

Convention concerning Navigation on Lake Constance

Concluded on 1 June 1973

Approved by the Federal Assembly on 26 June 1974

Instrument of ratification deposited by Switzerland on 28 November 1975

Entered into force in Switzerland on 1 January 1976

The Federal Republic of Germany,
The Republic of Austria,
The Swiss Confederation,

Desirous of adapting the regulations on navigation on Lake Constance to new conditions and to the state of technology, and therefore

Of replacing the Convention of 22 September 1867 instituting international regulations for navigation and the services of ports on Lake Constance by a new Convention and standard requirements for navigation,

Have agreed as follows:

Chapter I

General provisions

Article 1

(1) This Convention shall govern navigation on Lake Constance in the sector of the upper Lake, including Lake Ueberlingen.

(2) None of the other rights of State sovereignty over Lake Constance, particularly the alignment of borders shall be affected by this Convention.

(3) Navigation on the lower Lake and on the two stretches of the Rhine between Constance and Schaffhausen shall be regulated by a special treaty between the Federal Republic of Germany and the Swiss Confederation, and navigation on the course of the Old Rhine from its mouth to Rheineck-Gaissau shall be regulated by a special treaty between the Republic of Austria and the Swiss Confederation, in accordance with the principles of this Convention and in so far as special local conditions do not require exceptions; vessels of each of the three Contracting States shall thus be treated in the same way. The same shall also be valid for the requirements to be issued on the basis of article 5 (hereinafter referred to as "navigational requirements"). In particular, permits for vessels, sailing authorizations or permits and any other authorization granted in accordance with this Convention and the official treaties mentioned in the first sentence of this paragraph shall be mutually recognized.

Article 2

(1) Navigation shall be open to all, provided that the conditions contained in this Convention and in the navigational requirements are complied with.

(2) The Contracting States shall treat equally all vessels with the right to navigate according to this Convention and the navigational requirements.

Article 3

The berthing of a vessel in the ports and berths accessible to the public shall be free of charge. However, charges may be made for special services provided in those ports or berths, subject to compliance with article 2 (2).

Article 4

The Contracting States shall ensure that navigation is not hindered by any structures or installations or in any other way, except in so far as this is unavoidable in order to safeguard other public interests.

Chapter II

Standard navigational requirements

Article 5

(1) The Contracting States shall issue standard requirements for navigation (navigational requirements) concerning the safety and smooth flow of traffic and in order to anticipate the dangers and problems which may result from such navigation.

(2) The navigational requirements shall regulate in particular:

(a) requirements for construction, equipment, identification and admission of vessels,

(b) requirements concerning the number, capabilities and proficiency of the crew required to steer and operate vessels,

(c) movement and operation of vessels,

(d) navigational signs and signals,

(e) protection of the environment against the adverse consequences of navigation.

(3) Provisions for floating structures shall also be included in the navigational requirements, if this seems necessary for the safety and smooth flow of the traffic or for the protection of the environment.

(4) The regulation referred to in (2) (e) may also contain provisions to restrict navigation; in particular, it may prohibit the navigation of certain types of vessel on the Lake and navigation on certain parts of the Lake or during specific periods.

(5) Each Contracting State may issue provisions departing from the standard navigational requirements, in so far as this may seem necessary to regulate special local situations and traffic and operation in ports. In such cases, the principles of this Convention and of the navigational requirements must be observed.

Article 6

(1) In so far as provision is made for it in the navigational requirements, vessels shall require a navigation permit issued by the competent State in accordance with (2) below.

(2) The State in which the vessel is habitually berthed shall be competent to issue the navigation permit. If the vessel has no habitual berthing place in one of the Contracting States, the competent State shall be that in which the owner habitually resides. If neither of those conditions is fulfilled, each Contracting State shall be competent. The State which has issued the authorization shall also be competent for changes or withdrawal.

(3) Each State may make the issue of a navigation permit conditional on the existence of a civil liability insurance.

