

N° 1724.

AUTRICHE
ET TCHÉCOSLOVAQUIE

Traité concernant la navigation
aérienne, avec protocole addition-
nel. Signés à Vienne, le 15 février
1927.

AUSTRIA
AND CZECHOSLOVAKIA

Treaty relating to Air Navigation,
with Additional Protocol. Signed
at Vienna, February 15, 1927.

TEXTE TCHÉCOSLOVAQUE. — CZECHOSLOVAK TEXT.

N^o 1724. — SMLOUVA¹ O LETECTVÍ MEZI REPUBLIKOU ČESKOSLOVENSKOU A REPUBLIKOU RAKOUSKOU, PODEPSANÁ VE WIEN, DNE 15. ÚNORA 1927.

German and Czechoslovak official texts communicated by the Chancellor of the Austrian Federal Government and the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this treaty took place May 26, 1928.

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ a SPOLKOVÝ PRESIDENT REPUBLIKY RAKOUSKÉ, vedení stejným přáním, podporovati rozvoj létání mezi oběma státy, rozhodli se uzavřít k tomu cíli smlouvu o letectví a jmenovali svými zplnomocněnci :

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ :

pana Hugona VAVREČKU, mimořádného vyslance a zplnomocněného ministra Republiky Československé ve Vídni a
pana Ing. Václava ROUBÍKA, odborového přednostu ministerstva veřejných prací v Praze ;

SPOLKOVÝ PRESIDENT REPUBLIKY RAKOUSKÉ :

pana Dra Hanse SCHÜRFFA, spolkového ministra pro obchod a dopravu.

Tito zplnomocněnci, sdělivše si vzájemně své plné moci, které shledali správnými, dohodli se takto :

Článek 1.

Každý smluvní stát poskytuje v dobách míru pod podmínkou plné vzájemnosti letadlům druhého smluvního státu, která jsou v tomto státě řádně zapsána, právo létat v jeho výsostní oblasti, budou-li zachována ustanovení obsažená v této smlouvě.

Článek 2.

1. Letadly ve smyslu této smlouvy rozumějí se soukromá letadla a ona státní letadla, jichž se neuzívá jako vojenských, celních nebo policejních letadel.

2. Za vojenská letadla jest pokládati ona letadla, jež jsou součástí vojenské výzbroje nebo, jež svými odznaky jsou označena jako letadla vojenská, nebo jimž velí osoba ve vojenské službě tím pověřená.

3. Letadly ve smyslu této smlouvy rozumějí se letadla opatřená motory a volné balony.

¹ The exchange of ratifications took place at Prague, February 21, 1928.

¹ TRANSLATION.

No. 1724. — TREATY BETWEEN THE AUSTRIAN REPUBLIC AND THE CZECHOSLOVAK REPUBLIC RELATING TO AIR NAVIGATION. SIGNED AT VIENNA, FEBRUARY 15, 1927.

THE PRESIDENT OF THE FEDERAL REPUBLIC OF AUSTRIA and THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC being desirous of promoting the development of air navigation between the two countries have decided for that purpose to conclude a Treaty and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FEDERAL REPUBLIC OF AUSTRIA :

Dr. Hans SCHÜRFF, Federal Minister of Commerce and Transport ;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Hugo VAVREČKA, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Vienna ; and

M. Václav ROUBÍK, Engineer, Head of Section in the Ministry of Public Works at Prague.

The above-named Plenipotentiaries, after communicating to each other their full powers, found in good and due form have, agreed upon the following provisions :

Article 1.

Each of the contracting States shall, subject to full reciprocity, in time of peace accord freedom of passage above its territory to aircraft of the other contracting State duly registered therein, provided that the stipulations of the present Treaty are observed.

Article 2.

1. For the purposes of the present Treaty the term aircraft shall mean private aircraft, or Government aircraft which are not used for military, Customs or police purposes.

2. Aircraft which form part of the equipment of the military forces, or which bear marks characteristic of military aircraft, or which are under a military commander specially commissioned for that purpose, shall be deemed to be military aircraft.

3. For the purpose of the present Treaty the term aircraft shall be deemed to include both motor-driven aircraft and free balloons.

Article 3.

1. Aircraft shall possess the nationality of the State in which they are duly registered.

¹ Translated by the Secretariat of the League of Nations, for information.

