[a] treaty does not create either obligations or rights for
78 a third state or a third organization without the consent of that organization." As the Republic of Finland was not
79 listed as a State Party or signatory of the 1857 Treaty of Copenhagen, the Court holds that the Republic of Finland
80 does not have the foundation to substantiate their claim against the Kingdom of Denmark under the obligations of
81 the 1857 Treaty of Copenhagen on the Abolition of Sound Dues.

82 The Court has observed that the Kingdom of Denmark made multiple attempts to establish collaborative
83 discourse with the Republic of Finland regarding the construction of a bridge in the Great Belt Strait. The Kingdom
84 of Denmark has expressed interest in hearing the concerns of states impacted by the proposed construction. The
85 Kingdom of Denmark has made accommodations for several states, and evidence that sustains the truth of this
86 statement was provided during oral arguments. For example, the height of the bridge was changed from 62 meters to
87 65 meters at the request of the Soviet Union. Finally, the Court recognizes that the Kingdom of Denmark provided
88 the international community with due notice 12 years before construction began. During this period of time, the
89 Kingdom of Denmark did not receive correspondence from the Republic of Finland in opposition to the construction
90 of the bridge.

91 The Court acknowledges an alternative navigational course for vessels in the event that the proposed Bridge
92 height of 65 meters declared by the Kingdom of Denmark proves insufficient. Situated between the Kingdom of
93 Denmark and the Kingdom of Sweden, a waterway exists with a width between 4 and 28 kilometers at its broadest
94 point, with a maximum depth of 50 meters. This strait affords maritime entities an additional channel for transit,
95 thereby increasing the spectrum of viable routes available for seafaring activities and giving the Republic of Finland
96 an alternative route.

97 A “derrick” is a fixed crane that provides the ability to raise and lower drilling tools into a well including
98 inserting and removing the well casing. The derrick can be assembled and disassembled in the location of use. The
99 compact size and flexibility allows for crew members to maneuver around the site of installation. The Kingdom of
100 Denmark offered an alternative for passage of ships that exceed the height of 65 meters by dismantling the derrick
101 and assembling back together after passage. The passing ships would only need to remove enough of the derrick
102 to fit under 65 meters passing under the Bridge rather than removing the entire derrick. This operation would be
103 relatively manageable; a derrick set can be temporarily installed on the platform and assisted by a floating vessel
104 or jack-up. The Kingdom of Denmark has performed this maneuver in the past without docking at yard and has
105 further offered to assist the Republic of Finland in the dismantling process as well.

106 The Court finds insufficient evidence supporting the Republic of Finland’s assertion that the Bridge’s con-
107 struction will impede their freedom of passage and result in tangible economic harm. The Republic of Finland
108 contends that a considerable portion of its exports and imports, approximately 90% and 80% respectively, rely on
109 maritime transportation, with 45% passing through the Danish straits. Only one ship is reportedly barred from
110 using this vital route.

111 The Kingdom of Denmark contends that the Bridge, connecting the Eastern Danish island of Zealand with
112 the Western Danish island of Funen, will facilitate smoother commerce within the Kingdom of Denmark and bring
113 economic advantages to other European Member States. The Republic of Finland, in agreement with the Kingdom
114 of Denmark, envisions potential future benefits from the Bridge’s economic prosperity. The Court finds a lack of
115 compelling evidence supporting substantial economic damages to the Republic of Finland, while acknowledging the
116 potential positive impact on the overall economic well-being of the European region.

117 Therefore, the Court recommends the following:

118 First, the Kingdom of Denmark may proceed with the construction of the Bridge as originally intended.

119 Second, the Kingdom of Denmark may take into consideration the requested accommodations of the Republic
120 of Finland, or other Member States that utilize the Great Belt.

121 Third, the Kingdom of Denmark must maintain the allowance of innocent passage through the Great Belt
122 or alternative routes during and following the construction of the Bridge over the Great Belt.

123 Lastly, the Court recommends further partnership and cooperation of Member States, specifically the Re-
124 public of Finland and the Kingdom of Denmark, regarding the use of international waterways in the Baltic and
125 Nordic regions.

Signed By



Justice Alana Policastro



Justice Avery Damron



Justice Diva Patel



Justice Emma Lercher



Justice Fernanda Jimenez



Justice Gabriel Kalla



Justice Jaeda Koziolk



Justice Murreyum Farooqi



Justice Tyler Dorsch