

No. 29494

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.

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]

AGREEMENT¹ 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

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,² on the avoidance of double taxation in the area of income and property taxes,³ and on social insurance,⁴ including the Supplementary Agreement of 8 July 1976 on social insurance,⁴

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.

¹ 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).

² See p. 279 of this volume.

³ United Nations, *Treaty Series*, vol. 994, p. 249.

⁴ *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.