2. No aircraft may be entered on the register of one of the contracting States unless it belongs wholly to nationals of that State. Where the owner is a legal person or a corporation of any kind it must fulfil the conditions required by the Austrian or Czechoslovak laws as the case may be, in order that it may be considered as a legal person or corporation in Austria or in Czechoslovakia, respectively.

Article 4.

1. The common frontiers between the contracting States may only be crossed by aircraft between points to be determined by agreement between the competent authorities. Frontiers which are not common to the contracting States must be crossed between points to be fixed by the Party concerned.

2. Should one of the Contracting Parties authorise its own or foreign aircraft to cross a particular section of the frontier, the right of passage over the said section shall be *ipso facto* accorded to the aircraft of the other Party.

Article 5.

1. Either Contracting Party may prohibit flight over certain areas of its territory, provided that no distinction is made in this respect between the aircraft of the two Contracting Parties.

2. Areas over which flight is thus prohibited shall be notified to the other Contracting Party.

3. Each of the Contracting Parties reserves the right, in exceptional circumstances, to impose restrictions, with immediate effect, on flight over its own territory, or to prohibit such flight either wholly or partially.

Article 6.

An aircraft which finds itself over a prohibited area of either contracting country must immediately give the signal of distress provided in the air navigation regulations of the State flown over and shall land without delay at the nearest aerodrome, situated outside the prohibited area, in the State in question.

Article 7.

1. Aerodromes which are open to public use in either of the contracting States shall be available to the aircraft of either State upon the same conditions. In particular, the tariff of charges in such aerodromes for landing, starting or length of stay, shall be applied in the same manner to aircraft of both contracting States.

2. An aircraft belonging to one contracting State shall not start from or land in the territory of the other contracting State except at an aerodrome open to public use. No exception may be made to this rule except with the permission of the competent authority of the State in whose territory the departure or landing takes place.

3. Arrivals from and departures for the territory of a contracting State may only take place at an aerodrome open to public use, provided with a Customs office and facilities for the inspection of passports; no intermediate landing may take place between the frontier and the aerodrome. The competent authorities may in particular cases authorise an aircraft to land or take off at

another aerodrome, where the Customs and passport inspections will be carried out. The prohibition against landing between the frontier and the aerodrome shall also apply in such cases

4. In case of forced landing or of landings in the circumstances described in Article 6 in the country of departure after the Customs examination and passport inspection, or in the country of destination before the Customs examination and passport inspection, the pilot, crew and passengers of the aircraft must observe the regulations in force in the country in question in regard to Customs examination and passport inspection.

Article 8.

Each contracting State shall communicate to the other State a schedule of aerodromes in its territory which are open at the time to public use ; this list shall also specify the aerodromes at which there are Customs offices and arrangements for passport inspection. Any change in this schedule and any restriction, even of a temporary character, of the right to utilise any aerodrome, must be notified without delay to the other contracting State.

Article 9.

1. An aircraft of one contracting State landing in the territory of the other State shall be entitled, particularly in case of distress, to the same measures of assistance as national aircraft.

2. Similarly, the meteorological, radio-telegraphic and safety arrangements for air traffic, and so on, shall be at the disposal of the aircraft of either contracting State under the same conditions.

Article 10.

1. Aircraft must be provided with distinctive and clearly visible marks enabling them to be identified in flight (nationality and registration marks). They must also be marked with the name and residence of their owner.

2. Aircraft must carry certificates of registration and air-worthiness, and in addition, any other documents required for air navigation in the country to which they belong.

3. Aircraft must further carry a certificate showing that, with a view to guaranteeing payment of any claims for damage caused in connection with the aircraft's flights in the territory of the other Contracting State, an insurance policy against civil liability has been taken out or that the risk has been covered by a deposit of money or securities.

Article 11.

1. Members of the crew performing duties for the exercise of which a special licence is required in their country of origin must carry the certificates laid down for air navigation in the said country, and in particular the prescribed certificates of competency and licences.

2. The other members of the crew must carry certificates indicating their duties on board the aircraft, their profession, identity and nationality.

3. Except as otherwise provided by agreement between the contracting States, the crew and passengers must carry the certificates prescribed in the regulations now in force for international traffic.

Article 12.

