

No. 25697

**AUSTRIA
and
DENMARK**

**Agreement concerning social security (with final protocol).
Signed at Vienna on 16 June 1987**

*Authentic texts: German and Danish.
Registered by Austria on 10 March 1988.*

**AUTRICHE
et
DANEMARK**

**Accord de sécurité sociale (avec protocole final). Signé à
Vienne le 16 juin 1987**

*Textes authentiques : allemand et danois.
Enregistré par l'Autriche le 10 mars 1988.*

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE
KINGDOM OF DENMARK CONCERNING SOCIAL SECURITY

The Republic of Austria and the Kingdom of Denmark,
Desiring to regulate relations between the two States in the field of social security,
have agreed to conclude the following Convention:

TITLE I

GENERAL PROVISIONS

Article 1. (1) For the purposes of this Convention:

1. "Austria" means the Republic of Austria, "Denmark" means the Kingdom of Denmark;
2. "Territory" means: in the case of Austria, the federal territory of Austria; in the case of Denmark, the national territory of Denmark with the exception of Greenland and the Faroe Islands;
3. "Legislation" means: the laws, ordinances and regulations relating to the branches of social security specified in article 2, paragraph 1;
4. "Competent authority" means: in the case of Austria, the Federal Ministers responsible for the application of the legislation referred to in article 2, paragraph (1), subparagraph 1; in the case of Denmark, the Minister of Social Affairs;
5. "Institution" means: the agency or authority responsible for the application of the legislation, or any part thereof, specified in article 2, paragraph (1);
6. "Competent institution" means: the institution which is competent under the applicable legislation;
7. "Cash benefit", "annuity" or "pension" means: a cash benefit, annuity or pension including any part thereof paid out of public funds, increases, adjustments or supplementary allowances, as well as any lump-sum payments;
8. "Family allowance" means: in the case of Austria, the family allowance (*Familienbeihilfe*); in the case of Denmark, the family allowance (*bornetilskud*) and benefits for families with children (*bornefamilieydelse*).

(2) For the purposes of this Convention, other terms shall have the meaning assigned to them in the applicable legislation.

Article 2. (1) This Convention shall apply to:

1. Austrian legislation concerning
 - (a) Sickness insurance;
 - (b) Accident insurance;

¹ Came into force on 1 March 1988, i.e., the first day of the third month following the month in which the Contracting Parties had notified each other (on 15 and 18 December 1987) of the completion of their necessary requirements, in accordance with article 37.

- (c) Pensions insurance, with the exception of notary insurance (*Notarversicherung*);
 - (d) Family allowances (*Familienbeihilfe*);
2. Danish legislation concerning
- (a) National health security;
 - (b) The hospital service;
 - (c) Maternity care;
 - (d) Daily cash benefits in the event of sickness or childbirth;
 - (e) Employment injury insurance;
 - (f) The Social Pension;
 - (g) The Labour Market Supplementary Pension (ATP);
 - (h) The Family allowance (*bornetilskud*) and benefits for families with children (*bornefamilieydelse*).

(2) This Convention shall also apply to all legislation codifying, amending or supplementing the legislation referred to in paragraph (1).

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

(4) Legislation arising from international agreements with third States or from supranational law or serving to implement such agreements or law shall not be taken into consideration in relations between the Contracting States, unless they contain regulations concerning insurance charges (*Versicherungslastregelungen*).

Article 3. (1) Except as otherwise provided, this Convention shall apply to nationals of the Contracting States and to persons who derive their rights from such nationals.

(2) This Convention shall also apply to refugees within the meaning of the Convention of 28 July 1951 on the Status of Refugees¹ and the Protocol of 31 January 1967² to that Convention, and also to stateless persons within the meaning of the Convention of 28 September 1954 on the Status of Stateless Persons³.

Article 4. For the purpose of applying the legislation of one Contracting State, nationals of the other Contracting State shall be treated in the same way as nationals of the first-mentioned State.

