

No. 29494

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**FEDERAL REPUBLIC OF GERMANY**  
**and**  
**ROMANIA**

**Agreement concerning the detachment of Romanian employees from enterprises domiciled in Romania for employment under contracts for work and services. Signed at Bucharest on 31 July 1990**

**Agreement amending the above-mentioned Agreement. Signed at Bonn on 14 May 1991**

*Authentic texts: German and Romanian.*

*Registered by Germany on 28 January 1993.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**  
**et**  
**ROUMANIE**

**Convention relative au détachement des travailleurs roumains d'entreprises établies en Roumanie pour être employés en vertu de contrats d'entreprises. Signée à Bucarest le 31 juillet 1990**

**Convention modifiant la Convention susmentionnée. Signée à Bonn le 14 mai 1991**

*Textes authentiques : allemand et roumain.*

*Enregistrées par l'Allemagne le 28 janvier 1993.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FEDERAL  
REPUBLIC OF GERMANY AND THE GOVERNMENT OF RO-  
MANIA CONCERNING THE DETACHMENT OF ROMANIAN  
EMPLOYEES FROM ENTERPRISES DOMICILED IN ROMANIA  
FOR EMPLOYMENT UNDER CONTRACTS FOR WORK AND  
SERVICES

The Government of the Federal Republic of Germany and  
The Government of Romania,

Taking account of the provisions of the Bilateral Agreement concluded on 29 June 1973 on economic, industrial and technical cooperation,<sup>2</sup> on the avoidance of double taxation in the area of income and property taxes,<sup>3</sup> and on social insurance,<sup>4</sup> including the Supplementary Agreement of 8 July 1976 on social insurance,<sup>4</sup>

Recognizing the mutual advantages of their current economic, industrial and technical cooperation,

Desiring to place on a lasting basis the detachment and employment of employees from Romanian enterprises in order to sustain economic cooperation, while at the same time taking account of the requirements of the labour market,

Intending to create clear conditions for the German and Romanian enterprises cooperating on the basis of contracts for work and services so as to improve the possibilities for the detachment and employment of Romanian employees,

Have agreed as follows:

*Article 1*

1. Regardless of the situation on the labour market and the direction of that market, and in accordance with article 4, paragraph 1, of this Agreement, work permits shall be issued to Romanian employees who are detached to perform a temporary activity on the basis of a contract for work and services between a Romanian employer and an enterprise with a seat in the German area of application of this Agreement (contract employees).

2. This Agreement shall not apply to employees who are detached to the area of application of the Agreement on the basis of a contract for work and services in order to carry out preparatory work for German-Romanian enterprise cooperation projects in third States.

<sup>1</sup> Came into force provisionally on 31 July 1990 by signature, and definitively on 12 March 1991, the date on which the Parties informed each other (on 24 September 1990 and 12 March 1991) of the completion of the required procedures, in accordance with article 12 (1) and (3).

<sup>2</sup> See p. 279 of this volume.

<sup>3</sup> United Nations, *Treaty Series*, vol. 994, p. 249.

<sup>4</sup> *Ibid.*, vol. 1108, p. 213.

### *Article 2*

1. The number of contract employees is set at 2,000. In addition, 1,000 employees may be employed in the building trade during the first three years from the day of the signing of the Agreement. The numbers indicated are to be understood as yearly averages.

2. Work permits shall be issued to employees solely for carrying out contracts for work and services whose performance predominantly requires employees with occupational qualifications. Work permits shall be issued to employees without occupational qualifications only in so far as this is essential for the performance of the work.

### *Article 3*

1. The stipulated numbers of contract employees shall be distributed by the Romanian Ministry for Labour and Social Protection. In order to ensure the observance of the stipulated numbers of contract employees, an organization shall be designated by the Romanian party to register and countersign the individual contracts for work and services.

2. The Federal Labour Office of the Federal Republic of Germany, working in cooperation with the Romanian Ministry for Labour and Social Protection, shall ensure that implementation of this Agreement does not lead to a regional or sectoral concentration of contract employees in one branch of industry or in one particular sector of a branch of industry.

