

No. 29456

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**AUSTRIA**

**and**

**FEDERAL REPUBLIC OF GERMANY**

**Convention concerning social insurance (with final protocol signed at Salzburg on 21 April 1951 and additional protocol signed at Vienna on 25 January 1952 and at Bonn on 1 March 1952). Signed at Salzburg on 21 April 1951**

**Second Convention concerning social insurance, amending the above-mentioned Convention (with final protocol). Signed at Salzburg on 11 July 1953**

*Authentic texts: German.*

*Registered by Austria on 19 January 1993.*

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**AUTRICHE**

**et**

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention de sécurité sociale (avec protocole final signé à Salzburg le 21 avril 1951 et protocole additionnel signé à Vienne le 25 janvier 1952 et à Bonn le 1<sup>er</sup> mars 1952). Signée à Salzburg le 21 avril 1951**

**Deuxième Convention de sécurité sociale, modifiant l'Accord susmentionné (avec protocole final). Signée à Salzburg le 11 juillet 1953**

*Textes authentiques : allemand.*

*Enregistrées par l'Autriche le 19 janvier 1993.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND THE  
FEDERAL REPUBLIC OF GERMANY CONCERNING SOCIAL  
INSURANCE

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

Desiring to regulate relations between their two States in the matter of social insurance,

Have agreed to conclude a Convention and have appointed for that purpose as their Plenipotentiaries:

The Federal President of the Republic of Austria: Dr. Arthur Rudolph, *Sektionschef* at the Federal Ministry of Social Administration,

The President of the Federal Republic of Germany: Mr. Josef Eckert, *Ministerialdirektor* at the Federal Ministry of Labour; Dr. Wilhelm Dobbernack, *Ministerialrat* at the Federal Ministry of Labour.

The Plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

## SECTION I. GENERAL PROVISIONS

*Article 1*

This Convention shall apply in the Republic of Austria and the Federal Republic of Germany to:

- (a) Sickness insurance;
- (b) Accident insurance;
- (c) Pensions insurance for manual workers (disability insurance);
- (d) Pensions insurance for salaried workers (salaried workers' insurance);
- (e) Pensions insurance for miners.

*Article 2*

Austrian and German nationals shall have the same obligations and rights as each other under the social insurance schemes (compulsory and voluntary insurance) of the two Contracting States. The same shall apply to the right to voluntary insurance; for this purpose, the periods of coverage completed under the insurance schemes of the two Contracting States shall be aggregated. For the application of the national legislation of one of the two Contracting States in the matter of social insurance which provides for different treatment of its own nationals and aliens,

<sup>1</sup> Came into force on 1 January 1953, i.e., the first day of the second month following the expiry of the month of the exchange of the instruments of ratification, which took place at Bonn on 20 November 1952, in accordance with article 42 (2).

nationals of the other State shall be equated with nationals of the first-mentioned State.

### *Article 3*

(1) Except as otherwise provided in this Convention, benefits under the social insurance legislation of one of the two Contracting States shall be payable to Austrian and German nationals in the territory of the other State, inclusive of any supplements, as if they were resident in their own national territory. Under the legislation of one of the two Contracting States on the payment of benefit claims, residence in the territory of the other State shall, in respect of Austrian and German nationals, be deemed residence in their own natural territory.

(2) Benefits under the social insurance schemes of one of the two Contracting States shall be payable to nationals of the other State residing in the territory of a third State on the same conditions and to the same extent as its own nationals residing in the third State.

### *Article 4*

The implementation of social insurance shall be governed by the legislative provisions of the State in whose territory the insurable activity is performed.

### *Article 5*

(1) The following shall be deemed exceptions to the principle stated in article 4:

1. A person employed by an enterprise having its principal place of business in the territory of one of the Contracting States who is sent for a limited period of time to the territory of the other Contracting State shall be subject to the legislation of the State in whose territory the principal place of business is situated, provided that the period of residence in the other territory does not exceed six months. This shall also apply if a person employed by an enterprise having its principal place of business in the territory of one of the Contracting States is obliged, owing to the nature of the employment, to reside in the territory of the other State on repeated occasions, provided that no single period of residence exceeds six months.

2. If enterprises located in the frontier region of one of the Contracting States extend into the frontier region of the other Contracting State, persons employed by such enterprises shall be subject solely to the legislative provisions of the State in whose territory the enterprise has its principal place of business.

3. Permanent employees of a public transport enterprise, including shipping enterprises of the Danube or its tributaries (Danube Navigation), having its principal place of business in the territory of one of the Contracting States, who are employed temporarily or on junction lines in frontier railway stations or frontier ports of the other Contracting State, shall be subject solely to the legislation of the State in whose territory the enterprise has its principal place of business.

