

No. 7457

**AUSTRIA
and
TURKEY**

Agreement (with annex) concerning the recruitment and the employment in Austria of Turkish workers. Signed at Vienna, on 15 May 1964

Official texts: German and Turkish.

Registered by Austria on 12 November 1964.

**AUTRICHE
et
TURQUIE**

Accord (avec annexe) concernant le recrutement de travailleurs turcs et leur emploi en Autriche. Signé à Vienne, le 15 mai 1964

Textes officiels allemand et turc.

Enregistré par l'Autriche le 12 novembre 1964.

[TRANSLATION — TRADUCTION]

No. 7457. AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE REPUBLIC OF TURKEY CONCERNING THE RECRUITMENT AND THE EMPLOYMENT IN AUSTRIA OF TURKISH WORKERS. SIGNED AT VIENNA, ON 15 MAY 1964

The Federal Government of the Republic of Austria and the Government of the Republic of Turkey,

Having regard to the friendly relations existing between the two countries and their mutual interests as concerns the labour market,

Proposing to supply a part of Austria's requirements for foreign manpower with Turkish workers and to concede to the Turkish Employment Authority (Türk İş ve İşçi Bulma Kurumu) the exclusive right to recruit Turkish workers,

Believing that the authorities of the two countries should be given directives for the implementation of their intention, and

Desiring to strengthen the economic solidarity between the two countries,

Have with those ends in view resolved to conclude an agreement in the following terms :

Article 1

1. The Austrian Federal Ministry of Social Affairs (hereinafter called the Social Ministry) shall forward to the Turkish Employment Authority (hereinafter called the Employment Authority) information on the approximate requirements of the Austrian economy for Turkish workers, classified by industry and occupation, in order that the Employment Authority may determine in due time the extent to which such requirements can be met.

2. The Employment Authority shall inform the Social Ministry as soon as possible of the extent to which the stated requirements can be supplied.

Article 2

1. The Social Ministry and its authorized recruiting agency may communicate direct with the Employment Authority for the purpose of recruiting Turkish workers. The Social Ministry shall inform the Employment Authority which agency is the authorized recruiting agency.

¹ Came into force on 15 May 1964, upon signature in accordance with article 17.

2. The Social Ministry, or its authorized agency, and the Employment Authority shall perform their duties under this Agreement in direct co-operation. They shall endeavour to expedite and, to such extent as may be deemed appropriate, to simplify the prescribed procedure.

3. The Turkish Government agrees that the Social Ministry or its authorized agency may dispatch a Commission to Turkey for the purpose of recruiting Turkish workers. The Commission's working expenses shall be borne by the Social Ministry or by the authorized agency; premises, and the necessary furnishings and fittings, shall be provided by the Employment Authority. The Employment Authority shall facilitate the installation of the Commission and shall assist it in the performance of its duties.

Article 3

1. The Commission shall deliver to the Employment Authority offers of employment from employers seeking unnamed workers. The offers, which must be made in a form approved by the Social Ministry and the Employment Authority, must contain all information needed by the prospective workers, including, in particular, information concerning the qualifications required, the type and duration of the prospective employment, the gross and net remuneration, and other conditions of employment. They must also contain information concerning the availability of living accommodations for the worker.

2. The Employment Authority shall immediately inform the Commission whether workers are available for the stated vacancies and in what numbers.

3. If the demand can be met, the Employment Authority shall without delay bring the offer to the notice of the workers.

Article 4

1. The Employment Authority shall, by its own procedure, collect applications for employment and make a preliminary selection from among the applicants. It shall scrutinize the qualifications of the applicants and investigate whether these meet the requirements for the stated vacancies. It shall arrange for the applicants chosen at the first selection to be medically examined. Applicants found to be physically fit shall be referred to the Commission by the Employment Authority. The Employment Authority shall inform the Commission of the personal particulars and the occupation of all applicants.

2. The Commission shall in turn determine whether the applicants selected by the Employment Authority meet the requirements for employment, and in particular whether they are qualified and physically fit for the work offered.

