

No. 29457

AUSTRIA

and

FEDERAL REPUBLIC OF GERMANY

Agreement on unemployment insurance (with final protocol and additional protocol signed at Bonn on 23 November 1951). Signed at Innsbruck on 19 May 1951

Second Agreement on unemployment insurance, amending the above-mentioned Agreement. Signed at Nuremberg on 31 October 1953

Termination

Authentic texts: German.

Registered by Austria on 19 January 1993.

AUTRICHE

et

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Accord relatif à l'assurance chômage (avec protocole final et protocole additionnel signé à Bonn le 23 novembre 1951). Signé à Innsbruck le 19 mai 1951

Deuxième Accord relatif à l'assurance chômage, modifiant l'Accord susmentionné. Signé à Nuremberg le 31 octobre 1953

Abrogation

Textes authentiques : allemand.

Enregistrés par l'Autriche le 19 janvier 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE
FEDERAL REPUBLIC OF GERMANY ON UNEMPLOYMENT
INSURANCE

The Federal President of the Republic of Austria and
The President of the Federal Republic of Germany,

Desiring to regulate the mutual relations between the two States in the matter of unemployment insurance, have agreed to conclude an Agreement and for this purpose have appointed as their plenipotentiaries:

The Federal President of the Republic of Austria: Dr. Josef Hammerl, Department Head, Federal Ministry of Social Affairs, Vienna;

The President of the Federal Republic of Germany: Mr. Julius Scheuble, Ministerialdirektor, Federal Ministry of Labour, Bonn,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

SUBJECT-MATTER COVERED

This Agreement shall apply in the Republic of Austria to:

- (a) Unemployment insurance (*Arbeitslosenversicherung*);
- (b) Emergency assistance (*Notstandhilfe*);

In the Federal Republic of Germany to:

- (a) Unemployment insurance (*Arbeitslosenversicherung*);
- (b) Unemployment relief (*Arbeitslosenfürsorge*);

and in the case of the two countries, sickness insurance for unemployed persons (*Krankenversicherung der Arbeitslosen*), short-term workers' relief (*Kurzarbeiterunterstützung*) and productive unemployment relief.

Article 2

EQUAL TREATMENT OF NATIONALS

Nationals of the two Contracting States shall be accorded equal treatment with regard to rights and obligations under unemployment insurance and emergency assistance (unemployment relief). Regulations of one Contracting State which provide for different treatment of nationals and aliens shall not apply to nationals of the other Contracting State.

¹ Came into force on 1 January 1953, i.e., at the beginning of the second month following the date of the exchange of the instruments of ratification, which took place at Bonn on 20 November 1952, in accordance with article 19 (2).

Article 3

UNEMPLOYMENT INSURANCE

1. Employment which is engaged in the territory of one of the Contracting States and is subject to compulsory unemployment insurance shall, in the territory of the other Contracting State when a claim has been lodged for unemployment insurance benefits, be calculated on the basis of the qualifying period provided that such employment is subject to compulsory unemployment insurance also in that territory; this shall also apply to employment engaged in prior to the entry into force of this Agreement.

2. The contributory period and the amount of the unemployment benefit and of the unemployment allowance as well as the procedure shall be governed by the regulations of the Contracting State in which the unemployed person may lodge the claim.

Article 4

OBLIGATION TO CONTRIBUTE TO UNEMPLOYMENT INSURANCE

1. The obligation to contribute to unemployment insurance and the payment of such contributions shall be governed by the regulations of the Contracting State in which the obligation to contribute to sickness or employee insurance is established in accordance with the Agreement between the Republic of Austria and the Federal Republic of Germany on Social Insurance of 21 April 1951.¹

2. The highest administrative authorities of the two Contracting States may agree on exceptions to the principle set forth in paragraph 1 of this article.