Article 5. Except as otherwise provided in this Convention, pensions, annuities and other cash benefits to which entitlement has been acquired under the legislation of one Contracting State shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason of the fact that the beneficiary is resident in the territory of a Contracting State other than that in which the institution responsible for paying the benefit has its seat.

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

TITLE II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 6. Except as otherwise provided in articles 7 and 8, the insurance liability of a person who is gainfully employed shall be governed by the legislation of the Contracting State in whose territory the person is so employed. In the case of a person gainfully employed by another person, the foregoing shall apply even where the place of residence of the employee or the principal place of business of his employer is in the territory of the other Contracting State.

Article 7. (1) An employed person who is sent on assignment from the territory of one Contracting State to the territory of the other Contracting State shall, until twenty-four calendar months have elapsed from the date on which the assignment began, continue to be subject to the legislation of the first-mentioned Contracting State as if he were still employed in its territory.

(2) A person employed by an airline having its principal place of business in the territory of one Contracting State who is sent from that territory to the territory of the other Contracting State shall continue to be subject to the legislation of the first-mentioned Contracting State as if he were still employed in its territory.

(3) A person employed as a crew member of a ship flying the flag of one Contracting State shall be subject to the legislation of that State.

(4) Paragraphs 1 and 2 shall also apply to the spouses and children accompanying employees assigned to the territory of the other Contracting State, provided that they do not themselves take up gainful employment there.

Article 8. (1) If a national of one of the Contracting States is employed by that State or by a member of a diplomatic mission of that State in the territory of the other State, the legislation of the first-mentioned State shall apply for the duration of such employment as if the person concerned were employed there.

(2) If an employee of the kind referred to in paragraph (1) was, before taking up such employment, normally resident in the State in which the employment is exercised, the person concerned may, within three months from the commencement of employment, choose to be subject to the legislation of the State in which he is employed. The choice shall be notified to the employer. The legislation chosen shall apply from the date of such notification.

(3) Paragraphs (1) and (2) shall apply, *mutatis mutandis*, to employees of the kind referred to in paragraph (1) who are employed by another public employer.

Article 9. At the joint request of the employed person and the employer, the competent authority of the Contracting State whose legislation would have applied under articles 6 to 8 may grant exemption from the effects of that legislation where the person concerned becomes subject to the legislation of the other Contracting State. The nature and circumstances of the employment shall be taken into account in that decision. The competent authority of the other Contracting State shall be given an opportunity to express its views before the decision is taken. If the employed person is not employed in the territory of the last-mentioned Contracting State, he shall be treated as if he were employed there.

TITLE III
SPECIAL PROVISIONS

Chapter 1

SICKNESS AND MATERNITY

Article 10. If, under the legislation of one Contracting State, the acquisition of entitlement to benefits is dependent on the completion of insurance or residence periods, the competent institution of that Contracting State shall also take account of the insurance or residence periods completed under the legislation of the other Contracting State, in so far as they do not overlap as if they were periods completed under the legislation applicable to that institution.

Article 11. (1) A person receiving a pension under the pension insurance schemes of the Contracting States shall be subject to the legislation concerning sickness insurance for pensioners in the Contracting State in whose territory such person is normally resident. Where a pension is granted only in accordance with the legislation of the other Contracting State, such pension shall be considered as a pension from the first-mentioned Contracting State.

(2) Paragraph (1) shall apply *mutatis mutandis* to persons applying for pensions.

Article 12. In the cases provided for in article 11, paragraph (1), second sentence, the benefits shall be granted:

In Austria, by the Regional Sickness Fund (*Gebietskrankenkasse*) competent for the place of stay of the person concerned;

In Denmark, by the district or municipal health authorities competent for the place of stay of the person concerned.

Chapter 2

OLD AGE, INVALIDITY AND DEATH (PENSIONS)

Part 1

Benefits under Austrian legislation

Article 13. Where a person has completed insurance periods under the legislation of both Contracting States, such periods shall be aggregated for the establishment of entitlement to benefits under Austrian legislation, in so far as they do not overlap.