3. After completion of the examination, a decision shall be taken on whether the applicant is to be engaged. The decision shall be made by the Austrian employer,

who may delegate his authority to an agent or to the Commission. The Commission shall inform the Employment Authority of the decision as soon as possible.

4. In respect of every Turkish worker who is accepted, a contract of employment evidencing his engagement and the conditions of his employment shall be drawn up through the completion, in the German and Turkish languages, of a form corresponding to annex X¹ to this Agreement. The contract of employment shall be signed by the Austrian employer or his authorized agent and by the Turkish worker, and shall then be stamped "Seen" by the Employment Authority and by the Commission. The Commission shall deliver two copies of the contract of employment to the Employment Authority. A certificate assuring the issuance of a permit to work in Austria shall be attached thereto.

Article 5

The Commission may also deliver to the Employment Authority offers of employment made to specific Turkish workers designated by name on grounds of a personal relationship. The foregoing shall apply, in particular, to family members within the meaning of Turkish law and to persons who already have a personal relationship with an Austrian employer by reason of previous employment. The Employment Authority reserves the right to reject offers if it suspects action by an unlawful agency. The Commission shall deliver to the Employment Authority a form corresponding to annex X to this Agreement, completed in the Turkish and German languages. This contract of employment shall be signed by the Austrian employer or his authorized agent and by the Turkish worker, and shall then be stamped "Seen" by the Employment Authority and by the Commission. The Commission shall deliver two copies of the contract of employment to the Employment Authority. A certificate assuring the issuance of a permit to work in Austria shall be attached thereto.

Article 6

1. Apart from the offers forwarded to it for the recruitment of workers, the Employment Authority may deliver to the Social Ministry lists of workers seeking employment in Austria. The lists must give adequate information concerning the personal particulars of the applicants, their training, their previous occupation in Turkey, and the type of employment they wish to obtain in Austria.

2. If any worker named in such a list is to be engaged, notice thereof shall be forwarded to the Employment Authority, together with the documents mentioned in article 4, paragraph 4.

¹ See p. 144 of this volume.

Article 7

The terms of the contract of service laid down in article 9, paragraphs 2 to 4, and article 10, paragraphs 1 and 2, are included in annex X to this Agreement.

Article 8

1. The Employment Authority shall deliver to the worker a copy of the contract of employment and the certificate assuring the issuance of a permit to work in Austria.

2. The Employment Authority shall inform the competent Austrian diplomatic or consular authority in Turkey of the names and personal particulars of Turkish workers selected for employment in Austria. It shall deliver to the said Austrian authority, for each worker, an official certificate of good character and a certificate of freedom from infection. The certificate of freedom from infection, which must be issued by the competent medical officer of the Turkish public health service, shall confirm that the applicant is free from communicable diseases and is not a carrier of bacilli and shall also contain a confirmation that no notifiable communicable disease has been reported in his previous place of residence or, in the case of larger communities, in his immediate neighbourhood. The certificate of freedom from infection shall be valid only if the applicant crosses the frontier within fourteen days following its date of issue. If his departure is delayed, the certificate of freedom from infection may be renewed by a public medical officer, provided that such medical officer has personally satisfied himself, by examining the applicant and by inquiring of the public medical officer of the applicant's last place of residence, that no notifiable communicable disease exists.

3. The Employment Authority shall ensure that the employee holds a valid passport with the necessary transit visas valid for a sufficient period.

4. The competent Austrian diplomatic or consular authority shall issue the necessary visas for entry into and residence in Austria to persons named by the Employment Authority, provided that they are in possession of valid Turkish passports and no grounds exist under the Austrian Passports Act for refusing such visas. Entry must take place not later than fourteen days following the issue of renewal of the certificate of freedom from infection.

Article 9

1. The Commission shall organize and regulate the travel to Austria of workers referred to it by the Employment Authority and approved by the Commission. It shall also ensure that the workers receive a supply of food sufficient for the entire journey or an equivalent amount in cash. The Employment Authority shall, by arrangement with the Commission, inform the workers of the date of departure.

2. The travel costs of the workers from Istanbul to the place of employment in Austria and the cost of the food needed during the journey shall be borne by the Commission on behalf of the employers.

