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No. 7938

AUSTRIA and YUGOSLAVIA

Convention concerning the regulation of railway traffic across the frontier (with Final Protocol and annexes). Signed at Vienna, on 11 December 1962

Official texts: German and Serbo-Croat.

Registered by Austria on 24 September 1965.

AUTRICHE et YOUGOSLAVIE

Accord relatif à la réglementation du trafic ferroviaire à la frontière (avec Protocole final et annexes). Signé à Vienne, le 11 décembre 1962

Textes officiels allemand et serbo-croate. Enregistré par l'Autriche le 24 septembre 1965.

[TRANSLATION - TRADUCTION]

No. 7938. CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA CONCERNING THE REGULATION OF RAILWAY TRAFFIC ACROSS THE FRONTIER. SIGNED AT VIENNA, ON 11 DECEMBER 1962

The Republic of Austria on the one hand and the Federal People's Republic of Yugoslavia on the other hand, intending to regulate railway traffic across the frontier between the two States and convinced of the necessity of concluding a Convention for that purpose, have agreed on the following provisions:

Article 1

GENERAL PROVISIONS

(1) The two Contracting States undertake to permit railway traffic across the frontier. They shall take all necessary measures to rationalize and simplify such traffic.

(2) With that end in view, the connecting and transfer service on railway lines which cross the frontier shall be performed at interchange stations.

(3) The two Contracting States declare their willingness to enter into negotiations at the suggestion of either State with a view to expediting the connecting and transfer service and frontier clearance.

Article 2

DEFINITIONS

For the purposes of this Convention :

- (a) "Territorial State" means the State in whose territory the connecting and transfer service is performed, and "neighbouring State" means the other State ;
- (b) "Interchange station" means the station at which the connecting and transfer service is performed;
- (c) "Connecting frontier line" means the line between the State frontier and the interchange station;

¹ Came into force on 22 April 1965, the fourteenth day following the exchange of the instruments of ratification which took place at Belgrade on 8 April 1965, in accordance with article 30.

1965

- (d) "Connecting and transfer service" means the traffic service of the two railway administrations which is necessary for the movement of traffic across the frontier;
- (e) "Owning administration" means the railway administration of the territorial State;
- (f) "Neighbouring administration" means the railway administration of the neighbouring State;
- (g) "Frontier clearance" means the application of the procedure prescribed by the legal provisions of the Contracting States for the entry, exit and transit of persons, luggage, goods, valuables and mails.

Article 3

TRAFFIC ACROSS THE FRONTIER

(1) The following lines shall be open to railway traffic across the frontier :

- (a) Rosenbach/Jesenice;
- (b) Bleiburg/Prevalje;
- (c) Lavamünd/Dravograd;
- (d) Spielfeld-Strass/Šentilj.

(2) The following interchange stations are hereby designated for the lines specified in paragraph (1):

- (a) Jesenice;
- (b) Bleiburg;
- (c) Dravograd;
- (d) Spielfeld-Strass.

(3) The following shall be frontier stations for the purposes of this Convention :

- (a) Rosenbach;
- (b) Prevalje;
- (c) Lavamünd;
- (d) Šentilj.

(4) The railway administrations of the Contracting States may agree that certain tasks of the connecting and transfer service shall be performed at stations other than those specified in paragraph (2); such stations shall not be deemed to be interchange stations on that account. In such cases, the provisions governing the connecting and transfer service on the connecting frontier line and at the interchange station shall apply *mutatis mutandis* with the exception of the provisions of article 11.

Article 4

General provisions on the connecting and transfer service ; tariff connecting point

(1) The railway administrations shall regulate the connecting and transfer service in detail by agreements, in such a manner as to ensure rapid and regular service.

(2) Trailer stock, loading tackle, pallets, containers, luggage, express parcels, goods and the carriage documents relating thereto shall be handed over and taken over at the interchange stations.

(3) Trains running on the connecting frontier lines shall, if they cross the State frontier, be hauled as far as the interchange station by the neighbouring administration in accordance with its own traffic regulations and using its own tractive units and crews. The neighbouring administration shall perform these services from the State frontier to the interchange station on behalf of the owning administration.

