

**No. 25496**

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**FINLAND  
and  
AUSTRIA**

**Agreement on social security (with final protocol). Signed at  
Vienna on 11 December 1987**

*Authentic texts: Finnish and German.*

*Registered by Finland on 17 December 1987.*

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**FINLANDE  
et  
AUTRICHE**

**Accord de sécurité sociale (avec protocole final). Signé à  
Vienne le 11 décembre 1987**

*Textes authentiques : finlandais et allemand.*

*Enregistré par la Finlande le 17 décembre 1987.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF FINLAND AND  
THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

The Republic of Finland and the Republic of Austria,

Desiring to regulate the mutual relations between the two States in the field of social security, have agreed to conclude the following Agreement:

## SECTION I. GENERAL PROVISIONS

*Article 1.* (1) For the purposes of this Agreement:

1. “Austria” means the Republic of Austria;

“Finland” means the Republic of Finland;

2. “Legislation” means the laws, ordinances and regulations relating to the branches of social security specified in article 2, paragraph 1;

3. “Competent authority” means,

In the case of Austria, the Federal Minister of Social Welfare, and in respect of family allowances, the Federal Minister of Family Affairs, Youth and Consumer Protection;

In the case of Finland, the Ministry of Social Affairs and Health;

4. “Insurance authority” means the institute or authority responsible for the application of the legislation or part thereof specified in article 2, paragraph 1.

5. “Competent insurance authority” means the insurance authority which is competent under the applicable legislation;

6. “Insurance periods” means contribution periods or periods of residence which are defined or recognized as insurance periods in the legislation under which they were completed, and other periods which are recognized in such legislation as equivalent to insurance periods;

7. “Cash benefit”, “annuity” or “pension” means a cash benefit, annuity or pension including any part thereof from public funds, and any supplement, adjustment payment, additional allowance and lump-sum compensation;

8. “Family allowance” means:

In the case of Austria, a family allowance; and

In the case of Finland, a children’s allowance and a maintenance allowance.

(2) Other terms in this Agreement shall have the meaning which they have under the relevant legislation.

*Article 2.* (1) This Agreement shall apply:

1. In Austria, to the legislation concerning:

(a) Sickness insurance;

<sup>1</sup> Came into force on 1 July 1987, i.e., the first day of the third month following the month of the exchange of the instruments of ratification, which took place at Helsinki on 8 April 1987, in accordance with article 38 (2).

- (b) Accident insurance;
- (c) Pensions insurance, except for notary insurance (*Notarversicherung*);
- (d) Unemployment benefits;
- (e) Family allowances;
- 2. In Finland, to the legislation concerning:
  - (a) Sickness insurance and benefits in kind provided by the national health system and by hospitals;
  - (b) Accident and occupational disease insurance;
  - (c) Pensions insurance, including employees' pension schemes, national pensions insurance and general family pensions insurance;
  - (d) Unemployment protection;
  - (e) Children's allowances and maintenance allowances;
  - (f) Social insurance contributions by employers.

(2) This Agreement shall also apply to all legislation which recapitulates, amends or supplements the legislation referred to in paragraph 1 of this article.

(3) This Agreement shall not apply to legislation concerning a new scheme or a new branch of social security.

(4) Legislation which arises out of agreements with third States shall not be taken into account in the application of this Agreement.

*Article 3.* (1) This Agreement shall apply, unless it provides otherwise, to nationals of the Contracting States and persons who derive their rights from such nationals.

(2) This Agreement shall also apply to refugees within the meaning of the Convention relating to the Status of Refugees of 28 July 1951<sup>1</sup> and of the Protocol to that Convention of 31 January 1967<sup>2</sup> and also to stateless persons within the meaning of the Convention relating to the Status of Stateless Persons of 28 September 1954.<sup>3</sup>

*Article 4.* Except as otherwise provided in this Agreement, in the application of the legislation of one Contracting State, nationals of the other Contracting State shall be assimilated to nationals of the first-mentioned Contracting State.

*Article 5.* Pensions, annuities and other cash benefits, with the exception of unemployment benefits, shall, except as otherwise provided in the Agreement, be paid also when a beneficiary resides in the territory of the Contracting State.