Article 14. (1) Where a person who has completed insurance periods under the legislation of both Contracting States, or his survivors, claim a benefit, the competent Austrian institution shall determine the benefit in the following manner:

(a) The institution shall determine, in accordance with the legislation which it has to apply, whether the person concerned is entitled to a benefit, account being taken of the aggregation of insurance periods.

(b) Where entitlement to a benefit exists, the institution shall first calculate the theoretical amount of the benefit to which the person concerned would be entitled if all insurance periods completed under the legislation of both Contracting States had been completed under the legislation to be applied by it. If the amount of the benefit

does not depend on the duration of the insurance periods, that amount shall be regarded as the theoretical amount;

(c) The institution shall then calculate, on the basis of the amount arrived at in accordance with subparagraph (b), the partial benefit for which it is liable according to the proportion which the duration of the insurance periods to be taken into account under its legislation bears to the total duration of the insurance periods to be taken into account under the legislation of both Contracting States.

(2) Where the insurance periods to be taken into account under Austrian legislation do not amount to a total of twelve months for the calculation of the benefit, no benefit shall be paid under such legislation, unless under the same legislation entitlement to a benefit exists even without the application of article 13.

Article 15. The competent Austrian institutions shall apply articles 13 and 14 according to the following rules:

1. For the purpose of determining the competent institution, only Austrian insurance periods shall be taken into account.

2. Periods of residence in the territory of Denmark shall count as insurance periods completed under Danish legislation. Periods of employment completed by an employee or self-employed person shall count as contribution periods. Article 21 shall apply *mutatis mutandis*.

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

4. For the purpose of applying article 14, paragraph (1), the following shall apply:

(a) Periods in which the insured person was entitled to a pension on the grounds of old age or invalidity under Danish legislation shall also be considered neutral periods.

(b) The basis of the assessment shall be provided exclusively by Austrian insurance periods.

(c) Contributions for supplementary insurance, the miners' supplementary benefit, the supplementary allowance for helpless persons (*Hilflosenzuschuss*) or the equalization supplement shall not be taken into account.

5. For the purpose of applying article 14, paragraph 1 (b) and (c) overlapping insurance periods shall be taken into account in full measure.

6. For the purpose of applying article 14, paragraph 1 (c), if the total duration of insurance periods to be taken into account under the legislation of both Contracting States exceeds the maximum duration prescribed under Austrian legislation for the purpose of calculating increments, the partial benefit for which the institution is liable shall be calculated according to the proportion which the duration of the insurance periods to be taken into account under Austrian legislation bears to the aforesaid maximum number of insurance months.

7. The supplementary allowance for helpless persons (*Hilflosenzuschuss*) shall be calculated in accordance with article 14, paragraph 1 (b) and (c); article 17 shall apply *mutatis mutandis*.

8. The amount calculated in accordance with article 14, paragraph 1 (c) shall be increased, where appropriate, by the amounts of increments for contributions for

supplementary insurance, the miners' supplementary benefit, the supplementary allowance for helpless persons (*Hilflosenzuschuss*) and the equalization supplement.

9. Where, under Austrian legislation, the granting of benefits under the pension insurance scheme for miners depends on the performance in specific industries of an activity which is essentially mining activity within the meaning of Austrian legislation, only such of the Danish insurance periods as are based on employment in a similar industry involving the performance of a similar activity shall be taken into account.

10. Special payments under the Austrian pension insurance scheme shall be payable in proportion to the Austrian partial benefit; article 17 shall apply *mutatis mutandis*.

Article 16. (1) Where entitlement to a benefit exists under Austrian legislation even without the application of article 13, the competent Austrian institution shall grant the benefit which is payable solely on the basis of the insurance periods to be taken into account under the legislation to be applied by that institution, so long as no entitlement to a corresponding benefit exists under Danish legislation.

(2) Any benefit granted in accordance with paragraph (1) shall be revised in accordance with article 14 if entitlement to a corresponding benefit arises under Danish legislation. The revision shall take effect as from the date of commencement of the benefit payable under Danish legislation. The validity of earlier decisions shall not preclude such revisions.

