

No. 29540

**FEDERAL REPUBLIC OF GERMANY
and
POLAND**

**Agreement concerning the detachment of workers from
Polish enterprises for the execution of work contracts.
Signed at Bonn on 31 January 1990**

Authentic texts: German and Polish.

Registered by Germany on 28 January 1993.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
POLOGNE**

**Convention relative au détachement des travailleurs d'entre-
prises polonaises pour l'exécution de contrats d'entre-
prises. Signé à Bonn le 31 janvier 1990**

Textes authentiques : allemand et polonais.

Enregistré par l'Allemagne le 28 janvier 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY AND THE GOVERNMENT OF THE
REPUBLIC OF POLAND CONCERNING THE DETACHMENT
OF WORKERS FROM POLISH ENTERPRISES FOR THE EXE-
CUTION OF WORK CONTRACTS

The Government of the Federal Republic of Germany and the Government of the Republic of Poland

Have agreed as follows:

Article 1

1. Work permits shall be issued to Polish workers who are detached for temporary employment on a work contract between a Polish employer and an enterprise of the other side (contractual workers) regardless of the situation and trends of the labour market.

2. The work permits referred to in paragraph 1 shall be issued to workers of Polish enterprises which are entered in the Polish trade register.

Article 2

1. The number of contractual workers shall be limited to 11,000, of whom up to 5,000 may be employed in the building trade, up to 500 as insulation fitters and up to 250 as restorers. The figures quoted shall be understood as annual averages.

2. The numbers specified in paragraph 1 shall be adjusted as follows in line with developments in the labour market:

Should the situation of the labour market improve, the maximum numbers specified at the time of entry into force of the Agreement shall be increased by 5 per cent for each full percentage-point decrease in the unemployment rate in the preceding 12 months. Should the situation of the labour market deteriorate, the numbers shall be correspondingly reduced. For the purposes of such adjustment, a comparison shall be made between the unemployment rates — broken down into overall rates and sectoral rates — as at 30 June of the current year and the preceding year. Allowance shall be made for the changes as from 1 October of the current year. The new numbers shall be rounded in such a way as to be evenly divisible by ten.

3. The Federal Minister for Labour and Social Affairs of the Federal Republic of Germany shall notify the Minister for Labour and Social Policy of the Republic of Poland of the numbers calculated in accordance with paragraph 2 by 31 August of each year.

¹ Came into force provisionally on 31 January 1990 by signature, and definitively on 11 April 1990, i.e., the date of receipt of the last of the notifications (of 4 and 5 April 1990) by which the Parties informed each other of the completion of the required procedures, in accordance with articles 11 and 12 (1).

Article 3

1. Work permits shall be issued to workers of Polish enterprises solely for executing work contracts for which purpose the employment of mainly professionally qualified workers is required.

2. Work permits shall be issued to workers without professional qualifications only in so far as such workers are indispensable for doing the work.

Article 4

The work permit shall be issued to the worker of the Polish enterprise detached on the basis of work contracts provided that

(a) He possesses a residence permit,

(b) His remuneration accruing from the work contract, including the portion thereof paid for employment abroad, is equivalent to the wage stipulated in the relevant German collective-bargaining agreements for comparable activities,

(c) A copy of the work contract is submitted to the competent *Land* labour office.

Article 5

1. With the exception of the cases specified in paragraph 2, the work permit shall be issued for the expected duration of the work in fulfilment of the work contract, but shall normally be valid for a maximum period of two years. If execution of a work contract takes more than two years, the work permit shall be extended accordingly, subject to a maximum extension of six months. If it is evident, from the outset, that execution of the work contract will take more than two years, the work permit shall be issued for a maximum period of three years.

2. The work permit shall be issued for a maximum period of four years to workers engaged in managerial or administrative activities.

3. Following completion of an assignment, application may be made for a new work permit, within the limits of the permissible maximum periods specified in paragraphs 1 and 2, for executing another work contract.

4. The work permit shall be issued for the execution of a specific work contract. The work permit may also be issued for several simultaneously executed work contracts.

5. The Polish enterprise may temporarily reassign the worker, within the stipulated period of validity of the work permit, to execute another work contract if the execution thereof has already begun. The competent *Land* labour office shall be promptly notified of the reassignment of the worker, and shall arrange for the issue of a work permit.

Article 6

A Polish worker may, on completion of his period of employment lasting for a total of at least two years, receive a further work permit in connection with a new work contract provided that he has resided at least two years outside the area of the employing side.

Article 7

1. Upon application by the Polish enterprise, the Embassy of the Federal Republic of Germany shall, following approval by the aliens' registration authority

and the securing of a work permit, issue a residence permit in the form of a visa valid for a period of three months.

2. After entry and completion of necessary formalities, a residence and work permit shall be issued to the Polish worker for the expected period of employment on execution of the work contract.

3. Polish enterprises executing work contracts shall be authorized to apply for residence and work permits on behalf of their own workers specified in article 1.

Article 8

No work permit shall be issued to workers who are to be employed by Polish enterprises which, without the permission of the labour office, have assigned workers to third parties for professional work.

Article 9

1. The Federal Minister for Labour and Social Affairs of the Federal Republic of Germany and the Minister for Labour and Social Policy of the Polish Republic shall be authorized to implement this Agreement.

2. The authorized parties may establish bilateral working groups for the discussion of matters relating to implementation of this Agreement. The authorized parties shall assess the implementation of the Agreement once every two years.

Article 10

This Agreement shall apply to Berlin (West) in accordance with the Quadripartite Agreement of 3 September 1971¹ in conformity with the specified procedures.

Article 11

This Agreement shall be provisionally applied as from the date of its signature.

Article 12

1. This Agreement shall enter into force as soon as both sides have notified one another that the relevant domestic requirements for entry into force have been met. The date of receipt of the last notification shall be deemed to be the date of entry into force of the Agreement.

2. This Agreement shall be concluded for an indefinite period. It may be denounced by either side with six months notice in writing up to the end of any calendar year. In this case the Agreement shall become invalid as from the end of the calendar year.

3. Work permits issued under this Agreement shall not be affected by such denunciation.

Article 13

Upon the entry into force of this Agreement the provisions on the employment of contractual workers contained in No. 3 of the Agreement of 23 August 1979 between the Government of the Federal Republic of Germany and the Government of the Polish People's Republic on simplified requirements in respect of the employ-

¹United Nations, *Treaty Series*, vol. 880, p. 115

ment of workers detached from one country to the other¹ within the framework of economic cooperation shall become invalid.

DONE at Bonn on 31 January 1990, in two originals, each in the German and Polish languages, both texts being equally authentic.

For the Government
of the Federal Republic of Germany:

Dr. LAUTENSCHLAGER

Dr. NORBERT BLÜM

For the Government
of the Republic of Poland:

JACEK KUROŃ

¹United Nations, *Treaty Series*, vol. 1244, p. 47.