

No. 6767

**AUSTRIA
and
YUGOSLAVIA**

Agreement concerning the immovable property of Austrian dual owners in the Yugoslav frontier zone (with Final Protocol). Signed at Vienna, on 19 March 1953

Official texts: German and Serbo-Croat.

Registered by Austria on 6 June 1963.

**AUTRICHE
et
YOUGOSLAVIE**

Accord relatif aux biens-fonds des propriétaires frontaliers autrichiens qui sont sis dans la zone frontalière yougoslave (avec Protocole final). Signé à Vienne, le 19 mars 1953

Textes officiels allemand et serbo-croate.

Enregistré par l'Autriche le 6 juin 1963.

[TRANSLATION — TRADUCTION]

No. 6767. AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA CONCERNING THE IMMOVABLE PROPERTY OF AUSTRIAN DUAL OWNERS IN THE YUGOSLAV FRONTIER ZONE. SIGNED AT VIENNA, ON 19 MARCH 1953

The Austrian Federal Government and the Government of the Federal People's Republic of Yugoslavia,

Desiring to settle the question of Austrian dual ownership in Yugoslavia, which is related to the question of minor frontier traffic,

And convinced that this will contribute to a further improvement in the good-neighbourly relations existing between the two countries,

Have concluded the following Agreement concerning the immovable property of Austrian dual owners in the Yugoslav frontier zone.

Article 1

As a gesture of friendship and good will, the Yugoslav Government shall restore to Austrian dual owners, subject to the conditions defined in article 2, the title to their former immovable property in the Yugoslav frontier zone.

Article 2

1. The title of Austrian dual owners to all or part of their former immovable property shall be restored on condition that :

- (a) They are farmers who cultivate their land themselves together with their families, or with auxiliary labour as well, and support themselves by their own work ;
- (b) They had the status of dual owners on 6 April 1941, or, in the case of the spouses, children, grandchildren, parents, brothers or sisters, grandparents or sons-in-law of dual owners, they have acquired title to property in the Yugoslav frontier zone from such owners ;
- (c) They are, and were prior to 6 April 1941, Austrian nationals ;
- (d) They are permanently resident in the frontier zone.

¹ Came into force on 20 April 1953, in accordance with the provisions of article 8.

2. The Austrian Federal Government notes that the Government of the Federal People's Republic of Yugoslavia excludes National Socialist officials, irrespective of the category of property owners in which they fall, from entitlement under paragraph 1 of this article.

3. All other categories of former property owners, as well as large landowners, non-farming landowners and bodies corporate, including the Church, communes and agricultural co-operatives, shall also be excluded from such entitlement.

Article 3

1. The amount of arable land (fields, gardens, orchards, vineyards, meadows and pastures suitable for cultivation) and woodland to be restored to individual dual owners shall be such that the total area of their holdings in Austria and in the Federal People's Republic of Yugoslavia is :

- (a) In the case of arable land only : 20 hectares ;
- (b) In the case of woodland : 10 hectares ;
- (c) In the case of arable land and woodland together : 30 hectares, the area of the arable land not to exceed 20 hectares and that of the woodland not to exceed 10 hectares.

2. In justified cases, i.e. where the quality of the land is inferior on both sides of the frontier or the type of crop grown is less profitable, the area referred to in paragraph 1 may, with due regard for the over-all property status of the dual owner concerned and the members of his household and for the average size of holdings in the Yugoslav commune in which the property is situated, be increased to the following extent :

In the case of the area referred to in (a) : to 35 hectares ;

In the case of the area referred to in (b) : to 25 hectares ;

In the case of the area referred to in (c) : to 40 hectares, the area of the arable land not to exceed 35 hectares and that of the woodland not to exceed 25 hectares.

In the allocation of land, account shall be taken of the need to establish an economically sound ratio between the various crops, with due regard for the interests of the farm of which such land formed a part.

