

N° 4393.

ALLEMAGNE ET ESTONIE

Convention concernant la navigation
aérienne entre les deux pays.
Signée à Berlin, le 23 décembre
1937.

GERMANY AND ESTONIA

Convention regarding Air Naviga-
tion between the Two Countries.
Signed at Berlin, December 23rd,
1937.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 4393. — ABKOMMEN¹ ÜBER DEN LUFTVERKEHR ZWISCHEN DEM DEUTSCHEN REICH UND DER REPUBLIK ESTLAND, GEZEICHNET IN BERLIN, AM 23. DEZEMBER 1937.

German and Estonian official texts communicated by the Estonian Minister for Foreign Affairs. The registration of this Convention took place July 11th, 1938.

DER STAATSVERWESER DER ESTNISCHEN REPUBLIK
und

DER DEUTSCHE REICHSKANZLER,
in gleicher Weise davon überzeugt, dass es im beiderseitigen Interesse Estlands und Deutschlands liegt, die internationalen Luftverkehrsbeziehungen in friedlichem Geiste zu fördern, haben beschlossen, zu diesem Zweck ein Abkommen zu schliessen und haben zu ihren Bevollmächtigten ernannt :

SEINE EXZELLENZ DER STAATSVERWESER DER ESTNISCHEN REPUBLIK :

den ausserordentlichen und bevollmächtigten Gesandten der Estnischen Republik in Berlin, Herrn Karl TOFER ;

DER DEUTSCHE REICHSKANZLER :

den Staatssekretär des Auswärtigen Amts Herrn Dr. Hans Georg VON MACKENSEN, und den Ministerialdirektor im Reichsluftfahrtministerium Herrn Willy FISCH ;

die, nachdem sie ihre Vollmachten ausgetauscht und in guter und gehöriger Form gefunden haben, über folgende Bestimmungen übereingekommen sind :

Artikel 1.

Jeder der beiden Vertragschliessenden Teile gewährt in Friedenszeiten Luftfahrzeugen des anderen Vertragschliessenden Teiles, die in diesem ordnungsmässig eingetragen sind, bei Beachtung der in diesem Abkommen enthaltenen Bestimmungen das Recht zum Luftverkehr in seinem Gebiet.

Die Einrichtung und der Betrieb von regelmässigen Luftverkehrslinien eines Luftfahrtunternehmens des einen der Vertragschliessenden Teile in das Gebiet des anderen Teiles oder über dieses hinweg, mit oder ohne Zwischenlandung, unterliegen einer Sondervereinbarung zwischen den Obersten Luftfahrtbehörden der beiden Staaten.

Als Gebiet im Sinne dieses Abkommens gilt das Gebiet der Estnischen Republik und das Gebiet des Deutschen Reiches, einschliesslich der Territorialgewässer.

Als Luftfahrzeuge im Sinne dieses Abkommens gelten die privaten Luftfahrzeuge und diejenigen staatlichen Luftfahrzeuge, die nicht als Militär-, Zoll- oder Polizeiluftfahrzeuge verwendet werden.

¹ The exchange of ratifications took place at Berlin, June 2nd, 1938.
Came into force July 2nd, 1938.

TRANSLATION.

No. 4393. — CONVENTION REGARDING AIR NAVIGATION BETWEEN
THE GERMAN REICH AND THE REPUBLIC OF ESTONIA. SIGNED
AT BERLIN, DECEMBER 23RD, 1937.

THE HEAD OF THE ESTONIAN REPUBLIC
and

THE CHANCELLOR OF THE GERMAN REICH,

Being equally convinced that it is in the mutual interest of Estonia and Germany to promote international communications by air in a peaceful spirit, have resolved to conclude a Convention for the purpose and to that end have appointed as their Plenipotentiaries :

HIS EXCELLENCY THE HEAD OF THE ESTONIAN REPUBLIC :

Monsieur Karl TOFER, Envoy Extraordinary and Plenipotentiary of the Estonian Republic in Berlin ;

THE CHANCELLOR OF THE GERMAN REICH :

D^r Hans Georg VON MACKENSEN, Secretary of State at the Ministry of Foreign Affairs,
and

Monsieur Willy FISCH, Ministerial Director at the Reich Air Ministry ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

Article 1.