## SECTION II. PROVISIONS CONCERNING APPLICABLE LEGISLATION

*Article 6.* Except as otherwise provided in articles 7 and 8, the compulsory insurability of a person by reason of gainful employment shall be determined by the legislation of the Contracting State in whose territory the person concerned is employed. This shall apply in the case of salaried employment even if the place of residence of the employee or the principal place of business of his employer is situated in the territory of the other Contracting State.

<sup>1</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>2</sup> *Ibid.*, vol. 606, p. 267.

<sup>3</sup> *Ibid.*, vol. 360, p. 117.

*Article 7.* (1) Where an employee who is employed by an enterprise in the territory of one Contracting State is sent by that enterprise to carry out work for it in the territory of the other Contracting State, the legislation of the first-mentioned Contracting State shall continue to apply to that person until the end of the twenty-fourth calendar month after his dispatch as if he were still employed in that first-mentioned State.

(2) Where an employee of an air transport enterprise having its principal place of business in the territory of one Contracting State is sent from that territory to the territory of the other Contracting State, the legislation of the first-mentioned Contracting State shall continue to apply as if he were still employed in its territory.

(3) The crew of a seagoing vessel, and other persons employed otherwise than temporarily on board such a vessel shall be subject to the legislation of the Contracting State whose flag the vessel flies.

(4) Paragraphs 1 and 2 of this article shall apply irrespective of the nationality of the person concerned.

*Article 8.* (1) Where a national of one Contracting State is employed in the other Contracting State by the first-mentioned Contracting State or by a member of an official mission of that Contracting State, he shall, as regards compulsory insurability, be subject for the duration of the employment to the legislation of the first-mentioned Contracting State as if he were employed in that first-mentioned State.

(2) Where an employed person referred to in paragraph 1 of this article was normally resident in the country of employment before the commencement of the employment, he may, as regards compulsory insurability, opt within three months of the commencement of the employment for the application of the legislation of the country of employment. The employer shall be notified of the exercise of this option. The legislation opted for shall apply from the date of notification.

(3) Paragraphs 1 and 2 of this article shall apply *mutatis mutandis* to persons referred to in paragraph 1 who are employed by another public employer.

*Article 9.* (1) The competent authorities of the two Contracting States may, by agreement, provide for exceptions to the provisions of articles 6 to 8.

(2) The application of paragraph 1 of this article shall be contingent upon a request by the employee and his employer.

(3) Where the legislation of one Contracting State is applicable to a person under paragraph 1 of this article, even if he is gainfully employed in the territory of the other Contracting State, the legislation shall be applied as if the person concerned were employed in the territory of the first-mentioned Contracting State.

### SECTION III. SPECIAL PROVISIONS

#### CHAPTER I. SICKNESS, MATERNITY AND DEATH (DEATH BENEFITS)

*Article 10.* Where a person has acquired insurance periods under the legislation of the two Contracting States, such periods shall be aggregated for the purpose of obtaining entitlement to benefits, provided that they do not overlap.

*Article 11.* (1) Persons in receipt of pensions under the pensions insurance schemes of the Contracting States shall be subject to the legislation concerning

sickness insurance for pensioners of the Contracting State in whose territory they are normally resident. Where, in such a case, a pension is granted only under the legislation of the other Contracting State, such pension shall be deemed to be a pension under the legislation of the first-mentioned Contracting State.

(2) Paragraph 1 of this article shall apply *mutatis mutandis* to applicants for pensions.

*Article 12.* Benefits in the case referred to in the second sentence of article 11, paragraph 1, shall be provided:

In Austria:

— By the Regional Health Insurance Fund competent for the place of residence of the person concerned;

In Finland:

- In the case of sickness insurance benefits, by the district office of the Social Insurance Institute competent for the place of residence;
- In the case of national health system benefits in kind, by the local health centre competent for the place of residence;
- In the case of hospital benefits in kind, by the hospital competent for the place of residence.