Article 17. Where a person is entitled to a benefit under Austrian legislation even without the application of article 13, and that benefit would be greater than the aggregate of the Austrian benefit calculated in accordance with article 14, paragraph 1 (c) and the Danish benefit, the Austrian institution shall increase its partial benefit, thus calculated, by the amount of the difference between the aforesaid aggregate and the benefit which would be payable solely under the legislation to be applied by that institution.

Part 2

Benefits under Danish legislation

Article 18. Except as otherwise provided below, Danish legislation on Social Pensions, in which entitlement to benefits is dependent on residence in the territory of Denmark, shall not apply to persons resident in the territory of Austria, except in the case of entitlement to an anticipatory pension granted for social reasons.

Article 19. (1) Austrian nationals shall be entitled to an anticipatory pension if, during the qualifying period prescribed in the Social Pensions Act, they have been physically and mentally capable of carrying on a normal occupation for a continuous period of not less than twelve months while residing in the territory of Denmark.

(2) Entitlement to an anticipatory pension granted for social reasons shall, in the case of Austrian nationals, be subject to the further condition that the person concerned has been normally resident in the territory of Denmark for not less than twelve months immediately prior to submission of the claim for a pension and that the need for a pension arose while that person was resident in the territory of Denmark.

Article 20. (1) A pension under the Social Pensions Act shall be payable to an Austrian national resident in the territory of Austria only if the person concerned

has been employed or self-employed in the territory of Denmark for not less than twelve months during the qualifying period prescribed in the Social Pensions Act.

(2) Where the conditions specified in paragraph (1) have not been met, a pension granted to an Austrian national residing in the territory of Denmark shall nonetheless continue to be payable in the territory of Austria if, during the qualifying period prescribed in the Social Pensions Act, that person has been normally resident in the territory of Denmark for not less than ten years, including at least five years immediately preceding the application for the pension.

Article 21. For the purpose of applying article 20, paragraph 1, the following provisions shall apply:

1. Where a participant in the Danish Labour Market Supplementary Pension (ATP) Scheme has acquired at least one year of pension seniority, the person concerned shall be regarded as having completed a period of employment of twelve months in the territory of Denmark.

2. Where a person establishes that he was employed in the territory of Denmark for any period before 1 April 1964, that period shall also be taken into account;

3. Where a person establishes that he was self-employed in the territory of Denmark for any period, that period shall also be taken into account.

Article 22. Where a Danish national has acquired the right to a Danish national old-age pension (*folkepensionens*) and also an old-age pension under Austrian legislation, the amount of the Danish old-age pension shall be determined without applying

(a) The transitional provisions of the Social Pensions Act, giving entitlement to a full old-age pension as from 1 October 1989 at the latest in the case of persons who have been normally resident in Denmark for not less than ten years after having attained the age of fifteen, including five years immediately prior to attainment of the age of sixty-seven, or

(b) The corresponding provision of the former Old-Age Pensions Act.

Where the person concerned qualifies for a full old-age pension in application of one of the provisions noted above or, as the case may be, under the provisions of this Convention and where the pensions payable by both Contracting States added together would be less than a full Danish old-age pension, the competent Danish institution shall grant a supplement equal to the difference. In this calculation only that portion of the Austrian old-age pension which is not based on voluntary insurance contributions shall be taken into account.

Article 23. (1) Where a Danish national has acquired the right to a Danish anticipatory pension, the amount of which has been established in accordance with the provisions in force up to 1 October 1984, as well as to an invalidity or widow's pension under Austrian legislation any period between the date on which the pension is granted and the attainment of the ordinary pensionable age shall, in the calculation of the Danish pension, be reduced by the proportion which the number of years of residence completed by the person concerned in the territory of Denmark prior to the contingency, after such person has attained the lower age-limit prescribed in Danish legislation, bears to the total length of residence periods and insurance periods completed by the person concerned, prior to the contingency, under the legislation of the two Contracting States.

(2) Where, in the application of the provisions of paragraph (1) of this article, the pensions payable by both Contracting States added together are less than the amount of the pension to which entitlement has been acquired under Danish legislation alone, the competent Danish institution shall grant a supplement equal to the difference.