(4) The regulations in force at the interchange stations shall be those of the owning administration. The railway administrations may, however, agree that the regulations of the neighbouring administration shall be applied to specified tasks of the railway service.

(5) Permits for tractive units and qualifying tests for operating personnel in the territory of one Contracting State shall be valid also for the territory of the other Contracting State. The detailed regulations necessary for the safety of operation shall be established by agreement between the railway administrations.

(6) The tariff connecting point for all traffic across the frontier shall be at the State frontier.

Article 5

PASSENGER TRANSIT TRAFFIC ON THE LAVAMUND-DRAVOGRAD-BLEIBURG LINE

(1) The Austrian Federal Railways shall be entitled, for the duration of the validity of this Convention to institute passenger transit traffic on the Lavamünd-Dravograd-Bleiburg line.

(2) Such passenger transit traffic shall be regulated by special agreements between the railway administrations in such a manner as to ensure regular service.

(3) Passenger transit traffic shall be carried on with tractive units and crews of the Austrian Federal Railways, and the proceeds shall accrue to the said Railways at their own applicable rates. (4) The Austrian Federal Railways shall pay compensation for the use of the line of the Yugoslav Railways, and the details of such compensation shall be agreed upon between the Austrian Federal Railways and the Yugoslav Railways.

Article 6

EXTENDED TRACTION SERVICE

The railway administrations may agree that traction service beyond the interchange station in one or both directions shall be performed by the owning or the neighbouring administration with its own tractive units and crews. Article 4, paragraph (5), and articles 14, 15, 17, 18 and 24 shall apply *mutatis mutandis*.

Article 7

COMPENSATION FOR SERVICES

Services performed by one railway administration on behalf of the other shall, so far as possible, be offset by similar services. Services which cannot be so offset shall be paid for at cost. The details shall be agreed upon between the railway administrations.

Article 8

INSTALLATIONS

(1) Each railway administration shall supervise, maintain and renew all installations of the interchange stations and connecting frontier lines situated in its territory.

(2) The neighbouring administration shall be provided, at the interchange stations, with such premises, installations and equipment as it requires for the performance of its service. Where the existing premises, installations or items of equipment are inadequate or unsuitable, the owning administration shall, in agreement with the neighbouring administration, carry out at its own expense such works as are necessary and economically justifiable.

(3) The neighbouring administration shall pay compensation at cost for such premises, installations and equipment as are assigned to it at the interchange stations and used exclusively by it.

(4) The structural and engineering works required to equip and maintain the connecting frontier lines shall be carried out by the owning administration, at its own expense, by agreement between the two railway administrations.

Article 9

Representation at interchange stations

The neighbouring administration may establish branch offices at the interchange stations; the competence of such offices shall be limited to railway service matters and shall be agreed upon in detail between the railway administrations.

Article 10

FRONTIER CLEARANCE

Frontier clearance (article 2, sub-paragraph (g)) shall be effected by the competent authorities of each Contracting State in its own territory or, on the basis of a separate agreement between the two Contracting States, on board moving trains or at stations in the territory of the other Contracting State.

Article 11

MAINTENANCE OF SAFETY AND GOOD ORDER ON THE CONNECTING FRONTIER LINES

(1) Railway employees of the neighbouring administration carrying out their duties on board moving trains on the connecting frontier lines shall, in the event of any breach of the safety and good order of railway traffic, ascertain the facts and report them as soon as possible to the competent railway office of the territorial State.

(2) This provision shall not confer upon railway employees any right to use force.

Article 12

FRONTIER CLEARANCE IN PASSENGER TRANSIT TRAFFIC ON THE LAVAMÜND-DRAVOGRAD-BLEIBURG LINE

No frontier clearance shall be effected by Yugoslav authorities in the case of trains run in passenger transit traffic on the Lavamünd-Dravograd-Bleiburg line. Such trains shall be escorted, while in Yugoslav territory, by Yugoslav State supervisory officials.

