

No. 21211

HUNGARY
and
AUSTRIA

**Agreement concerning transit rail traffic through the area of
the city of Sopron and vicinity. Signed at Budapest on
13 September 1980**

*Authentic texts: Hungarian and German.
Registered by Hungary on 25 August 1982.*

HONGRIE
et
AUTRICHE

**Accord concernant le trafic ferroviaire en transit dans la
région et aux alentours de la ville de Sopron. Signé à
Budapest le 13 septembre 1980**

*Textes authentiques : hongrois et allemand.
Enregistré par la Hongrie le 25 août 1982.*

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE HUNGARIAN PEOPLE'S REPUBLIC
AND THE REPUBLIC OF AUSTRIA CONCERNING TRANSIT
RAIL TRAFFIC THROUGH THE AREA OF THE CITY OF
SOPRON AND VICINITY

The Hungarian People's Republic and the Republic of Austria,
Desiring to develop further the good-neighbourly relations existing between the
two States,

Desiring to adapt the Protocol of 30 June 1930 for the regulation of rail traffic
through the area of the city of Sopron and vicinity² to changed circumstances, while
maintaining the principles contained therein, and

Desiring to facilitate the operation of transit rail traffic, have agreed as follows:

Article 1. (1) The Austrian railways shall be entitled to conduct transport
operations in transit through the territory of the Hungarian People's Republic
(hereinafter referred to as "transit rail traffic") on the sections between the frontier
near Baumgarten/Sopron, Loipersbach-Schattendorf/Ágfalva, Deutschkreutz/
Magyarfalva and Pamhagen/Fertóujlak through the Sopron station, under closed
conveyance.

(2) The term "closed conveyance" means all measures designed to prevent the
boarding or leaving of trains or parts of trains, or the taking of goods onto or off
trains or parts of trains, in the course of transit rail traffic in the territory of the
Hungarian People's Republic.

Article 2. The services to be provided by railways to one another in the course
of transit rail traffic, and the remuneration therefor, shall be determined by arrange-
ment between the railways concerned.

Article 3. Conveyance in transit rail traffic shall, as regards conditions of car-
riage and scales of charges, be treated as if it were effected on sections of the Austrian
railways.

Article 4. 1. This Agreement shall apply to persons irrespective of their na-
tionality and to hand-luggage, accompanied animals, luggage express parcels, goods
and mail.

(2) The provisions of this Agreement shall also apply to the carriage in transit
of Austrian law-enforcement officers (federal police, federal gendarmerie, customs
officers, judicial officers, municipal guard units) on official travel or when proceeding
to or from their duty station, in uniform or in civilian dress. Service weapons may be
carried in transit rail traffic only if, unloaded and together with ammunition in
special containers, they have been deposited against receipt, in the presence of the
Hungarian escorts (article 5), preferably in the luggage-van or, failing that, elsewhere

¹ Came into force on 1 May 1982, i.e., the first day of the third month following the exchange of the instruments of
ratification, which took place at Vienna on 24 February 1982, in accordance with article 22 (1).

² League of Nations, *Treaty Series*, vol. CXXII, p. 69.

on the train and are kept under lock and key. The containers shall be provided free of charge by the railways concerned; in addition, no deposit fee shall be charged. Upon completion of the transit by rail, the service weapons and ammunition shall be released to the law-enforcement officers, in the presence of the Hungarian escorts, against return of the receipt. The number of armed law-enforcement officers carried in transit on a train at any one time shall not exceed 12.

(3) The conveyance of prisoners in transit rail traffic shall be excluded.

(4) Off-duty Austrian military personnel travelling individually may, in time of peace, use the transit rail service in uniform and with their personal military equipment, but without arms or ammunition. The number of such personnel carried in transit on a train at any one time shall not exceed 30.

(5) In time of peace, Austrian military personnel may use the transit rail service in self-contained units, including such equipment as is necessary for the performance of their duties, for the purpose of rendering assistance in the event of natural disasters or accidents of extraordinary magnitude, subject to the prior agreement of both Governments, which shall be reached in the simplest and most expeditious manner possible under the procedures determined by them.

(6) Superior Austrian law-enforcement officers or military personnel may issue to their subordinates accompanying them in transit rail traffic only such orders as are necessary for the maintenance of discipline.

(7) Hunters and hunting parties may travel without restrictions in transit rail traffic, together with their hunting weapons and ammunition therefor. The number of armed hunters carried in transit on a train at any one time shall not exceed 12.

