

No. 23737

**AUSTRIA
and
FEDERAL REPUBLIC OF GERMANY**

**Agreement concerning the conveyance in transit of prisoners on the Mittenwald (frontier)-Griesen (frontier) and Ehrwald (frontier)-Vils (frontier) railway sectors.
Signed at Bonn on 14 September 1955**

Authentic text: German.

Registered by Austria on 13 February 1986.

**AUTRICHE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Accord relatif au transport ferroviaire de prisonniers en transit aux frontières Mittenwald-Griesen et Ehrwald-Vils. Signé à Bonn le 14 septembre 1955

Texte authentique : allemand.

Enregistré par l'Autriche le 13 février 1986.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE
FEDERAL REPUBLIC OF GERMANY CONCERNING THE CON-
VEYANCE IN TRANSIT OF PRISONERS ON THE MITTENWALD
(FRONTIER)-GRIESEN (FRONTIER) AND EHRWALD (FRON-
TIER)-VILS (FRONTIER) RAILWAY SECTORS**

The Federal President of Austria and the President of the Federal Republic of Germany,

In order to allow the conveyance in transit traffic of prisoners on certain railway sectors of their States, have decided to conclude an Agreement.

For that purpose they have appointed as their Plenipotentiaries:

The President of the Republic of Austria:

Mr. Adrian Rotter, Ambassador Extraordinary and Plenipotentiary;

The President of the Federal Republic of Germany:

Dr. Hans Berger, Under-Secretary and Chief of the Legal Department of the Ministry of Foreign Affairs; and

Mr. Walter Roemer, Under-Secretary and Chief of the Public Law Division of the Federal Ministry of Justice,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

Article 1. The conveyance in transit of persons in official custody (prisoners) and of law enforcement officers accompanying them (escort officers) on the Mittenwald (frontier)-Griesen (frontier) sector through German territory and the Ehrwald (frontier)-Vils (frontier) sector through Austrian territory shall be permitted in accordance with this Agreement.

Article 2. 1. The law of the transit State shall apply for the conveyance in transit and surveillance of prisoners unless otherwise provided in this Agreement.

2. The general facilities provided for transit traffic on the railway sectors specified in article 1 shall be provided also for the conveyance in transit of prisoners.

Article 3. A permit from the competent authorities of the transit State shall be required for conveyance in transit. Applications for the permit shall be sent to the frontier office of the transit State together with personal data, including in particular the nationality of the prisoner, the reason for deprivation of liberty and a brief description of the facts of the case.

Article 4. 1. Permits shall not be granted for the conveyance in transit of nationals of the transit State or for persons who have been taken into custody for political reasons.

¹ Came into force on 31 October 1957, i.e., 14 days after the exchange of the instruments of ratification, which took place at Bonn on 17 October 1957, in accordance with article 15 (2).

2. Prisoners conveyed in transit may be prosecuted, punished or otherwise subjected to curtailment of their personal freedom for political crimes committed before their conveyance in transit only if they remain within the territory of the transit State for more than one week after their release.

Article 5. Prisoners who are unfit to travel or forbidden to travel by the railway regulations shall not be conveyed in transit.

Article 6. 1. Conveyance shall be carried out with sufficient and adequately equipped escort officers.

2. During their conveyance in transit, prisoners shall not carry with them any objects liable to endanger the escort officers or facilitate their escape.

3. Escort officers shall be required to handcuff dangerous or refractory prisoners or prisoners suspected of planning to flee during conveyance in transit.

Article 7. 1. Should a prisoner escape, the escort officers shall be required to pursue him.

2. German escort officers shall inform the district commissioner's office in Reutte via the nearest police station of the escape of a prisoner in Austrian territory; Austrian escort officers shall inform the Bavarian Border Police Commissioner's office in Garmisch-Partenkirchen via the nearest police station of the escape of a prisoner in German territory.

Article 8. Escort officers shall be permitted to use firearms in accordance with the regulations of the transit State.

Article 9. Should railway traffic be interrupted, escort officers shall immediately take the necessary steps to ensure further conveyance in transit by other means.

Article 10. Should a prisoner commit a punishable act during conveyance in transit in the territory of the transit State, the authorities of that State shall have the right to interrupt the conveyance in order to institute criminal proceedings. They shall however be required to hand over the prisoner to the border post of the neighbouring State immediately after the proceedings and execution of the sentence.

Article 11. The provisions of the penal law of the transit State governing the protection of official acts and of officials shall apply also to punishable acts committed against escort officers in the transit State where the officers are serving in their official capacity or the act was committed in connection with such official capacity.

Article 12. Should substantial difficulties arise in connection with the implementation of individual provisions of the Agreement or should the circumstances prevailing at the time of concluding the Agreement change substantially, the two Contracting Parties shall, at the request of either Party, enter into negotiations in order to arrive at an appropriate settlement.

Article 13. 1. Disputes concerning the interpretation or implementation of this Agreement shall be settled by the competent authorities of each Party. This provision shall not preclude settlement through the diplomatic channel.

2. Where a dispute cannot be settled in the foregoing manner, it shall, at the request of a Contracting Party, be submitted to an Arbitral Tribunal.

3. The Arbitral Tribunal shall be formed in each individual case in such a way that each Party appoints a representative and the two representatives agree on a national of a third State as umpire. If the representatives and the umpire are not appointed within three months after one Party has given notice of its intention to convene the Arbitral Tribunal, then, in the absence of any other arrangement, either Party may request the President of the International Court of Justice at The Hague to make the necessary appointments. If the President is a national of one of the two Parties or is otherwise disqualified, a deputy of the President shall make the necessary appointments.

4. The Arbitral Tribunal shall take its decision on the basis of this Agreement and in conformance with customary international law and universally recognized legal principles.

5. The Arbitral Tribunal shall take its decisions by majority vote. Its decisions shall be binding. Each Party shall bear the costs of its own arbitrator. Other costs shall be shared equally by the two Parties. In other respects the Arbitral Tribunal shall establish its own rules of procedure.

6. With respect to the summoning and hearing of witnesses and experts, the authorities of the two Parties shall provide legal assistance in the same manner in response to requests made by the Arbitral Tribunal to the Government concerned as in response to requests made by domestic civil courts.

Article 14. This Agreement shall apply also to *Land Berlin* provided that the Government of the Federal Republic of Germany does not make a declaration to the contrary to the Austrian Federal Government within the three months following the entry into force of the Agreement.

Article 15. 1. This Agreement shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Bonn.

2. The Agreement shall enter into force 14 days after the exchange of the instruments of ratification.

Article 16. 1. This Agreement shall remain in force for an indefinite period. It shall not be subject to denunciation for 10 years after the date of its entry into force and may thereafter be denounced on two years' notice.

2. Should the Agreement be denounced, the Contracting Parties shall enter into negotiations concerning the possibility of finding some other satisfactory settlement.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Agreement and have thereto affixed their seal.

DONE in duplicate at Bonn on 14 September 1955.

For the Republic of Austria:

ROTTER

For the Federal Republic of Germany:

BERGER

ROEMER