Article 13

LANGUAGES TO BE USED

(1) In dealings on railway service with railway employees of the neighbouring administration at the interchange stations and on the connecting frontier lines, the official language of that administration shall be used. Accordingly, in particular, all telephonic, written and oral communications relating to train traffic shall be made in the official language of the neighbouring administration. The railway employees of the owning administration who are concerned shall therefore be required to possess such command of the official language of the neighbouring administration as is necessary for the performance of their duties.

(2) Notwithstanding the provisions of paragraph (1), the representatives (article 9) of the neighbouring administration at the interchange stations shall, in dealings with the railway employees of the owning administration, use the language of the latter administration. They shall be required to possess such command of the said language as is necessary for the performance of their duties.

(3) The inscriptions on the official premises of the branch offices shall be in both official languages. The text in the official language of the neighbouring administration shall be placed first.

(4) Service regulations or official correspondence delivered by one railway administration to an interchange station or a branch office for forwarding to the other railway administration shall be handed over without translation.

Article 14

LEGAL STATUS OF RAILWAY EMPLOYEES

(1) Railway employees of the neighbouring administration performing their duties in the territorial State shall, without prejudice to the provisions of private international law, be subject to the legal provisions of the territorial State.

(2) The conditions of service of the railway employees referred to in paragraph (1), in matters of discipline in particular, shall be governed solely by the regulations in force in the neighbouring State.

(3) Railway employees of the neighbouring administration working in the territorial State shall be liable solely in the neighbouring State to taxation on the wages and salaries they receive from the neighbouring State or the neighbouring administration.

(4) Any punishable offence committed in the territorial State by the railway employees referred to in paragraph (1) shall be reported without delay to the office responsible for such employees by the corresponding office of the territorial State.

Article 15

Assistance and protection under criminal law

(1) The offices and employees of the territorial State shall be bound to render any necessary assistance to railway offices of the neighbouring administration which are situated in the territorial State and to the railway employees of the said administration in the performance of their duties and to act on their applications for assistance within the meaning of this Convention in the same manner as on similar applications from railway employees of their own State.

(2) The provisions of the criminal law of the territorial State for the protection of acts done in the course of railway duty and for the protection of railway employees shall apply also to punishable offences committed against railway employees of the neighbouring administration working in the territorial State, provided that such employees are on duty or that the offence is committed in connexion with their duties.

(3) Railway employees of the neighbouring administration shall be given any necessary first aid by the owning administration in the event of sickness or an accident on the connecting frontier line, at the interchange station, in passenger transit traffic (article 5) or on extended traction service (article 6).

Article 16

CROSSING OF THE STATE FRONTIER AND SOJOURN IN THE TERRITORY OF THE OTHER CONTRACTING STATE

(1) Railway employees, including supervisory and investigating personnel, who cross the State frontier on duty in the connecting and transfer service must be in possession of frontier passes. Such passes shall entitle the holders to cross the frontier on one or more of the lines specified in article 3, paragraph (1), and to remain in the other Contracting State for the duration of their tour of duty.

(2) Frontier passes shall be issued for a period of validity not exceeding five years. For Yugoslav railway employees, frontier passes conforming to the model shown in annex 1 a shall be issued by the Yugoslav Railways, approved by the competent Yugoslav frontier authority and visaed by the competent Austrian police division. For Austrian railway employees, frontier passes conforming to the model shown in annex 1 b shall be issued by the competent Austrian police division and visaed by the competent Austrian police division and visaed by the competent Yugoslav frontier authority. Each visa shall be valid for one calendar year.

(3) A visa may be refused on unspecified grounds; a visa already issued may be revoked at any time. The refusal or revocation of a visa shall be reported without delay to the authority which issued the frontier pass and to the frontier station or interchange station concerned.

(4) Frontier passes shall be issued and visaed free of taxes and fees.

(5) Frontier passes shall be produced to the competent authorities at their request.