## CHAPTER 2. OLD AGE, INVALIDITY AND DEATH (PENSIONS)

### *Part 1.* PROVISION OF BENEFITS UNDER AUSTRIAN LEGISLATION

*Article 13.* Where a person has acquired insurance periods under the legislation of the two Contracting States, such periods shall be aggregated for the purpose of acquiring entitlement to benefits, provided that they do not overlap.

*Article 14.* (1) Where a person who has acquired insurance periods under the legislation of the two Contracting States or his survivors claim benefits, the Austrian insurance authority shall determine the benefits in the following manner:

(a) The insurance authority shall determine on the basis of the legislation to be applied by that authority whether the person concerned is entitled to the benefit through aggregation of the insurance periods.

(b) If there is an entitlement to a benefit, the insurance authority shall first calculate the theoretical amount of the benefit which would be due if all the insurance periods completed under the legislation of the two Contracting States were completed solely in accordance with the legislation applicable to it. If the amount of the benefit does not depend on the duration of the insurance periods, that amount shall be deemed the theoretical amount.

(c) The insurance authority shall then calculate the partial benefit due on the basis of the amount calculated under paragraph (1) (b) of this article in accordance with the ratio between the duration of the insurance periods to be taken into account under its legislation and the total duration of the insurance periods to be taken into account under the legislation of the two Contracting States.

(2) If the total duration of the insurance periods to be taken into account under Austrian legislation does not amount to 12 months for calculating the benefit, no benefit shall be provided under such legislation, unless there is an

entitlement to that benefit under Austrian legislation even if article 13 does not apply.

*Article 15.* The Austrian insurance authorities shall apply articles 13 and 14 in accordance with the following rules:

(1) Only Austrian insurance periods shall be taken into account for the purpose of determining affiliation and liability for benefits.

(2) Where under Austrian legislation the provision of benefits is contingent upon the completion of contribution periods, only those Finnish insurance periods shall be taken into account, during which the person in question was subject to Finnish legislation concerning employment pensions or, prior to 1 July 1962, was liable for national income tax in Finland.

(3) Articles 13 and 14 shall not apply to the conditions for entitlement to, and the granting of, the long-service bonus for miners (*Bergmannstreuegeld*) under the pensions insurance scheme for miners.

(4) The following shall apply with regard to the application of article 14, paragraph (1):

(a) Periods during which the person insured was entitled to a pension on the basis of the insurance contingency of old age or invalidity under Finnish legislation shall also be deemed neutral periods.

(b) Only Austrian insurance periods shall constitute the calculation basis.

(c) Contributions for supplementary insurance, the supplementary benefit for miners, the supplementary allowance for disabled persons and the equalization allowance shall not be taken into account.

(5) For the purpose of the application of article 14, paragraph (1) (b) and (c), in the case of insurance periods which coincide, their actual duration shall be taken into account.

(6) Where in the application of article 14, paragraph (1) (c), the total duration of the insurance periods to be taken into account under the legislation of the two Contracting States exceeds the maximum established under Austrian legislation for calculating pension increments, the partial pension due shall be calculated on the basis of the ratio between the duration of the insurance periods to be taken into account under Austrian legislation and the maximum number of insurance months referred to.

7. Article 14, paragraph (1) (b) and (c), shall apply in calculating the supplementary allowance for disabled persons; article 17 shall be applied *mutatis mutandis*.

8. The amount calculated in accordance with article 14, paragraph (1) (c), shall, where necessary, be increased through increments for contributions to supplementary insurance, the supplementary benefit for miners, the allowance for disabled persons and the equalization allowance.

9. Where under Austrian legislation the provision of benefits from the pensions insurance scheme for miners depends upon actual mining activities having been carried out with certain enterprises in accordance with Austrian legislation, only those Finnish insurance periods shall be taken into account which are based on employment in similar enterprises in similar work.

10. Special payments shall be made on the same scale as the Austrian partial benefit; article 17 shall be applied *mutatis mutandis*.

*Article 16.* (1) Where there is an entitlement to a benefit under Austrian legislation irrespective of the provisions of article 13, the Austrian insurance authority shall provide the benefit due solely on the basis of the insurance periods to be taken into account under the legislation to be applied by that authority, provided that there is no corresponding benefit entitlement under Finnish legislation.