1. Certificates of airworthiness, certificates of competency and licences, issued or approved by one of the contracting States for the aircraft or the crew, shall have the same validity in the other contracting State as the corresponding documents issued or approved in the latter State, except that certificates of competency and licences held by the crew shall only be valid for the service of aircraft belonging to their own country.

2. For the purposes of flights within its own territory, either contracting State has the right to refuse to recognise the certificates issued to nationals of the said State by the other Contracting State.

3. If the airworthiness of an aircraft, provided with the certificates prescribed in its country of origin, should become impaired, subsequently to the issue of the said certificates, to such a point that its safety is compromised, the competent authority of the other contracting State may refuse it permission to continue its journey in the territory of the last named State until it has undergone such repairs as will enable it to proceed without danger.

Article 13.

The fuel on board an aircraft at the time of its arrival shall be admitted free of duty, provided that it does not exceed the quantity requisite for the completion of the journey, as shown by the log.

Article 14.

1. Aircraft of either Contracting Party when in the territory of the other Party shall not carry apparatus for the transmission of radio-telegraphic messages except in so far as this is lawful in both the contracting States. Such apparatus may only be used by members of the crew provided with a special licence issued for the purpose by their State of origin.

2. Either Contracting Party shall be entitled, on grounds of safety, to issue rules regarding the compulsory equipment of aircraft with apparatus for the transmission of radio-telegraphic messages.

Article 15.

1. Aircraft and their crews and passengers may not carry arms, ammunition, war material, poisonous substances, explosives, carrier-pigeons or photographic apparatus except with the permission of the State in the air territory of which the aircraft is situated. Without prejudice, however, to the regulations in force, this rule shall not apply to members of the crew as regards the conveyance of signalling apparatus, or of weapons necessary for the protection of the persons or goods carried in the aircraft.

2. Either contracting State may, as a measure of public safety, subject the carriage or conveyance of other objects in addition to those specified in the preceding paragraph to restrictions, which must be applicable without distinction to the aircraft of each contracting State.

Article 16.

1. Aircraft which carry passengers or articles must be provided with a nominal roll of the passengers, and a list specifying the nature and quantity of articles carried, together with the necessary Customs declarations.

2. Should it be discovered on the arrival of an aircraft that there is a discrepancy between the above list and the articles carried, the Customs authorities of the aerodrome of arrival may communicate direct with the competent Customs authorities of the other contracting State.

Article 17.

The carrying of mails shall be arranged direct between the postal administrations of the two contracting States by means of special agreements.

Article 18.

Each of the contracting States may, in its own territory in all circumstances have the aircraft of the other contracting State officially inspected on arrival or departure and the certificates and other documents verified.

Article 19.

1. The organisation and operation by an air transport company belonging to one contracting State, of regular airways to, in transit across, or from the territory of the other contracting State shall be regulated by a special agreement between the two States. A special authorisation issued by the competent authority shall be required for the above purpose.

2. Each contracting State shall be entitled to reserve to its national aircraft, the commercial transport of both persons and articles between two points within its own territory.

Article 20.

No ballast other than fine sand or water may be dropped.

Article 21.

1. The discharge or removal in the course of flight of any other substance than ballast is prohibited unless special permission has been obtained for this purpose by the State in whose territory such discharge or removal is effected.

2. Where waste materials are discharged from aircraft in flight, the regulations issued on the subject by the State in whose territory such discharge is effected shall be duly observed.

Article 22.

Aircraft of either contracting State crossing or passing in transit over the territory of the other contracting State and making only such landings and stoppages as are reasonably necessary, shall be exempt from any seizure on account of infringement of a patent, design or model, subject to the deposit of security, the amount of which, in default of amicable arrangement, shall be fixed with the least possible delay by the competent authority of the place of seizure.

Article 23.

The Contracting Parties shall reciprocally notify one another of all regulations governing air traffic in force in their respective territories.

Article 24.

Air transport companies and aircraft of either Contracting Party, their crews, cargoes and passengers, shall be subject in the territory of the other State to the obligations arising out of the regulations in force in that State, especially those which concern air traffic in general in so far as they are applicable to all foreign aircraft without distinction of nationality, and also to the regulations concerning Customs and other duties, export or import prohibitions, carriage of passengers and goods, public safety and order, and passports ; they shall furthermore be subject to such other obligations as may arise out of the general legislation in force.

Article 25.