Article 7

(1) In order to operate a vessel, an authorization or operating permit issued by the State competent under (2) shall be required, in so far as the navigational requirements so provide.

(2) The State in which the applicant habitually resides shall be competent to issue this authorization or permit. If the applicant does not habitually reside in one of the Contracting States, each Contracting State shall be competent to issue the authorization or permit. The State which issues the said authorization or permit shall also be competent to effect any change or withdrawal.

Article 8

Each Contracting State may, in addition to the provisions of this chapter, issue requirements for the professional practice of navigation.

Chapter III

Implementation of the Convention

Article 9

(1) For the implementation of this Convention and navigational requirements, the Upper Lake shall be divided into three sectors, which are defined in the annex.

(2) Unless this Convention provides otherwise, each Contracting State shall be competent to implement the Convention and the navigational requirements in the sector located off its shores.

Article 10

(1) The competent bodies of a Contracting State shall also be empowered to take measures based on this Convention and on the navigational requirements in the sectors under the jurisdiction of the other Contracting States,

(a) when, in particular in connection with an accident, they observe facts which give good grounds for presuming that a breach of the navigational requirements has been committed,

(b) so as to pursue a vessel, if the conditions of (a) are met,

(c) in order to regulate traffic and in special circumstances, at the request of the competent State in accordance with article 9 (2).

(2) The bodies acting in the case of (1) shall be empowered to observe the facts and take other measures which cannot be deferred. In particular, they may:

(a) stop and board a vessel,

(b) check the personal documents and other official papers which should be on the vessel in accordance with the navigational requirements,

(c) question the persons on board,

(d) draft reports,

(e) collect sums of money, provided that the persons concerned agree,

(f) place the vessels at fault and the material evidence in safe custody,

(g) hold persons strongly suspected of having committed a breach of the navigational requirements.

(3) The measures referred to in (2) (e), (f) and (g) shall be accepted only if they conform to the laws of the State to which the bodies belong and if they are not basically incompatible with the laws of the State with jurisdiction over the sector concerned.

Article 11

(1) Article 10 shall not apply:

(a) to Ueberlingen Lake and to a strip situated off the shore of each sector, as demarcated in the annex to this Convention, in which the bodies of the State to which the sector is attributed shall have exclusive jurisdiction (exclusive zone),

(b) to routine checks of all types,

(c) to the service vessels of another Contracting State.

(2) The measures provided for in article 10 (2), (a) to (d) shall be permitted in the context of a request under article 10 (1) (c), also in the exclusive zones.

Article 12

(1) In the cases listed in article 10 (1), the State with jurisdiction over the sector concerned shall be informed immediately of measures taken under article 10 (2) (f) and (g).

(2) Nationals of the State with jurisdiction over the sector concerned, who have been held in accordance with article 10 (2) and (3), shall immediately be handed over to that State. This shall also be the case for persons who habitually reside in that State if they are not nationals of the State whose bodies have arrested them. Persons who, in accordance with this provision, are not to be handed over to the State with jurisdiction over the sector, may be taken to the State whose bodies arrested them.

(3) The vessels and material evidence, placed in safe custody in accordance with article 10 (2) and (3), may temporarily be taken to the State whose bodies have placed them in safe custody. If another Contracting State has jurisdiction to prosecute the offence which has given rise to their being placed in custody, such vessels and material evidence shall immediately be handed over to it.

Article 13

(1) Each Contracting State shall have jurisdiction to prosecute any breach of the navigational requirements, regardless of the sector in which it was committed.

(2) The Contracting State in which the person suspected of having committed a breach of the navigational requirements habitually resides shall have jurisdiction under (1). If this person does not habitually reside in any of the Contracting States, the State whose bodies were the first to intervene shall have jurisdiction.

(3) The law of the Contracting State in which the offence is prosecuted under (1) and (2) shall be applicable to the prosecution of breaches of the navigational requirements. This shall also be valid for procedure and prescription. The interruption of prescription in one Contracting State, however, shall also be valid for the other Contracting States.