Article 5

EMERGENCY ASSISTANCE (UNEMPLOYMENT RELIEF)

Nationals of one Contracting State who are permanent residents in the territory of the other Contracting State shall receive emergency assistance (unemployment relief assistance (*Arbeitslosenfürsorgeunterstützung*) under the same conditions and to the same extent as nationals of the other Contracting State. An unemployed person, however, may only receive emergency assistance (unemployment relief assistance) in the other Contracting State, if in one of the Contracting States he has exhausted the entitlement to unemployment benefits (unemployment assistance) or has engaged in more than negligible salaried employment for at least 13 weeks during the last two years prior to submission of the claim.

Article 6

TRANSFER OF FAMILY ALLOWANCES

Where a person receiving unemployment benefits (unemployment assistance) or emergency assistance (unemployment relief assistance) is entitled to allowances for family members who are permanent residents in the territory of the other Con-

¹ United Nations, *Treaty Series*, vol. 1702, No. I-29456.

tracting State, a claim may be made to transfer such allowances provided that there is no family-allowance entitlement for family members under the legislation of the other Contracting State.

Article 7

RELOCATION

1. If an unemployed national of one Contracting State relocates to the territory of the other Contracting State, he may claim unemployment insurance benefits and emergency assistance (unemployment relief) benefits in the other Contracting State only upon the consent of the receiving labour office.

2. Periods for which benefits were already provided in the other Contracting State on the basis of the last qualifying period shall count towards the contributory period for which there is an entitlement.

Article 8

FRONTIER COMMUTERS

1. Frontier commuters may claim unemployment benefits (unemployment assistance) and emergency assistance (unemployment relief assistance) in general only in the Contracting State in whose territory their place of residence is situated.

2. Unemployment benefits (unemployment assistance) and emergency assistance (unemployment relief assistance) may be claimed in the other Contracting State if the labour office in the place of residence and the labour office in the last place of employment so agree. Article 7, paragraph 2, shall be applied.

3. Notwithstanding the provisions of paragraph 1 of this article, the legislation of the Contracting State in which the frontier commuter is engaged in part-time employment shall apply in the granting of part-time employment assistance.

4. Within the meaning of paragraph 1 of this article, frontier commuters are persons who, while retaining their residence in the frontier region of one of the two Contracting States to which they return daily or weekly, are employed in the frontier region of the other State.

5. Within the meaning of paragraph 4 of this article, the territory situated on each side of the frontier and extending, in general, to a depth of ten kilometres shall be considered the frontier region. A list of the Austrian and German communes situated in the said region shall be drawn up jointly by the highest administrative authorities of the two Contracting States.

Article 9

SETTLEMENT OF ACCOUNTS

There shall be no settlement of accounts for contributions and benefits between the two Contracting States. The provisions relating to sickness insurance under the Agreement between the Republic of Austria and the Federal Republic of Germany on Social Insurance of 21 April 1951 shall not thereby be affected.

Article 10

PAYMENT TRANSACTIONS

1. The authorities and offices that are obliged to provide benefits under this Agreement shall, with the effect of discharging their obligation, pay cash benefits in their national currency.

2. Transfers in accordance with article 6 of this Agreement shall be effected in accordance with the payment agreements applicable at the time between the two Contracting States.

3. Where, under the legislation of one of the two Contracting States, certain formal requirements must be fulfilled in order to send payments abroad, the legislation applicable to nationals shall apply in the same way to persons and offices which, on the basis of this Agreement, are to receive or make payments.

Article 11

ADMINISTRATIVE ASSISTANCE

The insurance authorities, associations and public authorities in the field of unemployment insurance and social insurance of the two Contracting States shall, in implementation of this Agreement, provide mutual assistance to one another to the same extent as in domestic transactions. Such mutual assistance shall be free of charge.

Article 12

EXEMPTION FROM TAXES, CHARGES AND LEGALIZATION

1. Exemptions from taxes and charges under the unemployment and social-insurance legislation of one of the Contracting States shall also apply to persons and offices of the other State.