3. The land areas in question shall be fixed, in accordance with the situation prevailing on 1 January 1951, on the basis of the dual owner's entire holdings in Yugoslavia and Austria, including the property of his spouse and of any children residing with him, as well as that of any co-owners with whom he resides or carries on economic activities on their joint property.

Article 4

1. If property subject to restoration under this Agreement forms part of a farm and its separation therefrom would create a situation at variance with the objectives of the Yugoslav Decree of 2 November 1951 concerning the rounding off of farmers' holdings and of the land of farmers' producer co-operatives,

or if buildings have been erected or other major improvements made on the property in question on the part of Yugoslavia,

or if transfer of the property would otherwise seriously prejudice the economic interests of the farm of which it is now a part,

the dual owner shall be given another piece of property of equal value in exchange. Such property shall, in so far as possible, correspond to the previous property as regards area, quality of the soil, type of crop, convenience of communications, and buildings, if any, disregarding the aforementioned Yugoslav improvements.

2. If buildings existed on the former property but there are no buildings, or no buildings of equal value, on the property given in exchange, the dual owner shall be compensated, in so far as possible, by being given equivalent buildings or immovable property of equal value.

Article 5

1. To decide individual cases arising under this Agreement, a six-member Commission shall be established, three of whose members shall be appointed by the Austrian Government and three by the Yugoslav Government, the two Parties being entitled to employ the services of as many experts as they may require. The Commission shall have its headquarters at Maribor and shall enter upon its duties not later than 15 October 1952.

2. The Commission shall verify the lists of dual owners to be submitted to it by the competent Austrian authorities and shall adopt the necessary decisions. Where the Commission fails to agree, the dispute shall be settled through the diplomatic channel.

3. The expenses of the Commission shall be shared equally by the two Governments.

Article 6

1. The Commission shall adopt its final decisions by 31 December 1952 at the latest. The transfer and handing over of the immovable property in question shall be carried out by 1 March 1953 at the latest, although this time-limit may be extended to 1 May 1953 in individual cases where necessary for technical reasons.

2. Where the Commission is unable to adopt a final decision by 31 December 1952, it shall fix the time of transfer so as to permit the previous tenant to gather the harvest.

3. Properties shall be handed over as they are at the time of handing over.

Article 7

Applications for transfer under this Agreement, decisions authorizing transfer, and deeds of conveyance shall be subject to Yugoslav regulations concerning taxes and fees.

Article 8

This Agreement shall enter into force simultaneously with the Agreement of 19 March 1953¹ concerning the regulation of minor frontier traffic between the Republic of Austria and the Federal People's Republic of Yugoslavia.

The date of entry into force shall be agreed by a separate exchange of notes.

DONE in two authentic copies in the German and Serbo-Croat languages.

Vienna, 19 March 1953.

For the Austrian Federal Government:

(Signed) GRUBER

For the Government of the Federal People's Republic
of Yugoslavia :

(Signed) Drago VUČINIĆ

FINAL PROTOCOL TO THE AGREEMENT CONCERNING THE IMMOVABLE PROPERTY OF AUSTRIAN DUAL OWNERS IN THE YUGOSLAV FRON- TIER ZONE²

The following is agreed :

Ad *article 2, paragraph 1 (a)* :

Persons not engaged in farming as their principal regular occupation cannot be regarded as farmers. Domestic workers, including vine-dressers, shall be reckoned as auxiliary labour. The number of labourers shall not exceed the number of able-bodied

¹ See p. 323 of this volume.

² See p. 308 of this volume.

members of the family. Labourers engaged for a few days to perform urgent farm work which can be quickly carried out with the additional labour (grape-gathering, threshing, etc.) shall not be taken into account in determining whether a person is to be regarded as a working farmer. In particularly justified individual cases involving poor peasant owners who live alone (widows, etc.), the Commission may authorize the return of property even if such owners have two labourers.