(2) A benefit determined in accordance with paragraph 1 shall be revised in accordance with article 14 if there is a corresponding entitlement to a benefit under Finnish legislation. The revision shall take effect on the date of the beginning of the provision of the benefit under Finnish legislation. The legal force of earlier decisions shall not preclude the revision.

*Article 17.* Where a person is entitled to a benefit under Austrian legislation, irrespective of the provisions of article 13, and where that benefit would be greater than the aggregate of the Austrian benefit calculated in accordance with article 14, paragraph (1) (c), and of the Finnish benefit, the Austrian insurance authority shall provide, as a partial benefit, its own benefit thus calculated, plus the difference between the said aggregate and the benefit which would be the only benefit payable under the legislation to be applied by it.

#### *Part 2.* PROVISION OF BENEFITS UNDER FINNISH LEGISLATION

*Article 18.* Where, at the onset of invalidity, a person does not fulfil the residential requirements established under Finnish legislation relating to employee pension, the periods during which he was insured under the Austrian pensions insurance scheme by reason of gainful employment shall be assimilated to periods of residence in Finland, provided that they do not overlap.

*Article 19.* (1) Where a person is entitled to an invalidity pension under the legislation of the two Contracting States, the invalidity pension under Finnish legislation relating to employee pensions shall be calculated in accordance with the following provisions:

(a) The actual period of employment in Finland shall be deemed a period for which there is a pension entitlement.

(b) Where, at the onset of invalidity, a person is entitled, under Finnish legislation relating to employee pensions, to inclusion of the period between the onset of invalidity and attainment of pension age or was insured for at least eight months in Austria during the 12 months immediately prior to the onset of invalidity and was also residing in Austria at the onset of invalidity, the pension calculated in accordance with paragraph (1) (a) of this article shall be increased by multiplying the amount of the pension by a coefficient. The coefficient shall be calculated by dividing the figure 480 by the number of full months between completion of the twenty-third year of age of the person concerned and the onset of invalidity. The maximum amount of the coefficient shall be 40. The figures 360 and 30 shall be applied instead of 480 and 40 with regard to employment for which the increments are higher than those in the mandatory insurance scheme under the legislation relating to employee pensions. For the purpose of applying the first sentence of this subparagraph, the period during which the persons concerned received pensions for their own pension insurance scheme, sickness benefits,

maternity allowances or unemployment benefits under Austrian legislation or were receiving institutional care at the expense of an Austrian insurance authority shall be assimilated to the insurance scheme in Austria. Persons who have not completed their twenty-fourth year of age shall be entitled to a pension equivalent to the amount which would have been due at the onset of invalidity during the last period of employment in Finland.

(c) If the overall amount of the pension determined in accordance with paragraph (1) (a) and (b) of the article and of the Austrian pension is smaller than the pension due under Finnish legislation without application of the Agreement, the competent Finnish insurance authority shall increase the pension determined by the amount of the difference. The difference shall be calculated on the basis of the size of the pension at the start of pension entitlement or, if the entitlement to a pension takes effect at a later date, on that date.

(d) The Austrian pension shall not be taken into account in the application of Finnish legislation relating to the maximum amount of the pension.

(2) Paragraph 1 of this article shall also be applied, *mutatis mutandis*, in calculating the family pension under the Finnish legislation relating to employee pensions.

(3) The pension shall be paid in accordance with Finnish legislation until a decision is taken on the entitlement of the person concerned to a pension under Austrian legislation. In such a case, the pension shall be revised in accordance with the provisions of this Agreement. Where, owing to the application of this Agreement, the amount of the pension to be paid should have been lower, the amount in excess shall be deemed an advance payment of the pension and may be deducted from future pension benefits.

*Article 20.* The following provisions shall apply to the payment of benefits under the national pension insurance scheme and the general family pension insurance scheme:

(1) An Austrian national residing in Austria or Finland who does not fulfil, in respect of old-age pensions, the residential requirements under Finnish legislation relating to the national pensions scheme shall, if all other requirements have been fulfilled, be entitled to the base amount of the old-age pension if he has resided continuously in Finland for at least five years after the age of 16.