2. Records, documents and instruments of all kinds required to be submitted in implementation of this Agreement shall not require legalization by diplomatic or consular authorities.

Article 13

DIRECT COMMUNICATION

The insurance authorities, associations and public authorities in the field of unemployment insurance and social insurance of the two Contracting States shall, in implementation of this Agreement, communicate directly with one another and with the insured persons and their representatives.

Article 14

DELETED

Article 15

IMPLEMENTATION ARRANGEMENTS AND RECIPROCAL NOTIFICATION

1. The highest administrative authorities of the two Contracting States shall jointly and directly establish in detail the administrative measures required for implementing this Agreement in so far as mutual consent is necessary. They shall also inform each other regularly of changes in their domestic legislation in the field of unemployment insurance and emergency assistance (unemployment relief).

2. The highest administrative authorities of the two Contracting States shall resolve between themselves any difficulties arising in the interpretation or implementation of this Agreement.

Article 16

HIGHEST ADMINISTRATIVE AUTHORITIES

The highest administrative authorities within the meaning of this Agreement are:

In the Republic of Austria, the Federal Ministry of Social Affairs;

In the Federal Republic of Germany, the Federal Ministry of Labour.

Article 17

MEMBERSHIP IN BODIES

Regulations on requirements concerning the appointment of members of unemployment insurance bodies shall not be affected by the provisions of article 2 of this Agreement.

Article 18

TERM OF VALIDITY OF THE AGREEMENT

1. This Agreement is concluded for a period of one year after its entry into force. It shall be tacitly renewed each time for one year provided that it is not denounced in writing by the Government of one of the two Contracting States at least three months before the expiry of the year.

2. In case of denunciation, the provisions of this Agreement shall continue to apply to entitlements already acquired, but not longer than for one year after the Agreement ceases to have effect.

Article 19

RATIFICATION AND ENTRY INTO FORCE

1. This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.

2. This Agreement shall enter into force at the beginning of the second month following the exchange of the instruments of ratification.

DONE in duplicate at Innsbruck, on 19 May 1951.

IN WITNESS WHEREOF, the signatories have signed this Agreement and have thereto affixed their seals.

For the Republic
of Austria:

Dr. HAMMERL

For the Federal Republic
of Germany:

SCHEUBLE

FINAL PROTOCOL

On the occasion of the signing today of the Agreement concluded between the Republic of Austria and the Federal Republic of Germany on Unemployment Insurance, the plenipotentiaries of the two sides hereby declare on behalf of the Contracting States that they agree as follows:

1. The German *Länder* whose inhabitants are eligible to elect voting deputies to the German Bundestag shall belong to the Federal Republic of Germany within the meaning of this Agreement.

2. The extension of the Agreement on Unemployment Insurance to *Land Berlin* (West) shall remain subject to an additional agreement between the two Contracting States in agreement with the Senate of *Land Berlin*.

3. In so far as this Agreement or Final Protocol relates to Austrian or German nationality,

(a) Persons of German mother tongue (*Volksdeutsche*) who are stateless or of indeterminate nationality and who are resident in the territory of the Republic of Austria or were resident there, otherwise than purely temporarily, after 26 August 1939 shall be assimilated to Austrian nationals;

(b) Refugees or expellees of German ethnic origin or their spouses or descendants who were absorbed in the territory of the German Reich after 31 December 1937 shall be assimilated to German nationals.

4. In so far as employees of Donauschiffahrt enterprises, within the meaning of article 5, paragraphs 1 (3), (4) (a) and (5) of the Agreement between the Republic of Austria and the Federal Republic of Germany on Social Insurance of 21 April 1951 do not have Austrian or German nationality, they shall, in implementation of this Agreement, in respect of unemployment insurance, be assimilated to Austrian and German nationals.

5. The provision of article 5 concerning proof of employment for 13 weeks shall apply only to claims which are lodged after the entry into force of the Agreement. Employment engaged in prior to the entry into force of this Agreement shall be taken into account.

