

No. 3709

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**POLAND  
and  
CZECHOSLOVAKIA**

**Agreement (with Protocol of signature) on privileged rail transit from Czechoslovakia to Czechoslovakia through Polish territory over the section Liberec-Varnsdorf. Signed at Prague, on 2 July 1949**

*Official texts: Polish and Czech.*

*Registered by Poland on 11 February 1957.*

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**POLOGNE  
et  
TCHÉCOSLOVAQUIE**

**Accord (avec Protocole de signature) relatif au transit ferroviaire privilégié de Tchécoslovaquie en Tchécoslovaquie à travers le territoire polonais sur la ligne Liberec-Varnsdorf. Signé à Prague, le 2 juillet 1949**

*Textes officiels polonais et tchèque.*

*Enregistré par la Pologne le 11 février 1957.*

[TRANSLATION — TRADUCTION]

No. 3709. AGREEMENT<sup>1</sup> BETWEEN POLAND AND CZECHOSLOVAKIA ON PRIVILEGED RAIL TRANSIT FROM CZECHOSLOVAKIA TO CZECHOSLOVAKIA THROUGH POLISH TERRITORY OVER THE SECTION LIBEREC-VARNSDORF. SIGNED AT PRAGUE, ON 2 JULY 1949

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The President of the Polish Republic and the President of the Czechoslovak Republic, being desirous of regulating the privileged rail transit traffic from Czechoslovakia to Czechoslovakia through Polish territory over the section Liberec-Varnsdorf, have decided to conclude an appropriate agreement, and have appointed for that purpose as their plenipotentiaries :

The President of the Polish Republic :

Mr. Leonard Borkowicz, Ambassador of the Polish Republic at Prague,

The President of the Czechoslovak Republic :

Mr. Alois Petr, Minister of Communications of the Czechoslovak Republic, who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PROVISIONS

*Article 1*

1. Poland shall grant to Czechoslovakia freedom of transit in conformity with the provisions of this Agreement in respect of persons, baggage, express parcels and goods, mails and rolling-stock in transit from Czechoslovakia to Czechoslovakia through Polish territory over the section of railway between the localities of Liberec and Varnsdorf.

2. Save as otherwise provided in this Agreement, such traffic shall be subject *mutatis mutandis* to the provisions of the Convention between the Polish Republic and the Czechoslovak Republic for the regulation of railway traffic between the two countries.

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<sup>1</sup> Came into force on 15 May 1951, as from the date of the exchange of the instruments of ratification at Warsaw, in accordance with article 30.

*Article 2*

Subject to the special provisions of this Agreement, no discrimination in the course of transit shall be exercised in respect of the nationality of passengers, the origin of baggage, express parcels and goods, or mails and rolling-stock or the nationality of consigners or consignees.

*Article 3*

1. Transit traffic shall be conducted in accordance with the privileged transit rules laid down in this Agreement, and shall be effected by privileged trains of the Czechoslovak railways.

2. Privileged trains shall be used to convey civilians or military personnel travelling either singly or in parties, baggage, express parcels and goods, mails, rolling-stock and military supplies. They may not be used for the conveyance of prisoners.

3. No person shall be permitted to leave or board a privileged train in Polish territory. It shall likewise be unlawful for persons making use of such trains to deliver or receive any article.

*Article 4*

The privileged transit traffic shall be subject in Polish territory to Polish law, particularly so far as it concerns the maintenance of order and public health and the observance of health and fiscal regulations.

*Article 5*

1. Persons travelling by privileged train, and their baggage, shall be entitled to pass freely through Polish territory, unless they commit during transit through the said territory a crime punishable under Polish law.

2. Train crews shall be required to lend every assistance on privileged trains for the purpose of apprehending and detaining offenders, and to hand them over to the Frontier Guard or to the security authorities of the transit country responsible in the case in question for inspecting the train in order to detect the offenders.

3. The Polish authorities shall take the necessary steps to afford persons using privileged trains every requisite assistance and protection.

*Article 6*

Save as provided in article 5, paragraph 1, baggage, express parcels and goods, mails and rolling-stock conveyed under the terms of this Agreement shall be exempt from seizure by the judicial or administrative authorities.

PART II  
RAILWAYS

*Article 7*

1. The privileged transit traffic shall be effected by locomotives (steam, electric, motor, etc.) and crews of the Czechoslovak railways.

2. Save where required to do so for technical reasons or in the case specified in article 5 paragraph 1 of this Agreement, privileged trains shall not stop in Polish territory and the transit shall be effected at a speed not lower than indicated in the time-table in force, in order to eliminate the possibility of any person boarding or leaving the train by jumping.

3. The privileged transit traffic shall be effected only in the hours of daylight.

*Article 8*

1. The Polish railways shall be required to maintain the railway track designated for privileged transit in a state of normal repair, using materials which the Czechoslovak railways shall be obliged to supply at the request of the Polish railways, after the total requirements have been determined by mutual agreement between the two railway administrations.

2. The details arising out of the provisions of paragraph 1 shall be settled between the railway administrations in conformity with article 28 of this Agreement.