Article 14

In so far as national law permits, judgements and decisions handed down regarding breaches of the navigational requirements in one Contracting State, which have come into force and are enforceable according to the law of that State, shall at the request of that State be executed in another Contracting State.

Article 15

(1) The competent legal and administrative authorities of the Contracting States shall agree mutually, in the implementation of this Convention and the navigational requirements, on all legal and administrative aid and shall undertake, at the request of a Contracting State, to prosecute breaches of the navigational requirements, in so far as this is not incompatible with national law. They shall then apply their own law, unless this Convention provides otherwise.

(2) All documents and other articles in connection with proceedings initiated in respect of a breach of the navigational requirements shall be returned to the competent Contracting State for prosecution under article 13 (2).

(3) The Contracting States shall inform each other of the withdrawal of a navigation permit, the withdrawal of a permit to steer a vessel, the threat of such withdrawal and all facts which may be material in this regard.

Article 16

Sums of money collected under this Convention shall not be distributed among Contracting States. The same shall apply to costs incurred by Contracting States.

Article 17

The authorities of the Contracting States competent to implement this Convention and the navigational requirements may communicate directly with each other, unless this Convention provides otherwise. Requests for communications addressed to a non-competent authority shall be transmitted to the competent authority.

Article 18

The Contracting States shall communicate to each other through diplomatic channels a list of authorities competent to implement this Convention and the navigational requirements.

Chapter IV

International Commission for Navigation on Lake Constance

Article 19

(1) An International Commission for navigation on Lake Constance (hereinafter known as "the Commission") shall be set up.

(2) The Commission shall, in the light of traffic requirements on the Lake, the need to protect the environment and scientific and technical knowledge:

(a) identify issues to be dealt with in standard form in the navigational requirements and prepare appropriate proposals;

(b) ensure the uniform implementation of the requirements applicable to navigation;

(c) discuss all problems, particularly those of a technical and nautical nature, concerning navigation on Lake Constance and exchange information in this regard;

(d) make recommendations to the Contracting States concerning navigation on Lake Constance and propose amendments to the requirements in force.

(3) The Commission shall further ensure reciprocal information in respect of requirements directly concerning navigation on the Lake.

(4) Each Contracting State shall delegate three members to the Commission and appoint a member as chairman of its delegation. Experts may be called on to serve. Chairmen of delegations shall communicate directly with each other.

(5) The Commission shall take its decisions unanimously, each delegation having one vote. At the request of a delegation chairman, the Commission shall meet within not more than two months. The Commission shall adopt its own rules, which may make provision for setting up committees and groups of experts.

Chapter V

Settlement of disputes

Article 20

(1) If a dispute arises between the Contracting States concerning the interpretation or implementation of this Convention or of the navigational requirements, efforts shall be made initially to settle it within the Commission provided for in article 19, and subsequently through diplomatic channels.

(2) If no agreement can be reached through diplomatic channels, each Contracting State concerned may ask for the matter to be submitted to an arbitration committee.

Article 21

(1) The Arbitration Committee shall comprise three members, who shall not be nationals of a Contracting State or have been seized with the matter on any other occasion.

(2) Each party concerned in the arbitration procedure shall appoint a member to the Arbitration Committee. Where a party comprises two Contracting States, they shall appoint a member by mutual agreement. The two members appointed by the parties shall choose a referee.

(3) If a party has not appointed its member in the two months following the notification of the invitation to commence the arbitration procedure, the member shall be appointed by the President of the European Court of Human Rights, on the proposal of the opposing party.

(4) If the two members are unable to agree on the choice of a referee in the two months following their appointment, the referee shall be appointed by the President of the European Court of Human Rights, on the proposal of one of the parties.