(6) The names of railway employees who, in the event of unforeseen obstructions, cross the State frontier as members of the crews of breakdown trains or snow-ploughs must be listed in a nominal roll. Such nominal roll shall entitle the railway employees listed therein to cross the frontier on one of the lines specified in article 3, paragraph (1), and to remain in the other Contracting State for the duration of their tour of duty. The nominal roll, conforming to the model shown in annex 2 a or annex 2 b, shall be issued in triplicate by the stationmaster of the interchange station or frontier station. Each copy must bear the signature of the stationmaster and the official stamp of the interchange station or frontier station. The said stamp must be affixed immediately below the entry of the last name. The railway employees in question must also be in possession of a railway identity card bearing a photograph.

(7) The competent frontier office of the other Contracting State shall be notified before any crossing of the frontier takes place under the terms of paragraph (6).

(8) Railway employees crossing the State frontier under the terms of paragraph (6) shall identify themselves to the frontier authorities by means of the nominal roll and their railway identity cards. One copy of the nominal roll shall be surrendered to the frontier authorities of each Contracting State, while the third copy shall upon return be surrendered to the stationmaster who issued the nominal roll. All railway employees listed in a nominal roll must cross the State frontier at the same time on both the outward and the return journey.

(9) Railway employees of the other Contracting State who are in possession only of frontier passes shall not leave the locality in which the interchange station or frontier station is situated and the connecting frontier line or the line between the frontier station and the State frontier. This provision shall apply *mutatis mutandis* if an agreement is concluded pursuant to article 3, paragraph (4). Railway employees of the other Contracting State who are only listed in a nominal roll shall not leave the precincts of the interchange station or frontier station and the connecting frontier line or the line between the frontier station and the State frontier.

Article 17

UNIFORM

(1) Railway employees of the neighbouring administration employed at the interchange station, on the connecting frontier line, in passenger transit traffic (article 5) or on extended traction service (article 6) shall be entitled to wear their uniform or visible service badges both on and off duty.

(2) The railway administrations shall determine by agreement which railway employees shall be required to wear uniform or visible service badges, and on what occasions they must do so.

Article 18

ARTICLES FOR SERVICE USE ; PERSONAL REQUISITES OF RAILWAY EMPLOYEES

(1) All articles intended for service use which are imported or exported by railway employees of the neighbouring administration working in the territorial State shall be exempt from customs duties and other taxes.

(2) Personal requisites, including food, which railway employees not resident in the territorial State carry with them to or from work and which they need during their tour of duty in that State shall also be exempt from customs duties and other taxes.

(3) Import and export prohibitions and restrictions of an economic nature shall not apply to the articles referred to in paragraphs (1) and (2).

Article 19

ARTICLES FOR OFFICE USE

Articles intended for service use at the offices of the neighbouring administration shall be exempt from customs duties and other taxes upon import and re-export. Import and export prohibitions and restrictions of an economic nature shall not apply to such articles.

Article 20

MONEY COLLECTED IN THE COURSE OF DUTY

Money collected by railway employees of the neighbouring administration in the course of their duty on board trains which cross the frontier may be brought with them into the territorial State and returned to the neighbouring State.

Article 21

OFFICIAL DISPATCHES

(1) Official dispatches, such as official letters, official forms, timetables, tariffs and official remittances of money and valuables addressed to offices of the neighbouring administration in the territorial State or dispatched by such offices to the neighbouring State need not be sent through the post but may be carried post-free by railway employees.

(2) Such dispatches shall be subject to the customs and currency regulations. They shall be opened where there is reason to suspect a breach of the customs and currency regulations. Official dispatches shall bear the official stamp of the dispatching office.

Article 22

EXCHANGE OF MAILS

(1) The exchange of closed mails containing correspondence, parcels and insured items in traffic between the two Contracting States and of closed mails in transit shall be effected in accordance with the agreements concluded between the Austrian and Yugoslav postal administrations on the basis of the provisions of the Universal Postal Convention and the related Agreements.

(2) Except as may be otherwise agreed between the two postal administrations, the exchange of mails shall take place at the interchange stations.

(3) The exchange of mails shall be effected by postal employees. The exchange of closed mails containing correspondence may also be carried out by railway employees.

(4) Mails may be carried in mail vans, railway service wagons or railway goods wagons.