3. A Turkish worker who through his own fault fails to fulfil his contractual obligations to his employer shall be required to refund the travel costs.

4. Assumption by the employer of the return travel costs of a Turkish worker shall be subject to an agreement between the employer and the worker. If the return travel costs are to be borne by the worker himself, it may also be agreed that the employer may deduct from each payment of wages such an amount as will enable the costs of the return journey to be covered by such deductions not later than the date of expiry of the permit to work. The amounts deducted shall be deposited in a blocked account from which they can be withdrawn only on presentation of an order signed by the employer and the worker.

Article 10

1. Turkish workers shall be recruited only if the contract of employment under the terms of this Agreement specifies that they will be employed in Austria on the same terms of remuneration and under the same conditions of employment as apply to comparable Austrian workers in the same enterprise.

2. They shall enjoy the same rights and the same protection as Austrian workers as regards the application of the laws concerning labour welfare, health and the right of association.

3. The competent Austrian authorities shall ensure that the aforementioned laws are observed and shall investigate whether the terms of contracts relating to Turkish workers are being applied.

4. After performance of the original contract a Turkish worker may voluntarily conclude a new contract with Austrian employers in accordance with the laws governing the employment of aliens in Austria.

5. Turkish workers shall also have access, in the event of labour disputes, to the competent Austrian administrative authorities and courts on the same conditions as Austrian workers, as provided in the case of the courts by the Convention between Austria and Turkey of 22 June 1930 (*BGBI.* 90/1932).

Article 11

Turkish workers shall be subject to compulsory social insurance on the same conditions as Austrian workers.

Article 12

Turkish workers may transfer their surplus earnings in Austria to Turkey in free schillings or other freely convertible currencies.

Article 13

The Social Ministry shall compile for the information of Turkish workers a leaflet setting out all the details which are of interest to them, as for example the employment situation, the general laws governing admission, working and living conditions in Austria, wages, taxes, social insurance, and the major provisions of the labour laws. It shall supply the leaflet to the Employment Authority in Turkish and shall inform it of any changes.

Article 14

1. The Turkish authorities shall at any time and without formality permit the re-entry of workers engaged through the Employment Authority and members of their families.

2. Where such persons are required to be returned to Turkey in virtue of an expulsion order made under Austrian law, the Turkish diplomatic or consular authority at Vienna shall without delay, at the request of the Federal Ministry of the Interior, issue the necessary declaration of acceptance.

3. The Turkish authorities shall, upon request through the diplomatic channel, arrange the repatriation of any Turkish worker who becomes a charge on public assistance in Austria.

Article 15

1. The Social Ministry and the Employment Authority shall, within the scope of their competence, reach direct agreement on the measures which are necessary for the application of this Agreement.

2. They shall, jointly with the competent authorities of their respective countries, ensure that selection on the grounds of qualifications and health, preparation of contracts of employment, passports and the necessary permits, and formalities for entry into Austria are effected as rapidly as possible.

3. The Turkish Embassy in Austria shall forward to the Social Ministry, through the diplomatic channel, any complaints concerning the application of this Agreement which it may wish to bring to the notice of Austrian authorities.

Article 16

1. Either of the two Governments may request the establishment of a Joint Commission, consisting of not more than five representatives of each Contracting Party. Each delegation may be assisted by the necessary experts.

2. The Joint Commission shall endeavour to resolve any difficulties of application which the Social Ministry and the Employment Authority have been unable to overcome. Where appropriate, it shall submit proposals to the two Governments.

3. The Joint Commission may also consider general questions relating to the employment of Turkish workers in Austria. Where appropriate, it shall submit proposals arising out of its deliberations to the two Governments.

4. The Joint Commission shall establish its own rules of procedure and working methods. It shall meet in Austria or in Turkey.

Article 17

This Agreement shall come into force on the date of signature. It shall remain in force until 31 December 1964 and shall be renewed by tacit agreement from year to year, unless one of the Contracting Parties gives notice of termination through the diplomatic channel not later than one month before its expiry.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed this Agreement and have hereto affixed their seals.

DONE at Vienna, on 15 May 1964, in four copies, two in German and two in Turkish, all the texts being equally authentic.