Article 5. (1) Passengers in transit rail traffic shall require neither a travel document nor a Hungarian visa; however, persons over the age of 16 years must be in possession of an official certificate, bearing a photograph, of such a nature as to establish their identity.

(2) In the case of transit rail traffic, no frontier clearance operations shall be carried out by the two Contracting States. In order to supervise compliance with the provisions of this Agreement and to prevent violations, frontier control officers of the two Contracting States may escort and supervise trains or parts of trains operated under closed conveyance. In addition, the Hungarian escorts shall be entitled to intervene in order to prevent or investigate punishable offences contemplated or committed in the course of transit rail traffic. In order to prevent violations of the provisions of this Agreement, the Austrian escorts shall be entitled to apply their relevant laws and regulations to the same extent and with the same consequences as in the territory of the Republic of Austria; violations of those laws and regulations or of the provisions of this Agreement shall, where responsibility for prosecution rests with Austrian authorities, be deemed to have been committed in the territory of the Republic of Austria. Arrests and other forms of detention by Austrian escorts shall not be permitted in the territory of the Hungarian People's Republic.

(3) The authorities of the Hungarian People's Republic shall afford to Austrian escorts, in the performance of their duties in transit rail traffic, the same protection and assistance as they afford to Hungarian escorts. The penal provisions for the protection of officials and official acts in force in the Hungarian People's Republic shall also apply to punishable offences committed in transit rail traffic against Austrian escorts in the performance of or in connection with their duties. Claims of official liability for injuries suffered by Austrian escorts in transit rail traffic

shall be subject to the law and the jurisdiction of the Republic of Austria as if the act resulting in the injury had taken place in the territory of the Republic of Austria; in such cases, Hungarian nationals shall be assimilated to Austrian nationals. Punishable offences committed by an Austrian escort in the territory of the Hungarian People's Republic shall be reported by the competent authority of the Hungarian People's Republic to the authority by which the escort is employed.

(4) Austrian escorts must be in possession of a bilingual frontier crossing pass, as prescribed in the Agreement between the Hungarian People's Republic and the Republic of Austria concerning passport and customs control. In that case, they may, in the performance of their duties in transit rail traffic, cross the frontier in uniform and with their official badges, service weapons and necessary service equipment. However, Austrian escorts may use their weapons in the territory of the Hungarian People's Republic only in case of emergency.

(5) Articles intended for the official or personal use of Austrian escorts while they are on duty in the territory of the Hungarian People's Republic shall be exempt from customs duties and other charges on import and export.

(6) Escorts shall be carried free of charge.

(7) The number of Austrian escorts carried in transit on a train at any one time in accordance with paragraph 2 shall not, if such escorts are armed, exceed two. Such escorts shall not be included in the maximum number specified in article 4, paragraph 2.

Article 6. (1) Permits for tractive units and qualifying tests for operating personnel in the Republic of Austria shall be valid also for the sections specified in article 1, paragraph 1.

(2) Trains operating in transit rail traffic shall be hauled by the Austrian railways, in accordance with their traffic regulations, on the sections specified in article 1, paragraph 1, with the exception of the portion of section from the frontier near Pamhagen/Fertőujlak to Sopron. The supreme authorities of the Contracting States competent for rail traffic shall determine by agreement which traffic regulations are to apply in transit rail traffic on the portion of section from the frontier near Pamhagen/Fertőujlak to Sopron. At all stations, the traffic regulations of the Hungarian railways shall apply.

(3) For the sections specified in article 1, paragraph 1, the Hungarian signs and signals situated therein and the related traffic regulations of the Hungarian railways shall be authoritative. As regards the signals used on trains operating in transit rail traffic and their locomotives, the regulations of the Austrian railways shall apply.

(4) Wagons hauled in transit rail traffic and their loads must conform to the conditions prescribed for international traffic and to such other arrangements as may be agreed between the railways concerned.

(5) Tractive units and other rolling-stock in transit rail traffic and their loads shall not be taken over from one railway by another, nor shall any take-over inspections be carried out.

Article 7. The supreme authorities of the Contracting States competent for rail traffic shall determine by arrangement in which cases communications necessary for the safe and smooth operation of transit rail traffic are to be made in the German language.

Article 8. (1) Employees of the Austrian railways shall be entitled, in transit rail traffic, to wear their uniforms or their visible service badges.

(2) The railway shall determine by arrangement in which cases railway employees must wear uniforms or visible service badges.

