

No. 29506

**FEDERAL REPUBLIC OF GERMANY
and
AUSTRIA**

Treaty concerning administrative and legal assistance in administrative matters. Signed at Bonn on 31 May 1988

Authentic text: German.

Registered by Germany on 28 January 1993.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
AUTRICHE**

Accord relatif à l'entraide administrative et juridique en matière administrative. Signé à Bonn le 31 mai 1988

Texte authentique : allemand.

Enregistré par l'Allemagne le 28 janvier 1993.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE REPUBLIC OF AUSTRIA CONCERNING ADMIN-
ISTRATIVE AND LEGAL ASSISTANCE IN ADMINISTRATIVE
MATTERS

The Federal Republic of Germany and the Republic of Austria,

Guided by the desire to improve and simplify mutual administrative and legal assistance in administrative matters,

Have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1

(1) The Contracting States shall render one another administrative and legal assistance, in accordance with the provisions of this Treaty, in public law proceedings of their administrative authorities, in Austrian administrative criminal proceedings and German proceedings for the imposition of administrative fines, provided that such proceedings are not pending before a judicial authority, and in proceedings before Austrian courts of administrative jurisdiction and German courts of general administrative jurisdiction.

(2) Administrative and legal assistance in accordance with paragraph 1 shall not be rendered in:

1. Matters relating to taxes, customs, excise duties and monopolies, in so far as they are regulated by special treaties;
2. Foreign trade matters, including those relating to foreign exchange regulations and to prohibitions and restrictions on goods traffic across boundaries;
3. Tax consultancy matters and matters treated as such.

(3) Existing agreements of the Contracting States on the provision of administrative and legal assistance shall not be affected.

Article 2

(1) In respect of administrative and legal assistance between the Contracting States pursuant to article 1, paragraph 1, administrative authorities and administrative courts may deal with each other directly. Where requests for administrative and legal assistance under this Treaty are to be carried out by criminal courts, direct dealings with such courts shall also be permissible. Where direct dealings are possible only under particularly difficult circumstances, recourse shall be had to the administrative authorities designated by the requested State for the purposes

¹ Came into force on 1 October 1990, i.e., the first day of the third month following the date of the exchange of the instruments of ratification, which took place at Vienna on 18 July 1990, in accordance with article 20 (2).

whereof. The Contracting States shall notify each other concerning such administrative authorities.

(2) Requests for administrative and legal assistance which the requested entity (administrative authority of court) is not competent, under the law of the requested State, to handle shall be transmitted to the competent entity. The requesting entity shall be notified to that effect.

Article 3

Administrative and legal assistance shall be rendered in accordance with the legislative on the requested State.

Article 4

(1) Administrative and legal assistance shall not be rendered if it is inadmissible under the legislation of the requested State or if execution of the request is likely to prejudice the sovereignty, security, public policy or other essential interests of the requested State.

(2) The requested entity shall without delay notify the requesting entity of such refusal, indicating the grounds.

PART II. HEARINGS, INFORMATION AND EVIDENCE

Article 5

(1) The Contracting States shall render each other administrative and legal assistance through:

1. Investigation, including the taking of evidence;
2. The hearing of the parties and the examination of persons concerned or charged with an offence;
3. The furnishing of information, including information from judicial records;
4. The transmission of documents.

(2) The Contracting States shall further render each other administrative and legal assistance through the furnishing of information and the transmission of documents relating to criminal proceedings and proceedings for the imposition of administrative fines before the courts.

Article 6

Requests in accordance with article 5 must indicate the object and purpose of the procedure in which administrative and legal assistance is to be rendered and include the particulars necessary for their execution.

Article 7

Only expenditures for experts and interpreters who have participated in the execution of the request may be charged to the requesting entity.

Article 8

(1) Information and documents transmitted by the requested entity shall be subject in the other Contracting State to that State's domestic regulations governing official secrecy.

(2) If the requested entity indicates that information or documents transmitted by it are not to be passed on to others or are to be used only for specified purposes or for a specific period, the requesting entity must observe such restrictions.

PART III. ASSISTANCE IN RESPECT OF ENFORCEMENT

Article 9

(1) The Contracting Parties shall render one another administrative assistance through the enforcement of monetary claims under public law — including non-appealable fines of at least 350 schillings imposed in Austrian administrative penal decisions or penal orders and non-appealable fines of at least 50 deutsche mark determined by German administrative authorities as well as incidental consequences in respect of property rights — and in the collection of documents issued by the requested State. The law of the requesting State shall apply in respect of enforcement. Deprivation of liberty as a means of punishment is excluded.

(2) The Contracting States shall communicate to each other which entities are competent to execute requests for enforcement. The Contracting States may also designate administrative authorities to receive requests for enforcement, in order to forward them to the entities competent for their execution; in such cases, the Contracting States shall indicate those administrative authorities to each other instead of effecting the communication specified in the first sentence of this paragraph.

(3) A request for enforcement (paragraph 1) shall be accompanied by an official copy of the enforceable instrument or of the notice to be enforced, bearing a certification by the requesting authority that it is unappealable and final. Such notices shall be treated, with regard to enforcement, in the same way as notices of the authority of the requested State.

(4) The enforcement of monetary claims shall be effected in the currency of the requested State. The requesting entity shall convert into that currency the money amount in respect of which enforcement is to be effected on its behalf and shall note the amount on the instrument to be enforced. For the purposes of conversion, the foreign-exchange buying rate for payment in Frankfurt most recently quoted on the Vienna Stock Exchange shall apply in the Republic of Austria and the official foreign-exchange buying rate for payment in Vienna most recently fixed in Frankfurt am Main shall apply in the Federal Republic of Germany.

(5) In the event of objections as to admissibility or manner of enforcement, the competent entity of the requested State shall decide.

(6) Objections as to the existence, amount or enforceability of the claim to be enforced shall be handled by the competent entity of the requesting State in accordance with the law of that State. Should such objections be lodged with the requested entity, they shall be communicated to the requesting entity, whose decision must be awaited.