Each of the Contracting Parties shall notify the other Party of any infractions of the present Treaty on the part of air transport companies, aircraft, or crews of the other Contracting Party.

Article 26.

1. The methods by which the present Treaty shall be carried out are to be settled in detail so far as is necessary and possible, by direct agreement between the respective competent administrations of the two contracting States.

2. Any disputes regarding the execution of the present Treaty which cannot be settled through the usual diplomatic channel shall be dealt with in conformity with the provisions of the Treaty of Conciliation and Arbitration concluded on March 5, 1926, between the Republic of Austria and the Czechoslovak Republic.

Article 27.

Either contracting State may denounce the present Treaty at any moment, with effect from the end of the following calendar year.

Article 28.

The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Prague. The Treaty shall come into force on the date on which the instruments of ratification are exchanged.

In faith whereof the undersigned have signed the present Treaty and have thereto affixed their seals.

Done at Vienna, the fifteenth day of February, one thousand nine hundred and twenty-seven, in two original copies in the German and Czechoslovak languages, both texts being authentic.

(L. S.) SCHÜRFF.

(L. S.) VAVREČKA.

(L. S.) ROUBÍK.

ADDITIONAL PROTOCOL.

When proceeding to sign the Treaty concluded between the Republic of Austria and the Czechoslovak Republic concerning air traffic, the undersigned Plenipotentiaries agreed further on the following provisions :

(1) The Contracting Parties agree that each of the regular airways to be instituted under Article 19, paragraph 1, of the present Treaty shall, in principle, be operated

simultaneously by an air transport company of each of the contracting States, and that each of the said States shall be entitled to designate the air transport company in question at its own discretion, without needing to obtain the assent of the other contracting State. Such assent shall only be necessary if the aircraft company designated by a contracting State does not possess the nationality of the said State.

The two Contracting Parties agree that if it should not be possible, when organising an airway, to arrange for it to be simultaneously operated by an air transport company of each State, compensation shall be afforded, when organising another airway, by an agreement to be concluded between the competent authorities of the Parties.

(2) When the commercial transport of passengers or articles by air craft is effected otherwise than over one of the regular airways, the Contracting Parties reserve their right to regulate such transport by direct agreement between the competent authorities of the two States.

(3) With a view to facilitating the operation of the regular airways, each contracting State shall recognise the certificates of competency and licences (Article 12, paragraph 1) issued by the other State to the crews of aircraft operating the airway of the last-named State, as valid, even for the service of aircraft of the same type operating the national airway of the former State.

(4) The provisions of the present Treaty shall only apply to free balloons in so far as their special characteristics permit.

(5) As soon as possible after the coming into force of the Treaty the Governments of the two contracting States shall notify to one another the sections of frontier designated in conformity with Article 4, paragraph 1, of the present Treaty, and shall also at the same time determine by agreement the procedure to be adopted for changing sections of the frontier which have been jointly designated.

(6) Applications for the authorisation mentioned in Article 7, paragraph 3, of the present Treaty must be addressed in sufficient time to the competent Customs administration through the air administration. The expenses of Customs and passport inspection shall be chargeable to the party concerned.

(7) The competent authorities of the two contracting States shall be authorised to modify or supplement the provisions of Article 14 by direct agreement with one another.

(8) The Contracting Parties agree that the provisions of Article 22 of the present Treaty shall not prevent the granting of more favourable conditions in virtue of the domestic legislation of the other State or of international treaties. Article 22 applied only to a seizure authorised as a precautionary measure, by the relevant laws of the contracting States, but does not affect the possible confiscation, under the laws of the respective States, of the object which constitutes the infraction or the sequestration of the said object, as provided by the said laws, in case the infraction is proved.

(9. In case of the organisation of an acro-club using aircraft not employed in flights over one of the regular air ways, steps will be taken to introduce a "tryptique", or "carnet de passage en douane", to be issued against the deposit of a general security for Customs duties.

The present Additional Protocol, which shall form an integral part of the Treaty referred to above, and shall come into force simultaneously with it, has been drawn up in two original texts in the German and Czechoslovak languages, both texts being equally authentic.

Done at Vienna, the fifteenth day of February, one thousand nine hundred and twenty-seven.

(L. S.) SCHÜRFF.

(L. S.) VAVREČKA.

(L. S.) ROUBÍK.