Article 9. (1) Offices and railway employees of the Hungarian People's Republic shall be obligated to afford any necessary assistance to employees of the Austrian railways in the performance of their duties and to respond to their requests for assistance under the terms of this Agreement in the same manner as to similar requests from their own railway employees.

(2) Employees of the Austrian railways shall, in case of sickness or accident while they are on duty in transit rail traffic in the territory of the Hungarian People's Republic, be given the necessary first aid, including medical assistance.

(3) Employees of the Austrian railways shall, while on duty in transit rail traffic in the territory of the Hungarian People's Republic, enjoy the protection and assistance to which employees of the Hungarian railways are entitled.

(4) As regards social insurance, the provisions in force in the Republic of Austria shall apply to Austrian railway employees serving in transit rail traffic, unless otherwise provided in international agreements relating to social security.

Article 10. (1) As regards the conditions of service of employees of the Austrian railways, including in particular disciplinary matters, the provisions in force in the Republic of Austria shall apply.

(2) Punishable offences committed by employees of the Austrian railways in the territory of the Hungarian People's Republic shall be reported immediately by the Hungarian railways to the office responsible for supervising the employees concerned.

Article 11. (1) Official dispatches, such as official letters, official forms, timetables, tariffs and official consignments of money and valuables may be carried in transit rail traffic by employees of the Austrian railways without passing through the mail and without payment of postage.

(2) For the prevention of abuses, such dispatches shall bear the official stamp of the sending office.

Article 12. (1) Goods carried in transit rail traffic shall be exempt from customs duties and other charges on export and import and from economic prohibitions and restrictions on import, export and transit, provided that the provisions applicable to transit rail traffic are complied with; no deposit of security shall be required. In case of failure to comply with the aforementioned provisions, customs duties and other charges on import and export shall not be levied if evidence is produced showing that the goods have been returned in unaltered condition to the territory of the Republic of Austria.

(2) Goods carried in transit rail traffic shall be subject to surveillance by the customs authorities. The term "surveillance by the customs authorities" means all measures taken by such authorities to prevent the withholding from customs clearance of goods which are subject to such clearance. Customs seals and railway seals shall be recognized by the customs authorities. The railways concerned shall, when necessary, ensure that goods are presented for customs clearance and shall make available such documents as are required for that purpose.

Article 13. (1) Conveyance prohibitions of the Hungarian People's Republic for the protection of human, animal and plant health shall also apply to transit rail traffic.

(2) The conveyance in transit of solipeds, bovine cattle, sheep, goats and pigs shall be permissible, provided that the animals are accompanied by the requisite documents concerning epidemic-free provenance, such as certificates of origin and health certificates or animal passes. Such documents shall not be required for other animals or parts of animals, animal raw materials and animal products.

(3) No veterinary frontier control shall be carried out in transit rail traffic. A transit permit shall likewise not be required.

(4) In the case of live plants and parts of plants, no certificate of origin or health certificate shall be required for conveyance in transit rail traffic.

Article 14. (1) Boarding or leaving trains, and taking goods into or off trains, shall be prohibited in transit rail traffic. Closed conveyance shall not apply to those Austrian employees who perform frontier clearance duties at Sopron or are engaged in the connecting and transfer operations of the railways, provided that they are in possession of the frontier crossing pass prescribed for their activities.

(2) Goods in transit rail traffic shall, with the following exceptions, be carried only in goods wagons, luggage-vans or mail vans or in luggage or mail compartments. Only hand-luggage and accompanied animals in accordance with article 3 may be carried in passenger carriages. Apart from operating equipment, only articles needed by Austrian railway employees for official or personal use during their tour of duty shall be carried on locomotives and tenders, in the motor compartment of railcars and in the driver's cab of railcars and tractive units.

Article 15. Passengers in transit rail traffic and Austrian employees engaged in such traffic who, as a result of *force majeure* or exceptional incidents in the course of rail traffic, are unable to proceed on their journey by the same train shall be allowed to change to another train enabling them to continue their journey in transit rail traffic in the same direction. If such a change of trains is impossible or impractical, the competent authorities of the Hungarian People's Republic shall assist in enabling such passengers and Austrian employees, as soon as circumstances permit, to continue the journey or leave the territory of the Hungarian People's Republic by an appropriate route.

Article 16. (1) Railway postal operations shall not be subject in transit rail traffic to any restrictions or charges imposed by the Hungarian People's Republic.

(2) Letter-boxes on luggage-vans and mail-vans and on luggage and mail compartments shall be kept closed in transit rail traffic.

(3) Postal items carried in luggage-vans and mail-vans and in luggage or mail compartments shall not be searched.