6. Consent, within the meaning of article 7 of the Agreement, must be granted if the unemployed person wishes to return to his State of origin. It shall be granted if its denial would cause undue hardship. Undue hardship is to be assumed in particular if denial of consent were to prevent a household from being united with spouses, children, parents or grandparents. Unemployed persons are entitled to the legal remedies of the assistance procedure against denial of consent.

7. Consent, within the meaning of article 8, paragraph 2, may also be granted for certain groups of persons.

8. As from 1 January 1952, the unemployment insurance scheme in the Austrian communes of Jungholz (administrative district of Reutte) and Mittelberg (administrative district of Bregenz) shall be implemented by the Austrian administrative authorities in accordance with Austrian legislation. The highest administrative authorities of the Republic of Austria shall stipulate by ordinance the details for implementing the unemployment insurance scheme in those communes. The responsible regional labour offices may agree on the details for arranging and providing the necessary administrative assistance.

This Final Protocol, which constitutes an integral part of the Agreement between the Republic of Austria and the Federal Republic of Germany on Unemployment Insurance of this date shall be valid under the same conditions and for the same period as the Agreement itself.

DONE in duplicate at Innsbruck, on 19 May 1951.

For the Republic
of Austria:

Dr. HAMMERL

For the Federal Republic
of Germany:

SCHUEBLE

ADDITIONAL PROTOCOL TO THE AGREEMENT BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL REPUBLIC OF GERMANY ON UNEMPLOYMENT INSURANCE

In respect of the Agreement between the Republic of Austria and the Federal Republic of Germany on Unemployment Insurance, signed on 19 May 1951, the plenipotentiaries of the two sides have, on behalf of the Contracting States, agreed as follows:

1. Article 14 of the Agreement is deleted.

2. The take-over as of 1 January 1952 of the unemployment insurance scheme in the Austrian communes of Jungholz and Mittelberg by the Austrian administrative authorities provided for under paragraph 8 of the Final Protocol to the Agreement on Unemployment Insurance shall be effected during the period in which the social insurance scheme in those communes is taken over by the Austrian administrative authorities in accordance with the Austrian-German Agreement on Social Insurance of 21 April 1951.

This Additional Protocol constitutes an integral part of the Agreement between the Republic of Austria and the Federal Republic of Germany on Unemployment Insurance of 19 May 1951.

DONE in duplicate at Bonn, on 23 November 1951.

For the Republic
of Austria:
Dr. HAMMERL

For the Federal Republic
of Germany:
SCHEUBLE

[TRANSLATION — TRADUCTION]

SECOND AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA
AND THE FEDERAL REPUBLIC OF GERMANY ON UNEMPLOYMENT INSURANCE

The Federal President of the Republic of Austria and
The President of the Federal Republic of Germany

Have agreed to supplement and amend the Agreement between the Republic of Austria and the Federal Republic of Germany on Unemployment Insurance of 19 May 1951² (First Convention on Unemployment Insurance) and to conclude a Second Convention for this purpose. They have appointed as their plenipotentiaries:

The Federal President of the Republic of Austria: Dr. Josef Hammerl, Department Head, Federal Ministry for Social Affairs, Vienna;

The President of the Federal Republic of Germany: Dr. Rudolf Petz, *Ministerialdirektor*, Federal Ministry of Labour, Bonn, Mr. Hans-Richard Hirschfeld, Consul General, Ministry of Foreign Affairs, Bonn,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

*Article 1*INCLUSION OF *LAND BERLIN*

1. The Agreement on Unemployment Insurance of 19 May 1951 (First Agreement on Unemployment Insurance) as well as agreements to supplement, amend and implement it shall also apply to *Land Berlin*, unless the Government of the Federal Republic of Germany notifies the Federal Government of the Republic of Austria to the contrary within three months after the date of the exchange of the instruments of ratification for this Agreement.