4. The provisions of subparagraph 3 shall also apply:

(a) To persons employed in a travelling capacity by a Danube navigation enterprise as referred to in subparagraph 3, where such persons are permanently employed in the territory of the other Contracting State outside a junction line or a frontier port,

(b) To persons employed by an airline having its principal place of business in the territory of one of the Contracting States, where such persons are nationals of that State and are temporarily or permanently employed in the territory of the State as members of the airline's flight or ground personnel, and also to other persons employed by such airline, irrespective of their nationality, who have temporarily been sent to the territory of the other State.

5. The crew of a company transport ship travelling on the Danube or its tributaries belonging to an enterprise having its principal place of business in one of the Contracting States which is temporarily or permanently employed in the territory of the other State shall be subject solely to the legislation of the State in whose territory the principal place of business is situated.

6. The crew of a sea-going vessel shall be subject to the legislation of the Contracting State whose flag the vessel flies.

7. Employees of public administrative authorities (customs, posts, passport control, etc.) who are sent from one Contracting State to the territory of the other shall be subject to the legislation of the sending State.

8. Persons who are members of the diplomatic mission or career consular mission of either of the Contracting States or who are employed in the personal service of such a member of a mission shall be subject to the legislation of the State of which they are nationals. Persons employed in the personal service of a member of such a mission may, however, within six weeks from the commencement of their employment, apply for insurance coverage in accordance with the legislation of the State in which they are employed.

(2) The provisions of paragraph (1), subparagraphs 1 and 2 shall apply *mutatis mutandis* to the social insurance of a person who is self-employed in one of the Contracting States and who, in performance of such employment, is active in the territory of the other State.

(3) The supreme administrative authorities of the two Contracting States may agree upon further exceptions to the principle stated in article 4; they may also, by mutual consent, allow departures from the provisions of paragraph (1) for individual cases or groups of cases.

#### Article 6

(1) If, under the legislation of one Contracting State the receipt of social security benefits or allowances of any other kind or the pursuit of employment or the establishment of a social security relationship has a legal effect on eligibility for social security benefits, on compulsory participation in an insurance scheme, on exemption from compulsory insurance or on membership of a voluntary insurance scheme, similar allowances from the other State or similar employment or a similar social security relationship in the other State shall have the same effect.

(2) If, pursuant to paragraph (1), allowances provided in one Contracting State result in the suspension or reduction of benefits in both Contracting States, only that portion of such income may be taken into account in each of the two States for the purpose of reduction or suspension which corresponds to the ratio between the periods of coverage used as a basis for calculating the amount of the benefit in the Austrian and German insurance schemes.

(3) The provisions of paragraphs (1) and (2) shall not apply to the ratio between benefits under the pension insurance schemes of the two States payable in accordance with section IV.

## SECTION II. SICKNESS INSURANCE

### *Article 7*

In so far as periods of coverage under a sickness insurance scheme constitute a condition for entitlement to benefits, the periods of coverage completed in the sickness insurance schemes of the two Contracting States shall be aggregated.

### *Article 8*

If a claimant is eligible for benefits from insurance authorities of both Contracting States, he shall be entitled to claim the same benefits from one insurance authority only. The insurance authority liable to pay the benefits shall be that to which the claimant belonged at the time of the insurance contingency.

### *Article 9*

(1) If an insured person entitled to claim on an insurance authority of one of the Contracting States transfers his place of residence to the territory of the other Contracting State after the insurance contingency has arisen, his entitlement shall be maintained provided that he obtains the consent of the competent insurance authority prior to the change of residence. Consent may be withheld solely on the ground of the claimant's state of health. In the case of maternity benefits, consent may be given before the insurance contingency arises. The insurance authority may give its consent subsequently if the eligibility conditions are fulfilled and the consent could not, for reasonable cause, be obtained in advance.

(2) An insured person shall continue to be entitled to claim on an insurance authority with whom he is insured even if the insurance contingency arises in the territory of the other Contracting State.

(3) A frontier commuter shall be entitled to claim on an insurance authority with whom he is insured in the Contracting State in whose territory he is resident and also in the State in which he is employed.

### *Article 10*

(1) In the case referred to in article 9, benefits shall be provided by the competent insurance authority of the place of residence of the insured person. Benefits in kind shall be granted in accordance with the legislation to which the aforementioned insurance authority is subject, whereas cash benefits shall be governed by the legislation applying to the insurance authority on which the insured person has a claim. The latter insurance authority shall inform the insurance authority paying the benefit of the amount and maximum duration of the cash benefit provision.

(2) The liable insurance authority shall refund to the insurance authority providing the benefits any costs arising therefrom. More detailed arrangements for such refund shall be settled between the supreme administrative authorities of the two Contracting States; lump sum assessments may be established for the purposes of such refund.