(5) If, in one of the cases referred to in (3) and (4), the President of the European Court of Human Rights is unable to act or is a national of a Contracting State, the appointment shall devolve on the Vice-President. If he also is unable to make the appointment or is a national of a Contracting State, the most senior Court member who is not a national of a Contracting State shall make the appointment.

Article 22

(1) The Arbitration Committee shall seek at all stages of the procedure to settle the matter amicably. If such a settlement does not seem possible, the Committee shall decide by a majority of votes. This decision shall be final and binding on all Contracting States.

(2) For its proposed settlement and its decisions the Arbitration Committee shall take into consideration:

- (a) the provisions of this Convention, and particularly article 1 (2),
- (b) the general and special agreements in force between Contracting States,
- (c) customary international law,
- (d) general legal principles.

Article 23

(1) If the parties have not agreed otherwise, the Arbitration Committee shall establish its own rules of procedure.

(2) The Contracting State which is not party to the arbitration procedure may at any time accede to the procedure and take part in it.

(3) Each party shall cover the costs of the member of the Arbitration Committee which it has appointed; the costs of the referee and all other costs shall be borne equally by the parties.

Chapter VI

Final provisions

Article 24

This Convention shall also apply to the Land of Berlin, unless the Government of the Federal Republic of Germany declares the contrary to the Governments of the Republic of Austria and the Swiss Confederation in the three months following the entry into force of the Convention.

Article 25

This Convention shall be submitted for ratification. The instruments of ratification shall be deposited with the Austrian Federal Government.

Article 26

(1) This Convention is concluded for an indeterminate period. It shall come into force on the first day of the second month following the end of the month during which the last instrument of ratification is deposited.

(2) Each Contracting State may denounce this Convention in writing and through diplomatic channels. The denunciation shall be effective simultaneously for all Contracting States at the end of the following year.

(3) If this Convention is denounced, the Contracting States shall immediately begin the negotiation of new joint regulations for navigation on Lake Constance. This Convention shall continue to be implemented until the entry into force of new regulations.

Article 27

(1) On the entry into force of this Convention, all conventions, protocols and other agreements concerning the regulation of navigation on Lake Constance shall be repealed, in particular the Convention of 22 September 1867 establishing international regulations for navigation and ports service on Lake Constance, the Bregenz Protocol of 6 May 1892, the revised Bregenz Protocol of 30 June 1894, the Constance Protocol of 8 April 1899 and the agreements of 1909, 1915, 1927 and 1933.

(2) The Contracting States shall continue to implement the present navigational requirements under the conventions, protocols and agreements mentioned in (1), as well as the conventions, protocols and agreements themselves, in so far as they contain requirements concerning navigation, for not more than three years after the entry into force of this Convention.

In witness whereof the undersigned, duly authorized, have signed this Convention.

Done on Lake Constance on 1 June 1973, in three original copies in the German language.

For the Federal Republic
of Germany:

Frank

For the Republic
of Austria:

Karl Fischer
Elmar Grabherr

For the Swiss
Confederation:

Diez

Demarcation of sectors and exclusive zonesI. Sectors

1. The boundary between the sectors belonging to the Federal Republic of Germany and the Republic of Austria shall extend from the centre-point of the mouth of the Leiblach in a straight line towards the promontory, of the White House at the mouth of the Rhine, until it intersects with a straight line linking the television tower on the Pfänder and the new Catholic church at Romanshorn (point 1). From point 1, it shall extend towards the new Catholic church at Romanshorn until it intersects with a straight line linking the last border-point on the Old Rhine and the centre-point of the mouth of the Argen (point 2).

2. The boundary between the sectors belonging to the Republic of Austria and the Swiss Confederation shall extend in a straight line from point 2 to the last border-point on the Old Rhine.