*Article 9*

1. The time-tables of trains using the transit route shall be decided on by the Czechoslovak railway administration, taking into account the provisions of article 7, paragraph 3, of this Agreement, and shall be communicated to the Polish railway administration.

2. Should it become necessary to run a privileged train not provided for in the time-table, the Czechoslovak railway administration shall give to the Polish railway administration at least twenty-four hours advance notice of the proposed run.

*Article 10*

Privileged trains may include sleeping and dining cars.

*Article 11*

1. The rolling-stock of privileged trains must be fit for use. Responsibility for the technical maintenance of such rolling-stock shall rest with the Czechoslovak railway administration.

2. Save for the markings and signs specified in the railway regulations and other identification markings and signs used in agreement with the Czechoslovak railways, no markings or signs may appear on the privileged trains.

3. Privileged trains shall not be subject to taking-over or handing over by the Polish railways.

#### *Article 12*

1. In the event of accident, interruption of traffic, damage to rolling-stock, etc., on the transit route, the Czechoslovak railways, by agreement with the Polish railways, and in cases of urgency by agreement with local officials of the Polish Frontier Guard, shall proceed with the rescue work or the removal of obstacles at their own expense.

2. In the event of accident, interruption of traffic, damage to rolling-stock, etc., on the transit route, the Polish authorities and officials concerned shall, at the request of the Czechoslovak railway administration, lend all possible assistance subject to reimbursement of the costs.

3. The Czechoslovak railways shall, at their own expense and by the use of snow-ploughs, keep the transit section clear of snow and supply free of charge the necessary snow fences, which the Polish railways shall erect at the expense of the Czechoslovak railways.

#### *Article 13*

1. Liability for injuries caused to third persons in connexion with the privileged train traffic on Polish territory shall rest with the administration of the Czechoslovak railways.

2. With the exception of liability for damages covered by a transport contract, liability for damages and accidents caused by the privileged train traffic shall be governed by Polish laws and regulations. Liability for damage suffered when passengers are killed or injured in privileged train traffic shall be governed by Czechoslovak laws and regulations.

3. As between the railway administrations of the two Contracting Parties, liability shall be determined as follows :

(a) Liability for damages and accidents caused by the fault of employees shall rest with the employing administration. If the damage or accident was due to the fault of employees of both administrations, or if it is not possible to determine which employees caused the damage, liability shall be borne equally by both administrations ;

(b) Liability for damages and accidents due to improper maintenance of constructions and installations allocated to the transit traffic, or to improper maintenance of rolling-stock, shall be borne by the administration responsible for maintaining the installations or rolling-stock ;

(c) Each administration shall have the right to claim against the other administration if it is compelled by a valid judicial decision to pay compensation in respect of damages for which the other administration is wholly or partly liable under the terms of the above provisions.

This right shall likewise be available where the two administrations have agreed that one of them will settle a claim for compensation, although the other administration is wholly or partly liable for the damages. A settlement, an admission or a judgement by default shall, however, only be binding on that other administration if it concurred in the said settlement, admission or judgement, or if, on being consulted by the administration which settled the claim for compensation, it fails, even after a reminder, to reply within the specified time-limit.

4. Inquiries concerning the damages and accidents referred to in the foregoing provisions shall be conducted, and their causes determined, jointly by representatives of the railway administrations of the two Contracting Parties.

#### *Article 14*

1. The Czechoslovak railways shall, at their own expense, establish telephone lines from Liberec and Varnsdorf to a control post on Polish territory to be designated by the Polish railways.

2. The details arising out of the provisions of paragraph 1 shall be settled between the railway administrations in conformity with article 28 of this Agreement.

#### *Article 15*

1. Passengers, baggage, express parcels and goods shall be forwarded direct in conformity with Czechoslovak or international transport regulations, at the rates in force on the railway lines in use.

2. Fares and charges for transport in privileged trains shall be payable entirely to the administration of the Czechoslovak railways.

#### *Article 16*

The railway administration of the two Contracting Parties shall jointly decide on the compensation payable to the Polish railways by the Czechoslovak railways for the use of Polish railway lines, and for Polish railway services connected with the privileged transit traffic.

## PART III

## POSTAL TRAFFIC

*Article 17*

1. Privileged trains shall be used to carry postal mails of all kinds, free of all transit charges, in Czechoslovak mail vans or special mail compartments, under the supervision of Czechoslovak postal employees, or in unescorted supplementary railway trucks.

2. Mails may likewise be carried under the charge of Czechoslovak railway employees in railway trucks.

3. Postal transit mails of every kind coming from and proceeding to foreign countries shall be conveyed in accordance with a special agreement between the Polish and Czechoslovak postal administrations.

*Article 18*

Letter boxes in Czechoslovak mail vans must remain closed while they are in Polish territory.