Chapter 3

OCCUPATIONAL DISEASE

Article 24. Where entitlement to compensation for an occupational disease exists under the legislation of both Contracting States, benefits shall be granted only under the legislation of the Contracting State in whose territory an occupation liable to cause such an occupational disease was last engaged in. Where appropriate, any activity of a similar nature in the territory of the other Contracting State shall also be taken into account.

Chapter 4

FAMILY ALLOWANCES

Article 25. (1) A person who normally resides with his children in the territory of one Contracting State and is gainfully employed in the territory of the other Contracting State shall, as regards entitlements to family allowances, be subject to the legislation of the first-mentioned State.

(2) A person who is employed in the territory of one Contracting State and who, under the provisions of article 7, is subject to the legislation of the other Contracting State shall be treated, as regards entitlements to family allowances, as if he and his children were in the territory of the Contracting State whose legislation is applicable under the aforesaid provisions.

Article 26. Where, in accordance with the provisions of this Convention, a child who is normally resident in the territory of one Contracting State is entitled to a family allowance under the legislation of both Contracting States, only the legislation of the Contracting State in which the child is normally resident shall apply.

Article 27. Children of Austrian widows or widowers or the orphaned children of Austrian nationals shall be entitled, when the children are resident in the territory of Denmark, to a special family allowance under Danish legislation in accordance with the same rules as apply to such children of Danish nationals. This entitlement exists if the children referred to in the first sentence of this article or one of their parents have been resident in the territory of Denmark for not less than six months and the deceased father and/or mother was resident in the territory of Denmark at the time of death.

TITLE IV

MISCELLANEOUS PROVISIONS

Article 28. (1) The competent authorities of the Contracting States shall prescribe in an agreement the administrative measures necessary for the implementation of this Convention. Such agreement may be concluded before the entry into force of this Convention but may not enter into force earlier than simultaneously with this Convention.

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

(a) All measures taken in implementing this Convention,

(b) All changes in their legislation which affect the implementation of this Convention.

(3) In implementation of this Convention the authorities and institutions of the Contracting States shall assist each other and shall act as if applying their own legislation. Such official assistance shall be free of charge.

(4) For the purposes of implementing this Convention, the institutions and authorities of the Contracting States may enter into direct communication with each other and with the persons concerned or their agents.

(5) The institutions, authorities and courts of one Contracting State shall not reject claims or other papers submitted to them on the ground that they are drawn up in the official language of the other Contracting State.

(6) Medical examinations undertaken pursuant to the legislation of one Contracting State in respect of persons who are in the territory of the other Contracting State shall be arranged, at the request of the competent office and at its expense by the institution of the place where the persons concerned are staying.

(7) In matters of judicial assistance, the provisions applicable at the time to legal assistance in civil cases shall apply.

Article 29. In order to facilitate the implementation of this Convention, and in particular to establish simple and rapid communication between the institutions concerned on both sides, the competent authorities shall establish liaison offices.

Article 30. (1) Any exemption from or reduction of charges, stamp duties, court fees or registration fees which is provided for by the legislation of one Contracting State in respect of certificates or other papers required to be submitted in implementation of that legislation shall be extended to the corresponding certificates and other papers required to be submitted in implementation of this Convention or the legislation of the other Contracting State.

(2) Certificates and papers of any kind required to be submitted in implementation of this Convention need not be authenticated.

Article 31. (1) Claims, declarations or appeals which, in implementation of this Convention or the legislation of one Contracting State, are submitted to an authority, institution or other competent agency of one Contracting State shall be considered as claims, declarations or appeals submitted to an authority, institution or other competent agency of the other Contracting State.

(2) A claim to a benefit submitted under the legislation of one Contracting State shall also be deemed to be a claim to a corresponding benefit covered by this Convention under the legislation of the other Contracting State. This shall not apply where the claimant expressly requests that the determination of an old-age benefit acquired under the legislation of one Contracting State should be deferred.