### *Article 4*

1. The numbers stipulated in article 2, paragraph 1, of this Agreement shall be adjusted as follows to further developments in the labour market:

In the event of an improvement in the labour market situation, the numbers set at the time the Agreement comes into force shall be increased by five per cent for each full percentage point by which the unemployment rate has decreased over the preceding 12 months; in the event of a deterioration in the labour market situation, the numbers shall be reduced according to the same formula. The calculation for the adjustment shall be based on a comparison of the unemployment rates as at 30 June of the current year and the preceding year, separately according to the overall rate and the subrate; the changes shall be taken into account as of 1 October of the current year. The new numbers shall be rounded upwards so that they are wholly divisible by ten.

2. The Federal Minister for Labour and Social Order of the Federal Republic of Germany shall communicate the numbers calculated according to paragraph 1 of this article to the Ministry for Labour and Social Protection of Romania by 31 August of each year.

### *Article 5*

1. Work permits shall be issued only if

(a) The contract employee is in possession of the requisite residence permit;

(b) Remuneration of the contract employee, including the portion paid for employment abroad, corresponds to the amount provided for in the relevant German collective wage contracts for comparable activities.

2. In all other respects the relevant legal provisions regarding the granting, refusal and expiry of work permits shall apply. A copy of the contract for work and services shall be filed in good time with the competent Regional Labour Office.

3. Both parties shall instruct the departments dealing with the implementation of this Agreement on the procedure for issuing work and residence permits.

#### *Article 6*

1. Work permits shall be issued for the probable duration of the work needed to complete the contract. As a rule, the maximum period of validity of the work permit shall be two years. Where because of an unforeseeable occurrence the completion of a contract for work and services requires more than two years, the work permit shall be extended by up to six months. Where it is clear from the outset that the performance of the contract will require more than two years, the work permit shall be issued for a maximum period of up to three years.

2. Following the completion of a job, a new work permit, subject to the maximum permissible period of two years, may be issued, on request, for the performance of another contract for work and services.

3. Work permits shall be issued for a particular occupational activity in connection with the performance of a particular contract for work and services. In justified exceptional cases a work permit may be issued for more than one contract. The Romanian enterprise may temporarily reassign an employee to work on another contract within the prescribed period of validity of the work permit, provided that work on that contract has already commenced. The enterprise in question shall immediately notify the competent Regional Labour Office of such reassignment. The Regional Labour Office shall arrange for the issue of an appropriate work permit.

4. Individual employees in supervisory or administrative positions shall be issued with work permits for a maximum period of validity of up to four years. Depending on the size of the project, such work permits shall be issued for up to four employees.

#### *Article 7*

A contract employee who has left the German area of application of this Agreement upon completion of his work may receive a new work permit under a new contract for work and services, provided that on completion of his work he has remained outside the said area of application for at least as long as he last worked within it.

#### *Article 8*

1. Residence permits in the form of a visa must be applied for at the competent diplomatic mission of the Federal Republic of Germany abroad. The employee may enter the country as soon as the visa has been issued. He must without delay report to the alien affairs authorities at the office competent for his place of residence.

2. Following the employee's entry into the country, application for a work permit shall be made without delay at the labour office in whose district the contract for work and services is being carried out or the Romanian enterprise has a company headquarters or place of business.

*Article 9*

The Federal Minister for Labour and Social Order of the Federal Republic of Germany and the Minister for Labour and Social Protection of Romania shall work together closely within the terms of this Agreement. Where necessary, a mixed German-Romanian working group shall be formed at the request of either one of the Contracting Parties to discuss issues relating to the implementation of this Agreement.

*Article 10*

Work permits shall not be issued to employees intended to work under Romanian employers who, without the permission of the Federal Labour Office of the Federal Republic of Germany, have, on a commercial basis, relinquished employees to perform work for a third party. The same shall apply to employees of Romanian employers who recruit more contract employees than are allotted to them under article 3, paragraph 1, of this Agreement, or who recruit employees who do not possess a work permit or a residence permit.

*Article 11*

Pursuant to the Quadripartite Agreement of 3 September 1971,<sup>1</sup> this Agreement shall apply also to Berlin (West) in accordance with the established procedures.

*Article 12*

1. This Agreement shall enter into force on the day on which both States have notified each other that the necessary domestic conditions to that end have been fulfilled.

2. This Agreement may be terminated in writing at any time up to 30 June of a given year with effect from 31 December of that year. Work permits issued on the basis of the Agreement shall remain unaffected by its termination.

