

AUSTRIA



Treaty Series No. 69 (1957)

Exchange of Notes

between the Government of the United Kingdom of Great
Britain and Northern Ireland and the Government of Austria
concerning Contracts and Periods
of Prescription

Vienna, July 9, 1956

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
November 1957*

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**EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE GOVERNMENT OF AUSTRIA CON-
CERNING CONTRACTS AND PERIODS OF PRESCRIPTION**

Vienna, July 9, 1956

No. 1

*The Austrian Minister for Foreign Affairs to Her Majesty's Ambassador
at Vienna*

Your Excellency,

Vienna, July 9, 1956.

I have the honour to refer to the provisions relating to contracts and periods of prescription contained in the document known at the opening of the Ambassadors' Conference on the draft Austrian State Treaty as Annex IX to the said draft Treaty. By the common consent of the representatives of all signatories the provisions of Annex IX were not included in the said Treaty.⁽¹⁾

The Austrian Federal Government understand, however, that the law in force in the United Kingdom is generally consistent with the provisions of Annex IX in respect of contracts between persons who became enemies as a result of the existence of a state of war. In Austrian law the position is not the same. It is therefore possible that cases may arise in which a conflict between the differing legal systems of the two countries could occur. In certain of those cases it is possible that a party or parties to any particular contract, in reliance on the provisions of United Kingdom law, would treat the contract in question as being at an end from the date on which the parties to the contract became enemies. If, however, the provisions of Austrian law were applied to such a contract, it might be that the terms of the contract could now be enforced or some other remedy granted. In certain cases it is possible that as a result justice would not be done.

In discussions between representatives of the Austrian Federal Government and the Government of the United Kingdom of Great Britain and Northern Ireland, held during the Ambassadors' Conference, it was agreed that the Austrian Government would take steps to ensure that, if any cases of the type referred to above still exist, measures would be taken to secure an equitable settlement. For this purpose, and for this purpose only, the Austrian Government are willing to recognise the principles contained in Annex IX referred to above. It was understood from the discussions that the possibility of such cases arising had grown less as a result of the lapse of time since the termination of the state of war, and that with the continued lapse of time the possibility of their arising would become remote.

In these circumstances I have the honour to propose the following:—

- (1) That if any case of the kind referred to above should arise within eighteen months from July 27, 1955, the date on which the Austrian State Treaty came into force, the Austrian Government, after discussion with representatives of the Government of the United Kingdom and at the request of the United Kingdom Government in the particular case, will introduce suitable draft legislation for the approval of the Austrian Parliament or will take such other measures to alleviate the situation as may be equally effective.

⁽¹⁾ "Treaty Series No. 58 (1957)," Cmnd. 214.

- (2) That if, within eighteen months from July 27, 1955, the Government of the United Kingdom should wish to conclude with the Austrian Government a bilateral arrangement on the lines of the provisions of the said Annex IX, the Austrian Government will be willing to enter into negotiations for this purpose at an early date.

The said Annex IX also contained certain provisions regarding periods of prescription. Under the law in force in Austria, in particular Federal Law No. 90 of 1952, certain claims against which a defence of prescription could otherwise be successfully set up may be adjudged valid until further notice without regard to prescription, that is to say until a definite date has been fixed by law from which a defence of prescription could again validly be pleaded. In this connexion I have the honour to propose that the Austrian Government shall consult with the Government of the United Kingdom and take into consideration any representations which the United Kingdom Government may wish to make before the prescriptive date referred to is fixed or before any other action affecting prescriptive periods is taken.

If the above-mentioned proposals are satisfactory to the Government of the United Kingdom I have the honour to suggest that the present Note and Your Excellency's reply in that sense should be regarded as constituting an agreement between the two Governments in this matter.

Accept, &c.

LEOPOLD FIGL.

No. 2

*Her Majesty's Ambassador at Vienna to the Austrian Minister for
Foreign Affairs*

British Embassy,

Vienna, July 9, 1956.

Your Excellency,

I have the honour to acknowledge receipt of your Note of the 9th of July, 1956, which reads as follows:—

[As in No. 1.]

In reply, I have the honour to inform Your Excellency that the above-mentioned proposals are acceptable to the Government of the United Kingdom, who also agree that your Note and this reply should be regarded as constituting an Agreement between the two Governments in this matter.

I have, &c.

GEOFFREY WALLINGER.

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