*Article 19*

1. The Czechoslovak postal administration shall be responsible for postal consignments carried in Czechoslovak trucks under the supervision of Czechoslovak employees, save in cases in which the blame may be imputed to the Polish railway administration. In the latter case, the Polish railway administration shall be held liable to the Czechoslovak railway administration in respect of mail vans and postal mails ; that is, it shall be liable in respect of mail vans to the same extent as for ordinary railway vehicles, while in respect of postal mails it shall assume the same liability towards the senders of the said consignments which falls on the Czechoslovak postal administration.

2. In the case of trans-shipment of Czechoslovak postal consignments in Polish territory, the responsibility for the Czechoslovak postal consignments shall fall on the railway or postal administration which took over the supervision of the same.

## PART IV

## CUSTOMS PROVISIONS

*Article 20*

Save as otherwise provided in this Agreement, the privileged transit traffic shall be subject to Polish customs regulations.

*Article 21*

Baggage, express parcels and goods, mails and rolling-stock conveyed in the privileged transit traffic shall be exempt from all customs formalities and all customs and other charges.

*Article 22*

Import, transit and export prohibitions in force in Poland shall not apply to the privileged transit traffic within the meaning of this Agreement.

*Article 23*

1. Carriages having more than four passenger-exits or running boards along their entire length may not be used for passenger conveyance in the privileged transit traffic.

2. Passengers may not open carriage doors or windows while in Polish territory.

3. Transit trains may be escorted by officers of the Czechoslovak National Security Corps or by a Czechoslovak customs officer.

*Article 24*

If, owing to an accident in Polish territory, passengers or train crews are obliged to leave the train, they shall remain under the supervision of the Polish Frontier Guard until they return to Czechoslovak territory.

*Article 25*

1. The unloading or additional loading of trucks shall be prohibited in Polish territory. Trans-shipment of goods shall be permitted only in the event of damage to trucks, and shall be effected under the supervision of officers of the Polish Frontier Guard at the expense of the Czechoslovak railways.

2. Special charges for the supervision by officers of the Frontier Guard of goods trans-shipments necessitated by damage to trucks, or for the escorting of trains by such officers, should the need arise, shall be defrayed by the administration of the Czechoslovak railways.

*Article 26*

1. The Polish customs authorities shall recognize Czechoslovak customs seals. In the case of trans-shipment of goods on Polish territory, the Polish customs



authorities shall, where circumstances permit, affix their customs seals to the trucks into which the goods have been transferred.

2. Rolling-stock, material and equipment introduced into the Polish customs area for the purpose of maintaining the transit railway track in conformity with the provisions of article 8 and the construction of telephone lines in conformity with the provisions of article 14 of this Agreement, shall be exempt from customs duties and all other import or export charges.

3. The loading and unloading of the articles mentioned in paragraph 2 and of snow fences, as well as the operation of the snow-plough, shall take place under the supervision of officers of the Polish Frontier Guard.

#### PART V

#### PASSPORTS

##### *Article 27*

1. Passengers in privileged trains shall be exempt from all passport and visa formalities, but must carry proof of identity.

2. Employees of the Czechoslovak railway administration engaged in the delivery of materials required for the maintenance of the transit railway track in conformity with article 8 and employees engaged in the construction of telephone lines in conformity with article 14 of this Agreement, shall be authorized to cross the frontier and to remain in Polish territory for the duration of their work, subject to conditions which shall be determined in agreement by the competent authorities of the two Contracting Parties.

#### PART VI

#### EXECUTORY REGULATIONS

##### *Article 28*

Any detailed regulations necessary for the application of this Agreement shall be decided in agreement by the competent authorities of the two Contracting Parties.

#### PART VII

#### FINAL PROVISIONS

##### *Article 29*

All disputes arising in connexion with the application of this Agreement or of any arrangements concluded pursuant thereto shall be settled in accordance

with the procedure laid down in the Protocol of Mediation and Arbitration Procedure annexed to the Convention between the Polish Republic and the Czechoslovak Republic for ensuring economic co-operation, signed at Prague on 4 July 1947.<sup>1</sup>

*Article 30*

1. The present Agreement shall be ratified as soon as possible and shall come into force on the day of the exchange of the instruments of ratification, which shall take place at Warsaw.

2. The present Agreement is concluded for an indeterminate period, but may be denounced by either Contracting Party, in which case it shall cease to have effect on the expiry of six months after the day of such denunciation.

3. The present Agreement is drawn up in two copies, each in Polish and Czech, both texts being equally authentic.

IN WITNESS WHEREOF the aforesaid plenipotentiaries of the two Contracting Parties have signed this Agreement and have thereto affixed their seals.

DONE at Prague, 2 July 1949.

L. BORKOWICZ

[L.S.]

Alois PETR

PROTOCOL OF SIGNATURE

On proceeding to sign this Agreement, the two Contracting Parties have agreed that transit traffic by privileged trains shall come into operation at the earliest possible date. The two Contracting Parties have also agreed that the terms of this Agreement may be provisionally applied before ratification, as from the date of its signature.

This Protocol forms an integral part of the Agreement.

Prague, 2 July 1949.

L. BORKOWICZ

[L.S.]

Alois PETR

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<sup>1</sup> United Nations, *Treaty Series*, Vol. 85, p. 62.