Each of the two Contracting Parties shall, in time of peace, grant the right of air navigation over its territory to such aircraft of the other Contracting Party as are duly registered in the territory of the latter, provided that the stipulations of the present Convention are observed.

The establishment and operation of regular air lines by an air navigation undertaking of either of the Contracting Parties in or across the territory of the other Party, with or without an intermediate landing, shall be subject to special agreement between the supreme air authorities of the two States.

For the purposes of the present Convention, the term " territory " shall be deemed to mean the territory of the Estonian Republic and that of the German Reich, including territorial waters.

For the purposes of the present Convention the term " aircraft " shall be deemed to mean private aircraft together with Government aircraft not used as military, Customs or police aircraft.

Military, Customs or police aircraft of one of the Contracting Parties must be provided with a special permit, to be obtained through the diplomatic channel, whenever they wish to fly in or across the territory of the other Party, with or without intermediate landing.

Article 2.

The aircraft of either Contracting Party, their crews, passengers and cargoes, shall be subject, while in the territory of the other State, to the obligations arising out of the regulations in force

¹ Translated by the Secretariat of the League of Nations, for information.

in that State, especially such as concern air navigation in general, in so far as the latter are applicable to all foreign aircraft without distinction of nationality, as also to the regulations concerning Customs and other duties, export and import prohibitions, the carriage of passengers and goods, public security, order and health, and passport regulations. They shall furthermore be subject to all other obligations arising out of the general legislation in force at the time, except as otherwise provided in the present Convention.

The commercial transport of passengers and goods between any two points within the territory of either State may be reserved for the aircraft of that State.

The fuel and lubricants on board the aircraft of either Contracting Party when entering the territory of the other Party and the requisite spare parts for air navigation shall be admitted free of duty, except fuel and lubricants handed over by the aircraft in the territory of the other Contracting Party or used therein for inland flights.

Article 3.

Each of the two Contracting Parties may prohibit air navigation over certain specified areas of its territory, provided that no distinction is made in this respect between national aircraft and aircraft of the other Party. This proviso shall not apply in the case of national aircraft used for special purposes or in the service of the State administration.

The areas over which air navigation is prohibited shall be notified to the other Contracting State.

Each of the Contracting Parties further reserves the right, under exceptional circumstances in time of peace and with immediate effect, temporarily to restrict or to prohibit air navigation over its territory either wholly or in part, provided always that no distinction is made between aircraft of the other Contracting State and those of other foreign States.

Article 4.

Any aircraft which finds itself over a prohibited area shall give the signal of distress prescribed by the air navigation regulations of the State flown over and shall land immediately at the nearest aerodrome of that State situated outside the prohibited area.

The same obligation shall apply to any aircraft which has been warned by means of special signals that it is flying over a prohibited area.

Article 5.

Aircraft shall carry distinctive and clearly visible marks whereby they may be recognised during flight (nationality and registration marks). In addition they must bear the name and address of their owner.

Aircraft shall carry certificates of registration and airworthiness, and also any other documents required for air navigation in their home country.

Article 6.

The members of the crew who perform duties in an aircraft, for the exercise of which a special permit is required in their home country, shall carry the certificates prescribed for air navigation in that country, and in particular the requisite certificates of proficiency and licences.

The other members of the crew shall carry certificates stating their duties on board the aircraft and their occupation, identity and nationality.

The crew and passengers shall be provided with the documents necessary to cross the frontier of, or stay in, the State to the territory of which they are travelling, save in so far as otherwise agreed between the two Contracting States.