(3) Claims, declarations or appeals which, in implementation of the legislation of one Contracting State, must be submitted within a prescribed time-limit to an authority, institution or other competent agency of that Contracting State may be submitted within the same time-limit to the corresponding office of the other Contracting State.

(4) In the cases referred to in paragraphs 1 to 3, the office to which the claim, declaration or appeal has been submitted shall transmit it without delay to the corresponding competent office of the other Contracting State.

Article 32. (1) The institution liable for benefits under this Convention shall be held to discharge their liability validly by making payment in the currency of their State.

(2) Reimbursements provided for in this Convention shall be made in the currency of the Contracting State in which the institution which provided the benefits has its seat.

(3) Transfers of funds pursuant to this Convention shall be affected in accordance with the relevant agreements in force between the Contracting States at the time of the transfer.

Article 33. (1) Where an institution of one Contracting State has made an advance payment on a benefit, the institution of the other Contracting State shall, at the request of the first-mentioned institution, withhold subsequent payment of any corresponding benefit in respect of the same period to which entitlement exists under the legislation of the last-mentioned State. Where the institution of one Contracting State has paid an amount in excess of the correct benefit for a period in respect of which the institution of the other Contracting State is subsequently liable for a corresponding benefit, the overpayment, up to the amount subsequently payable, shall be deemed to be an advance payment within the meaning of the first sentence of this paragraph.

(2) Where a social assistance institution of one Contracting State has provided a social assistance benefit during a period in respect of which entitlement to cash benefits subsequently arises under the legislation of the other Contracting State, the competent institution of the last-mentioned State shall, at the request and for the account of the social assistance institution, withhold subsequent payments in respect of the same period, up to the amount of the social assistance benefit provided, as though such assistance had been provided by a social assistance institution of the last-mentioned Contracting State.

Article 34. (1) Disputes between the Contracting States concerning the interpretation or application of this Convention shall be settled, as far as possible, by the competent authorities of the Contracting States.

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

(a) Each Party shall, within one month from the date of receipt of the request for an arbitral decision, appoint one arbitrator. The two arbitrators so appointed shall, within two months from the date on which the last party to appoint its arbitrator has given notice thereof, select a national of a third State as the third arbitrator.

(b) If one Contracting State has not appointed an arbitrator within the specified time-limit, the other Contracting State may request the President of the European Court of Human Rights to make the appointment. The same procedure may be followed, at the request of one Contracting State, if the two arbitrators are unable to agree on the choice of the third arbitrator.

(3) The decisions of the arbitral tribunal shall be by majority vote. Its decisions shall be binding on both Contracting States. Each Contracting State shall defray the expenses of the arbitrator it appoints. Other expenses shall be shared equally by the Contracting States. The arbitral tribunal shall establish its own rules of procedure.

TITLE V

TRANSITIONAL AND FINAL PROVISIONS

Article 35. (1) This Convention shall not confer any entitlement to benefits for periods prior to the date of its entry into force.

(2) Insurance periods completed under the legislation of a Contracting State prior to the date of entry into force of this Convention shall also be taken into account for the purpose of determining entitlement to benefits under this Convention.

(3) Without prejudice to the provisions of paragraph 1, this Convention shall also apply to insurance contingencies which occurred prior to its entry into force, provided that any entitlements previously determined have not been settled by a lump-sum payment. In such cases, in accordance with the provisions of this Convention:

- (a) Pensions to which entitlement first arises under this Convention shall be determined upon the application of the beneficiary.
- (b) Pensions which were determined prior to the entry into force of this Convention shall, upon the application of the beneficiary, be revised; they may also be revised *ex officio*, and in that event the date on which the institution dispatches to the beneficiary the required notice of initiation of the revision process shall be deemed to be the date of the application.

If the application for determination or revision is submitted within two years from the entry into force of this Convention, or the revision *ex officio* is initiated within that time-limit, benefits shall be payable as from the date of entry into force of this Convention. In other cases, they shall be payable as from the date determined in accordance with the legislation of each Contracting State.