(2) An Austrian national residing in Austria or Finland who does not fulfil, in respect of widows' pensions, the residential requirements under Finnish legislation relating to family pensions shall, if all other requirements have been fulfilled, be entitled to the base amount of the widows' pension if she has resided continuously in Finland for at least five years after the age of 16, if the deceased resided continuously in Finland for at least five years after the age of 16, and if, on the day of his death, he resided as an Austrian national in Austria or Finland.

(3) An Austrian national residing in Austria or Finland who does not fulfil, in respect of children's pensions, the residential requirements under Finnish legislation relating to family pensions shall, if all other requirements have been fulfilled, be entitled to the children's pension if the deceased resided continuously in Finland for at least five years after the age of 16 and if, on the day of his death, he resided as an Austrian national in Austria or Finland.



## CHAPTER 3. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

*Article 21.* (1) A person who is entitled to benefits in kind under the legislation of one Contracting State by reason of an industrial accident or occupational disease shall, during any period of residence in the territory of the other Contracting State, receive benefits in kind from the competent insurance authority, except for occupational assistance, which shall be provided by the insurance authority of his place of residence under the legislation applicable to that insurance authority.

(2) In the cases referred to in paragraph 1 of this article, benefits in kind shall be provided:

— In Austria: By the Regional Health Insurance Fund for the place of residence of the beneficiary;

— In Finland: By the Association of Accident Insurance Institutes.

(3) An accident insurance authority may provide the benefits instead of the Austrian insurance authority referred to in paragraph 2 of this article.

(4) In the application of paragraph 1 of this article, the provision of prosthetic devices, larger allowances and other major benefits in kind shall be contingent on the consent of the competent insurance authority to do so, unless the provision of the benefit cannot be postponed without seriously endangering the life or health of the person concerned.

(5) Paragraphs 1 to 4 of this article shall apply to the employees referred to under article 7, paragraphs 1 and 2, regardless of their nationality.

*Article 22.* (1) The competent insurance authority shall reimburse the insurance authority of the place of residence for amounts disbursed in the application of article 21, except for administrative expenses.

(2) On the proposal of the insurance authority concerned, the competent authorities may, in order to simplify administrative procedures, agree that lump-sum payments should replace payments on a case-by-case basis for all cases or for specific categories of cases.

*Article 23.* Where an occupational disease is compensable under the legislation of the two Contracting States, benefits shall be provided only under the legislation of the Contracting State in whose territory an occupation liable to cause such an occupational disease was last engaged in.

## CHAPTER 4. UNEMPLOYMENT

*Article 24.* Austrian nationals are entitled to membership in an unemployment insurance fund under the conditions that apply to Finnish nationals.

*Article 25.* (1) Periods of employment with compulsory insurance completed in accordance with the legislation of one Contracting State shall be taken into account in determining entitlement to unemployment benefits under the legislation of the other Contracting State, provided that the unemployed person was an employee with compulsory unemployment insurance in the Contracting State in which he submitted the claim for such a benefit for a total of at least four weeks during the last 12 months before applying for the benefit.

(2) The requirement of a minimum employment period of four weeks laid down in paragraph 1 of this article shall not apply to unemployed persons whose

employment was intended to be for a longer period, but was terminated before the end of four weeks through no fault of their own or who are nationals of the Contracting State in which they apply for the benefit.

*Article 26.* The period in which the unemployed person received unemployment benefits in the other Contracting State during the 12 months prior to the date of submitting the application shall be deducted from the period for which he is entitled to benefits.

#### CHAPTER 5. FAMILY ALLOWANCES

*Article 27.* (1) Persons who normally reside with their children in one Contracting State and are gainfully employed in the other Contracting State shall be subject, in respect of entitlement to family allowances, to the legislation of the first-mentioned Contracting State.

(2) Persons who are employed in one Contracting State and to whom the legislation of the other Contracting State is applicable in accordance with article 7 of this Agreement shall be deemed, in respect of entitlement to family allowances, to be normally residing with their children in the Contracting State whose legislation is applicable under the aforementioned provisions.