Article 7.

Certificates of airworthiness and proficiency and licences issued or approved by one of the Contracting Parties for the aircraft or crew shall have the same validity in the other Contracting State as the corresponding documents issued or approved in that State; nevertheless, the certificates of proficiency and licences of the crew may only be used for service in the aircraft of their own country. Exceptions to this rule must be approved by the competent air navigation authorities of the other State.

Each of the two Contracting Parties reserves the right to refuse to recognise, for purposes of air navigation within its territory, certificates of proficiency and licences issued to its nationals by the other Contracting State.

Article 8.

Aircraft shall not carry any kind of wireless transmitting apparatus without a special licence for the purpose issued by the State whose nationality the aircraft possesses. The use of such apparatus shall be subject, over the territory of either Contracting Party, to the regulations in force in that State. Furthermore, such apparatus may be operated only by members of the crew holding a special licence issued by the authorities in their country.

The two Contracting States reserve the right, on grounds of safety, to issue regulations regarding the compulsory equipment of aircraft with wireless transmitting apparatus.

Article 9.

Aircraft and their crews and passengers may not convey arms, ammunition, poison gases, explosives and carrier pigeons in the territory of the other Contracting State without the permission of that State. Signalling apparatus and ammunition therefor shall not be deemed to be arms or ammunition for the purpose of this clause. A special licence shall be required for photographic apparatus if stowed in such a way that it can be used during the flight.

Each Contracting State may, on grounds of public order and safety, restrict or prohibit the conveyance or carriage within its own territory of articles other than those specified in the first paragraph of the present Article, provided that no distinction be made in this respect between national aircraft and the aircraft of the other Contracting State.

Article 10.

Aircraft carrying passengers or cargo shall be provided with a list of the passengers' names and a manifest showing the nature and quantity of the cargo, together with the necessary Customs declarations.

If on the arrival of an aircraft a discrepancy is noted between the goods carried and the entries in the above-mentioned documents, the Customs authorities of the aerodrome of arrival shall communicate direct with the competent Customs authorities of the other Contracting State.

Article 11.

The conveyance of mails shall be arranged by special direct agreements between the postal administrations of the two Contracting States.

Article 12.

Each of the Contracting States may, within its territory, cause the aircraft of the other State to be searched by the competent authorities and the prescribed certificates and other documents to be examined.

Article 13.

Aerodromes open to public air traffic shall be open to the aircraft of both States. Aircraft may also use the meteorological information services, the wireless services and the air safety services. The charges (for landing, stay, etc.) shall be the same for national aircraft and aircraft of the other State.

Article 14.

Aircraft of either Contracting State coming from or making for another country may only land on or depart from aerodromes provided with a Customs Office and facilities for the inspection of passports; no intermediate landing may be made between the frontier and such aerodromes.

In particular cases the supreme air authorities may, should the request be made, authorise an aircraft to land at or depart from other aerodromes, where arrangements can be made for Customs and passport formalities to be carried out. The cost of the Customs and passport formalities shall in such cases be borne by the applicant. The prohibition as regards landing between the frontier and the aerodrome shall also apply to such special cases.

In the event of a forced landing or of a landing such as is provided for in Article 4 — after the Customs and passport formalities in the case of the country of departure, before the Customs and passport formalities in the case of the country of arrival — the pilot, crew and passengers shall comply with the regulations in force in the State concerned.

The two Contracting Parties shall communicate to one another a list of aerodromes open for public traffic. The lists shall in particular indicate those aerodromes which are Customs aerodromes and provide facilities for the inspection of passports. Any changes in these lists and any restriction, even temporary, of the right to utilise any of these aerodromes, must be notified without delay to the other Contracting Party.

Article 15.

Aircraft of either Contracting Party shall, in the territory of the other Party, follow the air routes prescribed therein, unless they are prevented from doing so by weather conditions. If air routes are not prescribed, the shortest route must be followed. The regulations concerning the special air routes to be followed shall be announced and notified to the other Contracting Party.