3. The boundary between the sectors belonging to the Federal Republic of Germany and the Swiss Confederation shall start at point 2 and follow a straight line towards the new Catholic church at Romanshorn until it intersects with a straight line linking the last border-point on the Old Rhine to the church at Haltnau (point 3). From point 3, it shall extend in a straight line until it intersects with a straight line linking the new Catholic church at Romanshorn to St. Maltnus Church at Fischbach, and that linking the White House at the mouth of the Rhine to the church at Haltnau (point 4). From point 4, it shall extend in a straight line towards the Bismarck Tower in Constance until it intersects with a straight line linking the Scherzingen church to the house at Haltnau (point 5). From point 5, it shall continue in a straight line to the middle of a straight line between the fort of Bottighofen and Constance, Hinteres Eichhorn (point 6). From point 6, it shall continue in a straight line to the last border-point in the gulf of Constance, then on to the territorial border established by treaty.

II. Exclusive zones

1. West of a straight line linking the last border-point on the Old Rhine to the centre-point of the mouth of the Argen, the exclusive zone shall have a width of 3 km, measured from the bank at mean water level. East of this line, the width of the exclusive zone shall be 2 km, measured from the bank at mean water level.

2. The boundary between the exclusive zone belonging to the Federal Republic of Germany and that of the Republic of Austria shall be demarcated by a straight line extending from the centre-point of the mouth of the Leiblach to point 1.

3. The boundary between the exclusive zone belonging to the Republic of Austria and that of the Swiss Confederation shall be demarcated by a straight line linking the last border point on the Old Rhine to point 2.

4. The boundary between the exclusive zone belonging to the Federal Republic of Germany and that of the Swiss Confederation shall be demarcated by a line extending from point 5 to point 6 and beyond to the last border-point in the gulf of Constance and by the territorial border established by treaty.

III. Once a new demarcation of the border is agreed upon by the Federal Republic of Germany and the Republic of Austria, the centre-point of the mouth of the Leiblach mentioned under I and II shall be replaced by the last border-point established at this level towards the lake.

Additional protocol to the Convention concerning
Navigation on Lake Constance of 1 June 1973

I.

So as to supplement the Treaties concerning navigation on the lower Lake and on the two courses of the Rhine between Constance and Schaffhausen, on the one hand, and on the course of the Old Rhine, from the mouth to Reineck-Gaissau, on the other hand, provision having been made for these additional treaties in article 1 (3) of the Convention concerning Navigation on Lake Constance (Convention), and so as to implement the requirements drawn up on the basis of those agreements, the Contracting States have agreed as follows:

1. Each Contracting State shall have jurisdiction to prosecute breaches of the navigational requirements committed on the waterways referred to in article 1 (3) of the Convention, whatever the Contracting State in which the offence was committed. This jurisdiction, however, may not be exercised for offences committed in one of the other Contracting States unless that State requests their prosecution.

2. Article 13 (3) and articles 14 to 18 of the Convention shall apply to navigation in the waters described in article 1 (3) of the Convention, on the understanding that:

(a) the additional treaties shall replace the Convention,

(b) the requirements issued on the basis of the additional treaties shall replace the navigational requirements,

(c) the Contracting State with jurisdiction according to this protocol shall take the place of the Contracting State with jurisdiction according to the Convention for the prosecution of breaches.

3. The terms of reference of the International Commission for Navigation on Lake Constance provided for in article 19 of the Convention shall also extend to issues which come exclusively or partially within the scope of an additional Treaty, on the understanding that the Contracting State which is not party to the additional agreement shall not take part in the vote.

4. In order to settle disputes which may arise on the interpretation or implementation of the additional Treaties, or the requirements enacted on the basis of those treaties, articles 20 to 23 of the Convention shall be applicable, and the Contracting States parties to the additional Treaty shall replace the Contracting States parties to the Convention.

II.

This protocol shall constitute an integral part of the Convention; it shall be implemented immediately and for as long as each of the additional Treaties itself remains applicable.

Done on Lake Constance on 1 June 1973 in three original copies in the German language.

For the Federal Republic
of Germany:

Frank

For the Republic
of Austria:

Karl Fischer
Elmar Grabherr

For the Swiss
Confederation:

Diez