(5) What trailer stock is to be used and on what services, and whether it is to be manned by postal or by railway employees, shall be decided by agreement between the competent administrations of the two Contracting States.

Article 23

POSTAL EMPLOYEES ; RESPONSIBILITY FOR POSTAL ITEMS

The provisions of articles 14-18 and 24 of this Convention shall apply *mutatis mutandis* to postal employees working in the railway postal service in the territory of the other Contracting State. The provisions of article 24 shall apply also to the loss of and damage to postal items.

Article 24

LIABILITY

(1) If in the course of railway operations in the connecting and transfer service on the connecting frontier line or at the interchange station any person is killed or injured or any article is damaged or destroyed, liability, save as otherwise provided hereinafter, shall rest with the railway administration of the territorial State according to the law of that State.

(2) To the extent that liability for the loss of and damage to luggage, express parcels, goods, rolling stock, loading tackle, pallets and containers and for delay in delivery is regulated by the provisions of special international agreements in force between the two Contracting States, such special provisions shall apply.

(3) If any railway employee of the neighbouring administration is killed or injured while carrying out duties covered by this Convention in the course of railway operations on the connecting frontier line or at the interchange station, or if any article which he has on his person or with him is damaged or destroyed, the obligation to satisfy claims arising out of the event which caused the damage shall be adjudged as though the said event had occurred in the course of railway operations on the lines of the neighbouring administration. No liability shall rest with the owning administration.

(4) The question whether, and to what extent, the railway administrations and other bodies corporate shall be entitled to claim compensation from one another and to have recourse against one another on the grounds of the events causing damage which are described in this article shall be a matter for special agreements between the railway administrations and other bodies corporate.

Article 25

LIABILITY IN PASSENGER TRANSIT TRAFFIC

(1) If in the course of railway operations in passenger transit traffic (article 5) any passenger is killed or injured or any article which a passenger has on his person or with him is damaged, liability shall rest with the Austrian Federal Railways according to Yugoslav law. In such cases the Austrian Federal Railways shall stand surety for the Yugoslav Railways.

(2) If luggage is damaged or destroyed in the course of railway operations in passenger transit traffic, liability for the damage shall rest with the Austrian Federal Railways according to Austrian law. In such cases the Austrian Federal Railways shall stand surety for the Yugoslav Railways.

(3) If any railway employee of the Austrian Federal Railways is killed or injured while carrying out duties in connexion with passenger transit traffic in railway operations on the transit line, or if any article which he has on his person or with him is damaged or destroyed, the obligation to satisfy claims arising out of the event which caused the damage shall be adjudged as though the said event had occurred in the course of railway operations on the lines of the Austrian Federal Railways. No liability shall rest with the Yugoslav Railways.

(4) Settlement for damage to rolling stock shall be a matter for a special agreement between the railway administrations. (5) Save as specially provided in the preceding paragraphs, liability for damage sustained in connexion with the operations of the Austrian Federal Railways in passenger transit traffic shall rest with the Yugoslav Railways according to Yugoslav law.

(6) The question whether, and to what extent, the railway administrations and other bodies corporate shall be entitled to claim compensation from one another and to have recourse against one another on the grounds of the events causing damage which are described in this article shall be a matter for special agreements between the railway administrations and other bodies corporate.

Article 26

TELECOMMUNICATION INSTALLATIONS

(1) The railway administrations shall be responsible for providing and maintaining in good condition in the territory of their respective States such telecommunication installations as are necessary for railway traffic across the frontier.

(2) Railway employees of the neighbouring administration shall be entitled to use free of charge, for official purposes, the telecommunication installations referred to in paragraph (1).

Article 27

EXEMPTION OF AGREEMENTS FROM TAXATION

Agreements concluded on the basis of this Convention shall be exempt from taxation in both Contracting States.

Article 28

DISPUTES ; ARBITRAL TRIBUNAL

(1) Disputes concerning the interpretation or application of this Convention shall be settled, so far as possible, by the competent authorities of the two Contracting States.