Article 16.

No ballast other than fine sand or water may be dropped.

Article 17.

No articles or substances other than ballast may be thrown or dropped from an aircraft in flight, unless special permission has been given for the purpose by the State whose territory is affected or unless the dropping of such articles or substances is necessary to avert imminent danger.

When refuse is thrown from an aircraft in flight, the relevant regulations of the Contracting State in the territory of which the refuse was dropped shall be observed.

Article 18.

Whenever questions of nationality arise in carrying out the present Convention, it is agreed that aircraft shall be deemed to possess the nationality of the State in which they are duly registered.

No aircraft may be registered in either State unless it is the sole property of nationals of that State. Should the owner be a body corporate or a company of any kind, such owner shall fulfil the conditions laid down by the Estonian or German legislation in force in order to be considered an Estonian or German body corporate or company.

Article 19.

Aircraft entering or passing over the territory of either Contracting State and making therein only such landings and stoppages as are necessary may be exempted from seizure on the ground of infringement of patent, registered design or trade-mark by the deposit of security, the amount of which, in default of amicable agreement, shall be fixed with the least possible delay by the competent authority of the place of seizure.

Article 20.

The aircraft of either Contracting State shall be entitled on landing, and especially in the case of a forced landing, to assistance and the use of the same accessory installations as national aircraft.

The salvage of aircraft in distress at sea shall, unless otherwise agreed upon, be governed by the principles of maritime law as laid down in existing international conventions or, failing such conventions, in the laws of the State to which the salvors belong.

Article 21.

The two Contracting Parties shall communicate to each other all the regulations relative to air traffic in force in their respective territories.

Article 22.

The supreme air navigation authorities of each of the Contracting Parties shall notify each other of any infractions of the provisions of the present Convention committed over their territory by aircraft of the other Contracting State.

Article 23.

The details of the application of the present Convention, especially as regards Customs formalities, shall, as far as is necessary and possible, be settled by direct agreement between the various competent authorities of the two Contracting Parties.

Article 24.

Disputes arising out of the interpretation or application of the present Convention shall, if they are not settled through the diplomatic channel, be submitted, at the request of either of the Contracting Parties, to an arbitral tribunal. The decision of this arbitral tribunal shall be binding on both Contracting States.

The arbitral tribunal shall consist of three members. It shall be constituted by the appointment, by each Contracting State, of a freely selected arbitrator within a period of one month after a request for an arbitral tribunal has been made by one of the Contracting States.

The President of the arbitral tribunal shall be appointed by mutual agreement between the Contracting States within a further period of one month. He must be competent to deal with questions of air navigation and be a national of a third State ; he must not be resident in either Contracting State or be in the service of these States.

Should one of the Contracting States fail to designate an arbitrator within a month, or should the President not be appointed within the further period of one month, the President of the Administrative Council of the Permanent Court of Arbitration at The Hague shall be requested to make the requisite appointments.

The seat of the arbitral tribunal shall be fixed by the President. The awards of the arbitral tribunal shall be given by a majority vote. The arbitral tribunal shall itself decide on its procedure, which may be in writing if no objections are raised by either Contracting Party. Each Contracting State shall defray the cost of the services of its arbitrator and half the costs of the President's services.

Each Contracting State shall defray half the costs of the proceedings.

Article 25.

Either Contracting State may denounce the present Convention at any time at twelve months' notice.

Article 26.

The present Convention shall be ratified ; the instruments of ratification shall be exchanged as soon as possible in Berlin. The Convention shall come into force on the thirtieth day after the instruments of ratification are exchanged.

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate, in the Estonian and German languages, in Berlin, the twenty-third day of December, 1937.

(L. S.) K. TOFER.

(L. S.) Hans Georg VON MACKENSEN.

(L. S.) FISCH.