For the Federal Government of the Republic of Austria :

A. HALUSA

For the Government of the Republic of Turkey :

Baha KARATAY
Kemâl GÖKÇEDAĞ

ANNEX X

CONTRACT OF EMPLOYMENT FOR THE EMPLOYMENT
OF A TURKISH WORKER

Agreement between Austria and Turkey concerning the recruitment and the employment in Austria of Turkish workers.¹

The following Contract of service is concluded

Between(the Employer)
 Represented by
 and(the Employed)
 Born on Residing at
 Marital status : single/married/widowed

Clause 1

The Employer undertakes to employ the Employed
 as(Nature of employment)
 at(Place of employment)
 from
 but not before the date of arrival of the Employed at the place of employment until

The Employed undertakes to work for the Employer during the period and at the employment aforesaid.

Clause 2

The Employed will be employed in Austria on the same terms of remuneration and under the same conditions of employment as apply to Austrian workers in the same enterprise. He will enjoy the same rights and the same protection as Austrian workers as regards the application of the laws concerning labour welfare, health and the right of association.

The minimum conditions of employment are those of the collective contract for the time being in force in the enterprise
 between
 and
 dated
 or of any new collective contract which may supersede the previous collective contract. The gross remuneration is at present Austrian schillings per hour/per week.²

¹ See p. 130 of this volume.

² Strike out whichever does not apply.

In addition, the following rates will be paid, on the same conditions as to a comparable Austrian worker :

- (a) Overtime, Austrian schillings per hour (hourly pay, including supplement)
- (b) Night-work, Austrian schillings per hour (hourly pay, including supplement)
- (c) Sunday work, Austrian schillings per hour (hourly pay, including supplement)
- (d) Holiday work, Austrian schillings per hour (hourly pay, including supplement)

In the case of piece-work, the rates established will be such that the Employed will earn, for normal output under the conditions usual in the enterprise, Austrian schillings per hour.

Clause 3

Working hours will be as laid down in the regulations governing the enterprise.

Normal working hours are at present hours per day/per week.¹

Clause 4

The Employer will/will not¹ provide the Employed with suitable living accommodation and meals.

Accommodation will be in single rooms/dormitories¹ with not more than beds.

Meals will be provided by the worker himself/by the canteen.¹

Meals and accommodation provided by the Employer will/will not¹ be free of charge.

The Employed will be required to pay for accommodation Austrian schillings per day/per week/per month.¹

The Employed will be required to pay for meals Austrian schillings per day/per week/per month.¹

Clause 5

The Employed will be entitled to paid leave as laid down in the regulations governing the enterprise.

Clause 6

(a) The travel costs of the Employed from Istanbul to the place of employment in Austria will be payable by the Employer, who will also bear the cost of the food needed during the journey.

¹ Strike out whichever does not apply.

(b) If the Employed fails through his own fault to fulfil his contractual obligations to the Employer, he will be required to refund the travel costs.

(c) If and when the Employed has performed the Contract of Employment, the Employer will/will not¹ assume the return travel costs of the Employed from the place of employment to, including a food allowance of Austrian schillings.

The Employer will/will not¹ deduct an amount of Austrian schillings monthly from the net wages due to cover the return travel costs, totalling. Austrian schillings.

The total amount withheld will be paid to the Employed before his return journey, but in any event upon the termination of the Contract of Employment.

The Employer will/will not¹ assume the return travel costs of the Employed from the place of employment to, including a food allowance of Austrian schillings, if the Contract of Employment is terminated prematurely for reasons attributable to the Employer (e.g., the closing-down of the enterprise) and the Employed is not placed in other employment.

Clause 7

Conditions of employment under the terms of this Contract will be governed by Austrian law. Claims arising out of this Contract can be asserted only against the Employer, and not against his agent. The Austrian Labour Courts will have jurisdiction over all disputes arising out of this Contract.

Clause 8

All other matters will be governed by the provisions of the Agreement concerning recruitment for the time being in force between Austria and Turkey.

Any supplementary agreements :

Place and date :

Place and date :

Signature of Employer :

Signature of Employed :

¹ Strike out whichever does not apply.