Ad article 2, paragraph 2:

For the purposes of this Agreement, the term "National Socialist officials" means officials of the former NSDAP and of the National Socialist youth organization and other divisions of the National Socialist party, as well as officials of the former National Socialist State who promoted the aims of National Socialism through the exercise of their authority.

Ad article 2, paragraph 3:

Any entity deemed to be a body corporate shall be subject to the law in force in Yugoslav territory. Agricultural co-operatives shall also be deemed to be bodies corporate. In justified individual cases, however, the Commission referred to in article 5 of this Agreement may, for the purpose of protecting the interests of poor farmers, recommend the competent Yugoslav authorities to accord to such persons, whether or not they are members of agricultural co-operatives, grazing rights and the enjoyment of other justified easements to which they were previously entitled on any ground whatsoever, provided that it is possible to do so without prejudice to the present utilization of the land and the interests of the Yugoslav owner.

Ad articles 3 and 4:

The provisions of these articles shall not prejudice the application of any future Yugoslav laws concerning immovable property in general or the immovable property of aliens in particular.

Ad article 4, paragraph 2:

In certain cases, where it is not possible to find equivalent land or buildings in accordance with article 4 (2), claimants may be given appropriate cash compensation instead.

Ad *article 5*:

The following documents shall be submitted by the competent Austrian authority so as to permit an assessment of the circumstances affecting decisions of the Commission :

1. A certificate to the effect that the dual owner in question is, and was prior to 6 April 1941, an Austrian national, or, in the case of a person who has acquired title, that he already possessed Austrian nationality at the time of such acquisition ;

2. A certificate to the effect that the dual owner is permanently resident in the Austrian frontier zone ;

3. A certificate to the effect that the dual owner is a farmer who cultivates his land himself together with his family, or with auxiliary labour as well, and supports himself by his own work ; the certificate shall further show : whether and to what extent the person concerned carries on any additional occupation, and what it is ; the number of labourers, if any, employed by him, and the capacity in which they are employed ; the number of persons in his family, and how many of them are able-bodied ; the number of co-owners, if any, residing or carrying on economic activities with him on their joint property ;

4. Proof that on 6 April 1941 the person concerned was a dual owner (certificate of dual ownership, etc.) or that he has acquired title to property in the Yugoslav frontier zone in accordance with article 2, paragraph 1 (*b*) ;

5. A certificate issued by the competent Austrian registration authority to the effect that, in 1938 and thereafter, the dual owner was not an official of the former NSDAP or of the National Socialist youth organization or other divisions of the National Socialist party, and was not registered as such, and furthermore did not promote the aims of National Socialism through the exercise of his authority as an official of the National Socialist State ;

6. A certificate issued by the competent tax authority for the dual owner, the members of his family and any co-owners residing or carrying on economic activities with him on their joint property (as of 1 January 1951), indicating the nature and value of the assessed property and the amount of tax to be paid and stating that the persons concerned own no property in Austria other than that indicated ;

7. Proof of ownership (cadastral sheet and, where available, land register extracts) for all land holdings in Austria as of 1 January 1951 ;

8. The competent district administrative authority (prefect's office) shall certify the data referred to in sub-paragraphs 1 to 5 in a comprehensive certificate.

This shall be transmitted to the Yugoslav delegation in the Commission together with a copy of the cadastral sheet and the certificate of the tax authority referred to in sub-paragraph 6. The originals of the various documents referred to shall be available to the Commission for inspection ;

9. When necessary, land register extracts and cadastral sheets for the property of dual owners in Yugoslav territory shall be provided by the Yugoslav authorities upon notification of the name and commune of registration of the property in question ;

10. Other substantiating documents may also be provided where necessary.

DONE in two copies in the German and Serbo-Croat languages, both being authentic.

Vienna, 19 March 1953.

For the Austrian Federal Government :

(Signed) GRUBER

For the Government of the Federal People's Republic
of Yugoslavia :

(Signed) Drago VUČINIĆ