Article 17. Employees of the Austrian railways shall be entitled to inspect tickets on trains in transit rail traffic. If necessary for the maintenance of order on the train, they may request the assistance of Hungarian frontier control officers.

Article 18. (1) If, in the course of railway operations in transit rail traffic, a passenger is accidentally killed or injured or an article which a passenger has on his person or in his possession is destroyed, damaged or lost, the Austrian railways shall

be liable as a carrier under Austrian law; in such cases, they shall hold harmless the Hungarian railways and their personnel. The term "passenger" also includes the persons specified in article 4. Claims by the injured party against the Hungarian railways in their capacity as a carrier shall not be affected.

(2) As regards items carried in transit rail traffic, liability for late or delayed delivery or total or partial loss of or damage to luggage, express parcels and goods (including corpses and live animals) shall be determined in accordance with the liability clauses of the conditions of carriage and scale of charges which would have applied if the carriage had been effected on sections of the Austrian railways in the territory of the Republic of Austria. The Hungarian railways shall bear no liability towards the claimant.

(3) If a railway employee engaged in transit rail traffic is accidentally killed or injured in the performance of his duties in the course of railway operations or an article which he has on his person or in his possession is destroyed, damaged or lost, liability to settle claims arising out of the incident which resulted in the injury shall be determined as if the said incident had been caused on sections of the Austrian railways in the territory of the Republic of Austria. Where, in accordance with the foregoing, liability rests with an Austrian railway, it shall hold harmless the Hungarian railways and their personnel. The Hungarian railways shall bear no liability towards employees as referred to in the first sentence of this article.

(4) In case of damage to installations or rolling-stock, the relevant arrangements between the Hungarian and Austrian railways shall apply.

(5) As regards railway postal operations, the railways or postal administrations concerned shall be liable to each other, in accordance with existing arrangements, for any material damage which may occur in the course of transit rail traffic.

(6) In cases other than those provided for in the foregoing paragraphs or in other agreements, liability for damage in the course of railway operations in transit rail traffic shall be determined according to Hungarian law. Where, in accordance with the foregoing, liability rests with one of the railways, the other railway shall also be liable as a joint debtor.

(7) An action for damages may be brought only in the courts of the State of those railways against which the claim for compensation is asserted.

(8) Where the Austrian railways have paid compensation pursuant to the foregoing provisions, they may have recourse against the Hungarian railways if the accident was caused intentionally or through gross negligence by the Hungarian railways or their personnel or as a result of defects in the installations or rolling-stock of the Hungarian railways.

(9) Where claims for compensation falling under the foregoing provisions are presented to the Hungarian railways, the Austrian railways shall relieve them of such claims if the Austrian railways are liable to the injured party in accordance with the first sentence of paragraph 1, provided that the accident was not caused intentionally or through gross negligence by the Hungarian railways or their personnel or as a result of defects in their installations or rolling-stock. Where the Hungarian railways have made payments in settlement of the claims of compensation, the Austrian railways shall reimburse them the amount paid if the aforementioned obligation to provide relief exists.

(10) The railways concerned shall be free to determine whether and to what extent they may have recourse against or reimburse each other.

Article 19. The railways participating in transit rail traffic shall determine by arrangement the measures necessary for the execution of this Agreement within their sphere of operations.

Article 20. Any disputes concerning the interpretation or application of this Agreement shall be settled by negotiations between the competent authorities of the Contracting States or, if agreement cannot be reached in that manner, through the diplomatic channel.

Article 21. Upon the entry into force of this Agreement, the Hungarian-Austrian Protocol of 30 June 1930 for the regulation of rail traffic through the area of the city of Sopron and vicinity shall cease to have effect.

Article 22. (1) This Agreement shall be ratified and shall enter into force on the first day of the third month following the month in which the exchange of instruments of ratification takes place. The exchange of instruments of ratification shall take place as soon as possible at Vienna.

(2) Either Contracting State may denounce the Agreement by giving three years' notice in writing through the diplomatic channel. In the event of denunciation, however, the Contracting States undertake to conclude a new agreement in conformity with the principles of this Agreement. If the new agreement does not enter into force during the period of notice of denunciation, the validity of the existing Agreement shall be automatically extended for successive periods of three years or until the entry into force of the new agreement.

DONE at Budapest, on 13 September 1980, in two original copies in the Hungarian and German languages, both texts being equally authentic.

For the Hungarian People's Republic:

[ARPÁD PULLAI]

For the Republic of Austria:

[KARL LAUSECKER]