3. The Agreement shall be applied provisionally from the day on which it is signed.

4. In the event that, in application of the Agreement, Romanian employees are already employed under contracts for work and services, such employees shall be counted against the agreed numbers.

DONE at Bucharest on 31 July 1990 in two originals, in the German and Romanian languages, both texts being equally authentic.

For the Government  
of the Federal Republic of Germany;

KLAUS TERFLOTH

For the Government  
of Romania:

CATALIN ZAMFIR

<sup>1</sup>United Nations, *Treaty Series*, vol. 880, p. 115.

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY AND THE GOVERNMENT OF ROMANIA ON AMENDMENTS TO THE AGREEMENT OF 31 JULY 1990 BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY AND THE GOVERNMENT OF ROMANIA CONCERNING THE DETACHMENT OF ROMANIAN EMPLOYEES FROM ENTERPRISES DOMICILED IN ROMANIA FOR EMPLOYMENT UNDER CONTRACTS FOR WORK AND SERVICES<sup>2</sup>

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

Have agreed as follows:

*Article 1*

The agreement of 31 July 1990 between the Government of the Federal Republic of Germany and the Government of Romania Concerning the Detachment of Romanian Employees from Enterprises Domiciled in Romania for Employment under Contracts for Work and Services<sup>2</sup> shall be amended as follows:

1. Article 2, paragraph 1, shall be worded as follows:

“(1) The number of contract employees is set at 4,000. The first sentence of this paragraph notwithstanding, the following may in addition be employed:

(a) Ethnic German employees in Romania and employees under contracts for work and services with ethnic German employers in Romania, up to a total of 1,000 employees;

(b) Two thousand (2,000) employees in the building trade, limited in time to 31 December 1993.

The numbers indicated are to be understood as yearly averages.”

2. In article 4, paragraph 1, sentence 1, the words “, sentence 1 and sentence 2 (a)” shall be inserted after the words “article 2, paragraph 1”.

3. Article 5, paragraph 1, shall be worded as follows:

“(1) A work permit shall be issued only if the contract employee’s remuneration, including the portion paid for employment abroad, corresponds to the amount provided for in the relevant German collective wage contracts for comparable activities.”

4. Article 7 shall be worded as follows:

*“Article 7*

A work permit may be issued to a Romanian employee who is to be re-employed as a contract employee, provided that the period between his departure from the country and his re-entry as a contract employee is not shorter than the total period of validity of his earlier residence permit. The period referred to in

<sup>1</sup> Came into force on 14 May 1991 by signature, in accordance with article 2.

<sup>2</sup> See p. 321 of this volume.

the first sentence of this article shall be not more than two years; it shall be three months if the contract employee had not been employed for longer than nine months before he left the country.”

5. Article 8 shall be amended as follows:

(a) Paragraph 1, sentences 1 and 2, shall be worded as follows:

“(1) Upon receiving an application from the Romanian employer, the competent diplomatic mission of the Federal Republic of Germany abroad shall issue the employee with a visa to be valid for a period of three months. The employee may enter the country as soon as the visa has been issued.”

(b) In paragraph 2, after the words “place of business” the full stop shall be changed to a comma and the words “or at the labour office that has been declared competent.” shall be added.

6. Article 10 shall be worded as follows:

*“Article 10*

In the event that employees who were admitted to employment on the basis of a contract for work and services have, on a commercial basis, been relinquished to perform work for a third party without the permission of the Federal Labour Office of the Federal Republic of Germany, the number of contract employees shall be reduced, as from the following period of calculation, by the number of employees relinquished on a commercial basis as a yearly average. The same procedure shall be followed in the case of Romanian employers who recruit more contract employees than are allotted to them under article 3, paragraph 1, of this Agreement, or who recruit employees who do not possess a work permit or a residence permit. No further work permits shall be issued to employers of Romanian employees who have repeatedly relinquished or employed employees without permission.”

*Article 2*

This agreement on amendments shall come into force on the day on which it is signed.

*Article 3*

This agreement on amendments shall be valid for the same period as the Agreement to which it refers.

DONE at Bonn on 14 May 1991 in two originals, in the German and Romanian languages, both texts being equally authentic.

For the Government  
of the Federal Republic of Germany:

FRH. V. STEIN

TEGTMEIER

For the Government  
of Romania:

C. ALECÙ