*Article 28.* Where a child who normally resides in a Contracting State is entitled under this Agreement to a family allowance in accordance with the legislation of the two Contracting States, the legislation of the Contracting State in which the child normally resides shall be applied exclusively.

#### SECTION IV. MISCELLANEOUS PROVISIONS

*Article 29.* (1) The competent authorities shall determine by agreement the necessary administrative measures for the application of this Agreement. Such agreement may be arrived at prior to the entry into force of this Agreement but may not become effective prior to its entry into force.

(2) The competent authorities of the Contracting States shall inform each other of:

(a) All measures taken to implement this Agreement;

(b) All changes in their legislation that affect the application of this Agreement.

(3) In the application of this Agreement, the public authorities and insurance authorities of the Contracting States shall assist each other and act in the same manner as in applying their own legislation. Such official assistance shall be free of charge.

(4) The insurance authorities and public authorities of one Contracting State may not reject applications and other documents submitted to them because they are drafted in the official language of the other Contracting State.

(5) Medical examinations which are conducted in application of the legislation of one Contracting State and concern persons who reside in the territory of the other Contracting State shall be arranged at the request of the competent agency of the insurance authority of the place of residence and at its expense.

*Article 30.* The competent authorities shall set up liaison offices to facilitate the application of this Agreement, and, in particular, to establish simple and speedy contact between the insurance authorities concerned of the two Contracting Parties.

*Article 31.* (1) Any exemption from or reduction of charges, stamp duties or court or registration fees provided for under the regulations of one Contracting State for documents and records required to be submitted under the legislation of that Contracting State shall apply to such documents and records required to be submitted under this Agreement or the legislation of the other Contracting State.

(2) No records or documents required to be submitted under this Agreement shall require authentication.

*Article 32.* (1) Claims, declarations or appeals, which, in application of this Agreement or the legislation of a Contracting State, are submitted to a public authority, insurance authority or other competent institution of a Contracting State shall be deemed to be claims, declarations or appeals submitted to a public authority, insurance authority or other competent institution of the other Contracting State.

(2) A claim for a benefit submitted under the legislation of one Contracting State shall also be deemed a claim for a corresponding benefit under the legislation of the other Contracting State which is taken into account pursuant to this Agreement, and the date on which the claim is submitted in one Contracting State shall also be deemed the date on which the claim was submitted in the other Contracting State; this shall not apply if the claimant specifically requests that the determination of a benefit acquired by reason of age under the legislation of a Contracting State should be postponed.

(3) Claims, declarations or appeals which, in application of the legislation of one Contracting State, are required to be submitted within a certain time-limit to a public authority, insurance authority or other competent institution of that Contracting State may be submitted to the corresponding agency of the other Contracting State within the same time-limit.

(4) In the cases referred to in paragraphs 1 to 3 of this Article, the office to which the claims, declarations or appeals have been submitted shall transmit them without delay to the corresponding competent office of the other Contracting State.

*Article 33.* (1) The insurance authorities liable for benefits may discharge their liability by providing benefits under this Agreement in their national currency.

(2) The reimbursements provided for under this Agreement shall be made in the currency of the Contracting State in which the insurance authority which has granted the benefits has its principal place of business.

(3) Transfers made pursuant to this Agreement shall be carried out in accordance with the relevant agreements in effect between the Contracting States at the time of the transfer.

*Article 34.* (1) Where an insurance authority of one Contracting State has made an advance payment of a benefit, the insurance authority of the other Contracting State shall, at the request of the first-mentioned insurance authority, withhold for the account of such authority the payment of arrears due for the same period, of a corresponding benefit to which entitlement exists under the legislation of the second-mentioned Contracting State. Where the insurance authority of one Contracting State has paid an amount in excess of the correct benefit for a period for which the insurance authority of the other Contracting State has to pay arrears in respect of a corresponding benefit, the overpayment up to the amount of the

arrears due shall be regarded as an advance payment within the meaning of the first sentence of this paragraph.