(4) With regard to entitlements arising out of the application of paragraph 3, the legislation of the Contracting States concerning the lapse and extension of rights shall not apply to the beneficiary if the application referred to in paragraph 3 is submitted within two years from the date of entry into force of this Convention. If the application is submitted after the expiry of that period, such entitlement to benefits as has not lapsed or been extinguished shall be acquired as from the date of submission of the application, unless more favourable provisions of the legislation of one of the Contracting States are applicable.

(5) In the cases specified in paragraph 3 (b), the provisions of article 33, paragraph 1, shall apply *mutatis mutandis*.

Article 36. The rights accorded under Austrian legislation to any person who has suffered impairment of his social security entitlements on political, religious or racial grounds shall not be affected by this Convention.

Article 37. (1) This Convention shall enter into force on the first day of the third month following the month in which the two Contracting States inform each

other than the requirements for its entry into force, under their national legislation, have been fulfilled.

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

(3) In the event of denunciation, the provisions of this Convention shall continue to apply to acquired entitlements, irrespective of any restrictive provisions laid down by the schemes concerned to cover cases where an insured person is resident abroad.

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

DONE at Vienna on 16 June 1987, in duplicate in the German and Danish languages, both texts being equally authentic.

For the Republic of Austria:

ALFRED DALLINGER

For the Kingdom of Denmark:

MIMI STILLING JAKOBSEN

FINAL PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE KINGDOM OF DENMARK CONCERNING SOCIAL SECURITY

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

I. *Ad article 4 of the Convention:*

1. The legislation of the two Contracting States concerning the participation of insured persons and employers in the organs of institutions and associations and in establishing the *usus fori* in social security matters shall not be affected.

2. The legislation of the two Contracting States concerning insurance for persons employed at a diplomatic mission of one Contracting State in a third State, or by members of such a mission, shall not be affected.

3. Regulations concerning insurance charges (*Versicherungslastregelungen*), laid down in agreements concluded by Austria, shall not be affected.

4. The Austrian legislation concerning the acceptance of periods of war service and periods considered equivalent thereto shall not be affected.

5. The provisions of the Danish Act of 7 June 1972 concerning the pension rights of Danish nationals who have been normally resident in the territory of Denmark for a specified period prior to the date of application for a pension, shall not be affected.

6. The Danish regulations, contained in the Social Pensions Act, concerning the treatment of periods of residence abroad as periods of residence in the territory of Denmark for the purposes of calculation of residence periods shall not be affected.

7. The special regulations, contained in Danish legislation, concerning the participation of foreign employees in the Labour Market Supplementary Pension Scheme (ATP) shall not be affected.

II. *Ad article 5 of the Convention:*

1. This provision shall not apply to the equalization allowance (*Ausgleichszulage*) under Austrian legislation.

2. The Danish legislation on Social Pensions shall not be affected as regards pension supplements, the wife's allowance, the marriage allowance, the personal allowance, the outside assistance allowance, the constant attendance allowance and disability benefits for persons resident outside the territory of Denmark.

III. *Ad article 7, paragraphs 1, 2 and 4, and article 9 of the Convention:*

These provisions shall apply irrespective of the nationality of the persons concerned.

IV. *Ad article 8 of the Convention:*

1. These provisions shall apply *mutatis mutandis* to the Austrian Tourist Office and to the Austrian Trade Delegate and his staff.

V. *Ad articles 19 and 20 of the Convention:*

Periods of residence completed prior to 1 April 1957 in the territory of Denmark shall not be taken into account in the calculation of benefits under the Social Pensions Act payable to an Austrian national resident outside the territory of Denmark.

This Final Protocol shall constitute an integral part of the Convention between the Republic of Austria and the Kingdom of Denmark concerning Social Security. It shall enter into force on the same date as the Convention and shall remain in force so long as the Convention is in force.

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

DONE at Vienna on 16 June 1987, in duplicate in the German and Danish languages, both texts being equally authentic.

For the Republic of Austria:

ALFRED DALLINGER

For the Kingdom of Denmark:

MIMI STILLING JAKOBSEN