2. In the implementation of the Agreements and agreements concluded to supplement, amend and implement them, references to the Federal Republic of Germany shall also be considered references to *Land Berlin*.

Article 2

AMENDMENT TO THE FIRST AGREEMENT

1. The following paragraph 3 is added to article 3:

“3. Periods for which benefits are already provided in the other Contracting State on the basis of the last qualifying period shall count towards the contributory period. This shall also apply to periods for which an unemployment benefit (unemployment assistance) was withheld because of unwillingness to work or culpable failure to submit prescribed reports, to the extent that the contributory period was thereby shortened.”

¹ Came into force on 1 November 1955, the first day of the month following the date of the exchange of the instruments of ratification, which took place at Bonn on 6 October 1955, in accordance with article 5 (2).

² See p. 9 of this volume.

2. The second sentence in article 5 is deleted.
3. The following sentence is added to article 7, paragraph 1:
“Consent shall not be required if the unemployed person wishes to return to his own state.”
4. Article 7, paragraph 2, is amended to read as follows:
“2. Article 3, paragraph 3, shall be applied.”

Article 3

SICKNESS INSURANCE FOR UNEMPLOYED PERSONS

Article 11 of the Agreement between the Republic of Austria and the Federal Republic of Germany on social security of 21 April 1951¹ as worded in the Second Agreement between the Republic of Austria and the Federal Republic of Germany on social security of 11 July 1953¹ shall also apply to recipients of emergency assistance (unemployment relief assistance).

Article 4

TERM OF VALIDITY

The term of validity of this Agreement shall be governed by the term of validity of the First Agreement on Unemployment Insurance.

Article 5

RATIFICATION AND ENTRY INTO FORCE

1. This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.
2. This Agreement shall enter into force on the first day of the month following the date of the exchange of instruments of ratification.

IN WITNESS WHEREOF, the signatories have signed this Agreement and have thereto affixed their seals.

DONE in duplicate at Nuremberg, on 31 October 1953.

For the Republic
of Austria:

Dr. HAMMERL

For the Federal Republic
of Germany:

Dr. PETZ
HANS R. HIRSCHFELD

¹United Nations, *Treaty Series*, vol. 1702, No. I-29456.

TERMINATION OF THE AGREEMENT OF 19 MAY 1951,¹ THE ADDITIONAL PROTOCOL OF 23 NOVEMBER 1951² AND THE SECOND AGREEMENT OF 31 OCTOBER 1953³ BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL REPUBLIC OF GERMANY

The above-mentioned Agreements ceased to have effect on 1 October 1979, the date of entry into force of the Agreement between the Federal Republic of Germany and the Republic of Austria concerning unemployment insurance signed at Vienna on 19 July 1978,⁴ in accordance with article 21 of the latter Agreement.

Certified statement was registered by Austria on 19 January 1993.

ABROGATION DE L'ACCORD DU 19 MAI 1951¹, DU PROTOCOLE ADDITIONNEL DU 23 NOVEMBRE 1951² ET DU DEUXIÈME ACCORD DU 31 OCTOBRE 1953³ ENTRE LA RÉPUBLIQUE D'AUTRICHE ET LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Les Accords susmentionnés ont cessé d'avoir effet le 1^{er} octobre 1979, date de l'entrée en vigueur de l'Accord entre la République fédérale d'Allemagne et la République d'Autriche relatif à l'assurance chômage signé à Vienne le 29 juillet 1978⁴, conformément à l'article 21 de ce dernier Accord.

La déclaration certifiée a été enregistrée par l'Autriche le 19 janvier 1993.

¹ See p. 9 of this volume.

² See p. 17 of this volume.

³ See p. 29 of this volume.

⁴ United Nations, *Treaty Series*, vol. 1243, p. 37.

¹ Voir p. 18 du présent volume.

² Voir p. 26 du présent volume.

³ Voir p. 31 du présent volume.

⁴ Nations Unies, *Recueil des Traités*, vol. 1243, p. 37.