(2) Where a public assistance agency of one Contracting State has provided a public assistance benefit during a period for which an entitlement to cash benefits arises subsequently under the legislation of the other Contracting State, the competent insurance authority of the second-mentioned Contracting State shall, at the request of the public assistance agency, withhold for the account of that agency, the payment of arrears due for the same period of time up to the amount of the public assistance benefit paid, as if it were a public assistance benefit paid by a public assistance agency of the second-mentioned Contracting State.

(3) Where an insurance authority of one Contracting State erroneously provides unemployment benefits to a person, the competent insurance authority of the other Contracting State may, at the request of the first-mentioned authority, withhold for the account of such authority the amount erroneously provided from a payment of arrears or the current payments of an unemployment benefit to the beneficiary, in accordance with the domestic legislation applicable to it.

*Article 35.* (1) Any disputes between the Contracting States concerning the interpretation or application of this Agreement shall be settled, as far as possible, by the competent public authorities.

(2) Where a dispute cannot be settled in this manner, it shall, at the request of a Contracting State, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted ad hoc; each Contracting State shall appoint one member, and the two members shall agree on the national of a third State who is to be Chairman. The members shall be appointed within two months and the Chairman within three months after one of the Contracting States has informed the other that it wishes to submit the dispute to an arbitral tribunal.

(4) If the time-limits referred to in paragraph 3 of this article are not adhered to, either Contracting State may, in the absence of some other arrangement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of a Contracting State or is unable to act for any other reason, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or is also unable to act, the next most senior member of the Court who is not a national of a Contracting State shall make the appointments.

(5) The arbitral tribunal shall take its decisions by majority vote, on the basis of the treaties existing between the Parties and of general international law. Its decisions shall be binding. Each Contracting State shall bear the expenses of its members and the costs of its representation before the arbitral tribunal. The expenses of the Chairman and other costs shall be borne equally by the Contracting States. The arbitral tribunal may make some other ruling concerning costs. In all other respects, the arbitral tribunal shall establish its own rules of procedure.

#### SECTION V. TRANSITIONAL AND FINAL PROVISIONS

*Article 36.* (1) This Agreement shall not confer any entitlement to the payment of benefits for the period prior to its entry into force.

(2) For the purpose of determining entitlement to benefits under this Agreement, insurance periods completed under the legislation of one of the Contracting States before its entry into force shall also be taken into account.

(3) Notwithstanding the provisions of paragraph 1 of this article, this Agreement shall also apply to contingencies which occurred before its entry into force, unless claims determined earlier were settled through cash payments. In such cases, under the provisions of this Agreement:

(a) Pensions which are due solely under this Agreement shall be determined at the request of the persons concerned.

(b) Pensions which were determined prior to the entry into force of this Agreement shall be revised at the request of the persons concerned.

If the request for a determination or revision is submitted within a period of two years after the entry into force of this Agreement, the benefits shall be provided from the entry into force of this Agreement or from a date determined in accordance with the legislation of each of the two Contracting States.

(4) Where the legislation of the Contracting States provides for the preclusion or limitation of entitlements, the relevant legislation shall not be applicable to persons entitled to a pension with regard to claims based on paragraph 3 of this article, if the request referred to in paragraph 3 is submitted within a period of two years after the entry into force of this Agreement. If the request is submitted after the expiry of this period, a claim to benefits shall exist, provided that it is not precluded or limited, as of the date of submission of the request, unless more favourable legislation of a Contracting State is applicable.

(5) Article 34, paragraph (1), shall apply *mutatis mutandis* in the cases referred to in paragraph 3 (b) of this article.

*Article 37.* This Agreement shall not affect the rights recognized under Austrian legislation of persons who, for political or religious reasons or because of their origin, have suffered injury with regard to their social insurance and legal circumstances.

*Article 38.* (1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Helsinki.

(2) This Agreement shall enter into force on the first day of the third month following the month in which the instruments of ratification are exchanged.

(3) This Agreement is concluded for an indefinite period. Either Contracting State may denounce it, upon three months' notice, in writing through the diplomatic channel.

(4) In case of denunciation, the provisions of this Agreement shall continue to apply to acquired entitlements, irrespective of restrictive provisions relating to schemes applicable to cases involving the residence of insured persons abroad.