(2) Any dispute which cannot be settled in this manner shall, at the request of either Contracting State, be referred to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted *ad hoc* in the following manner: each Contracting State shall appoint a representative, and the representatives shall agree on a chairman, who shall be a national of a third State. If the representatives and the chairman are not appointed within three months after one of the Contracting States has given notice of its intention to have recourse to the arbitral tribunal, either Contracting State may, failing any other arrangement, request the President of the International Court of Justice at The Hague to make the necessary appointments. In the event that the President is a national of one of the two Contracting States or is unable to act for any other reason, his deputy shall make the necessary appointments.

(4) The arbitral tribunal shall take its decisions on the basis of this Convention and of the agreements concluded to give effect thereto, and pursuant to such international agreements as are in force between the two Contracting States and are applicable at the time when the dispute arises or while the dispute persists, to customary international law and to the generally recognized principles of law.

(5) The arbitral tribunal shall take its decisions by majority vote. Its decisions shall be binding. Each Contracting State shall defray the expenses of its own arbitrator. The remaining costs shall be borne by the two Contracting States in equal shares. On all other matters, the arbitral tribunal shall establish its own rules of procedure.

(6) With regard to the summoning and interrogation of witnesses and experts, the civil courts of the two Contracting States shall render legal assistance, upon applications made by the arbitral tribunal to the Government concerned, in the same manner as upon the application of a civil court of the Contracting State applied to.

Article 29

DURATION OF VALIDITY OF THE CONVENTION ; DENUNCIATION

(1) This Convention is concluded for an indefinite time. It may be denounced at six months' notice, which shall take effect at the end of the calendar year.

(2) In the event of denunciation, the two Contracting States shall without delay enter into negotiations with a view to a new arrangement.

Article 30

RATIFICATION

(1) This Convention is subject to ratification.

(2) The exchange of the instruments of ratification shall take place at Belgrade.

(3) The Convention shall enter into force on the fourteenth day after the exchange of the instruments of ratification.

IN WITNESS WHEREOF the plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Vienna, on 11 December 1962, in two original copies in the German and Serbo-Croat languages, both texts being authentic.

For the Republic of Austria :

Dr. Jarisch

For the Federal People's Republic of Yugoslavia:

Robar

FINAL PROTOCOL

Upon signing the Convention between the Republic of Austria and the Federal People's Republic of Yugoslavia concerning the regulation of railway traffic across the frontier, the undersigned plenipotentiaries declare :

1. That the agreements which are referred to in the aforementioned Convention and which are necessary to give effect thereto shall be concluded as soon as possible in order to avoid any delay in the ratification of the Convention;

2. That they will make every effort to ensure that negotiations are opened as soon as possible between the two Contracting States concerning the conclusion of an agreement to facilitate frontier clearance in railway traffic;

3. That article 25, paragraph (5), relates only to liability for damage sustained by third parties and consequently does not apply to cases in which installations of the Yugoslav Railways are damaged, and that in such cases Yugoslav law shall apply.

IN WITNESS WHEREOF the plenipotentiaries have signed this Final Protocol, which forms an integral part of the Convention.

DONE at Vienna, on 11 December 1962, in two original copies in the German and Serbo-Croat languages, both texts being authentic.

For the Republic of Austria:

Dr. JARISCH

For the Federal People's Republic of Yugoslavia:

Robar

ANNEX 1a

Title page

FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

STATE COAT OF ARMS

FRONTIER PASS

issued under the Convention between the Federal People's Republic of Yugoslavia and the Republic of Austria concerning the regulation of railway traffic across the frontier

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| duty in the connecting and transfer service on the |
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| railway line and to remain, for the duration of his tour of duty, on the said line and in the |
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ANNEX 1 b

Title page

REPUBLIC OF AUSTRIA

STATE COAT OF ARMS

FRONTIER PASS

issued under the Convention between the Republic of Austria and the Federal People's Republic of Yugoslavia concerning the regulation of railway traffic across the frontier

No.

[The two pages that follow are identical to those of annex 1 a.]

This pass is valid until Issuing authority Place and date

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ANNEX 2a

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(Interchange station or frontier station)

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ANNEX 2b

[The text of annex 2 b is identical to that of annex 2 a.]