IN WITNESS WHEREOF, the plenipotentiaries of the two Contracting States have signed this Agreement.

DONE at Vienna, on 11 December 1985, in duplicate in the Finnish and German languages, both texts being equally authentic.

For the Republic of Finland:

MATTI PUHAKKA

For the Republic of Austria:

ALFRED DALLINGER

## FINAL PROTOCOL TO THE AGREEMENT BETWEEN THE REPUBLIC OF FINLAND AND THE REPUBLIC OF AUSTRIA ON SOCIAL SECURITY

At the time of signing the Agreement on social security concluded this day between the Republic of Finland and the Republic of Austria, the plenipotentiaries of the two Contracting States declare that agreement has been reached on the following:

### I. *Ad article 2 of the Agreement*

1. Finnish legislation concerning benefits in kind of the public health system and hospitals shall apply to Austrian nationals only if they are normally resident in Finland.

2. Paragraph 4 shall not apply to regulations concerning insurance liability.

### II. *Ad article 4 of the Agreement*

1. Regulations concerning insurance liability contained in agreements with other States shall not be affected.

2. Legislation of the two Contracting States concerning the participation of insured persons and employers in the organs of insurance authorities and associations and in establishing the *usus fori* in social security matters shall not be affected.

3. Austrian legislation concerning the insurance of persons employed in an official Austrian mission in a third State or by members of such a mission shall not be affected.

4. The provisions of the Austrian Federal Act of 22 November 1961 concerning benefit entitlements and qualifying periods in pension insurance and accident insurance on the basis of employment abroad as well as legislation concerning the consideration of completed periods of self-employment in the territory of the former Austro-Hungarian Monarchy outside Austria shall not be affected.

5. Legislation concerning the application of the Finnish National Pension and Sickness Insurance Act with regard to Finnish nationals while they are gainfully employed abroad shall not be affected.

### III. *Ad article 5 of the Agreement*

1. This provision shall not apply to equalization allowances and early old-age pensions in cases of unemployment under Austrian legislation.

2. The conditions in the field of labour-market policy which govern certain benefits under Finnish legislation shall not be affected.

IV. *Ad article 6 of the Agreement*

This provision shall also apply to the determination of social insurance contributions by employers under Finnish legislation.

V. *Ad articles 6 to 9 of the Agreement*

Where Austrian legislation applies to a person in accordance with these provisions by reason of employment, Finnish legislation concerning compulsory insurance and compulsory payment of contributions by virtue of the remuneration paid for such employment shall not apply even if the person concerned is normally resident in Finland.

VI. *Ad article 8 of the Agreement*

These provisions shall apply, *mutatis mutandis*, to:

- (a) Persons employed by the Austrian Tourist Promotion Office or the Finnish Tourist Board in the other Contracting State; as well as
- (b) The Austrian trade representative and his staff.

VII. *Ad article 20 of the Agreement*

For the purpose of applying article 20, temporary residence outside Finland shall not be regarded as a break in continuity if the duration of such residence did not exceed four months. The foregoing shall also apply in case of longer periods of residence outside Finland where special grounds exist; the total duration of residence in Finland and the reasons for residence outside Finland may be regarded as special grounds.

VIII. *Ad article 32 of the Agreement*

For the purpose of applying paragraph 2, the claimant shall also fill out the claim form provided for under Finnish legislation and attach all the documents requested in the form. For the purpose of calculating an increase owing to a delay in the granting of benefits, the period shall begin on the date on which the claim in question, together with the necessary documents, was received by the competent Finnish insurance authority. The additional amount specified under article 19, paragraph (1) (b), however, shall not be increased.

This Final Protocol is an integral part of the Agreement between the Republic of Finland and the Republic of Austria on social security. It shall enter into force on the same day as the Agreement and shall remain in force as long as that Agreement.

IN WITNESS WHEREOF, the plenipotentiaries of the two Contracting States have signed this Final Protocol.

DONE at Vienna, on 11 December 1985, in duplicate in the Finnish and German languages, both texts being equally authentic.

For the Republic of Finland:  
MATTI PUHAKKA

For the Republic of Austria:  
ALFRED DALLINGER