

No. 10709

FRANCE
and
SPAIN

**Convention concerning the national service of persons
with dual nationality (with annexes and exchange of
letters). Signed at Madrid on 9 April 1969**

Authentic texts : French and Spanish.

Registered by France on 3 September 1970.

FRANCE
et
ESPAGNE

**Convention relative au service national des double-nationaux
(avec annexes et échange de lettres). Signée à Madrid
le 9 avril 1969**

Textes authentiques : français et espagnol.

Enregistrée par la France le 3 septembre 1970.

[TRANSLATION - TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE
FRENCH REPUBLIC AND THE GOVERNMENT OF
THE SPANISH STATE CONCERNING THE NATIONAL
SERVICE OF PERSONS WITH DUAL NATIONALITY

The Government of the French Republic and the Government of the Spanish State, desiring to put an end to the difficulties relating to national service obligations, and, in particular, military obligations encountered by their nationals who possess both French and Spanish nationality, have agreed to adopt the following provisions :

Article 1

The provisions of this Convention shall apply to nationals of both States who possess French and Spanish nationality simultaneously, with the exception of persons who acquire either of these nationalities by naturalization after attaining their majority.

Persons who possess both French and Spanish nationality in such conditions as to be able to claim the benefits of this Convention shall be referred to therein as "dual nationals".

Article 2

Dual nationals residing in one of the two States shall be required to fulfil their national service obligations in the State in which they were resident for the longest time during the 12 months preceding the date on which they reached the age of 18 years.

Dual nationals who, at the age of 18 years, are resident in a third State shall have the option of fulfilling their national service obligations under the law of either one of the two States. They shall for that purpose sign in duplicate a declaration in the form of the attached model A before the consular representative of the State under whose law they wish to serve. The said representative shall transmit the declaration to the competent authorities of the two States.

¹ Came into force on 1 August 1970, i.e., the first day of the second month following the date (9 June 1970) of the last of the notifications by each of the Contracting Parties to the other to the effect that the constitutional requirements had been fulfilled, in accordance with article 13.

Persons who acquire dual nationality after the age of 18 years and have not yet fulfilled in either State their legal obligations in respect of national service shall fulfil them in accordance with the law of the State in which they were resident for the longest time during the 12 months preceding the date on which they acquired the second nationality.

Article 3

Notwithstanding the provisions of the preceding article, dual nationals may volunteer for service in the State of their choice before being called by the other State to fulfil their national service obligations. The period of service which they have thus completed as volunteers shall be deducted from the term of their legal obligations in respect of service in the State in which, pursuant to the preceding article, they would normally have been required to perform their active service.

Article 4

The dual nationals referred to in articles 2 and 3 shall give evidence of their status in relation to the State under whose law they are not, by reason of their residence, option or voluntary enlistment, required to serve and shall do so by producing a certificate in the form of one of the attached models (model B for the first two reasons and model C for the last). This certificate shall be issued to them either automatically at the time when they have fulfilled their obligations in respect of service or upon their request at any other time by the competent authorities of the State under whose law they served or would have served if they had not been duly excused or exempted.

Article 5

Dual nationals whose situation is covered by the provisions of the preceding articles shall be deemed to have fulfilled all national service obligations imposed upon them in time of peace by the laws of the State in which they have not been called up for service, if they have actually performed their service or have been duly exempted or excused therefrom pursuant to the laws in force in the State in which they are resident or for which they have opted.

Where, however, such persons, after fulfilling their legal obligations in respect of service in one of the two States, later reside habitually in the other State for a period of two years, they shall, upon expiry of that period, be subject to all other national service obligations in the latter State.

Article 6

The benefits of this Convention shall be withheld from dual nationals who have evaded the obligations established in it. To this end, the competent authorities of the State in which such dual nationals should have fulfilled the said obligations shall report them to the competent authorities of the other State.

Article 7

In the event of partial or total mobilization, each Contracting Party may call up only those dual nationals who are habitually resident in its territory and those who, although resident in a third State, fulfilled their national service obligations in the State which decrees the mobilization.

Article 8

Dual nationals who, before the entry into force of this Convention, fulfilled their national service obligations in one of the two States, shall be deemed to have fulfilled them in the other State.

Nevertheless, the provisions of the preceding paragraph shall not affect the statutes under criminal law of those dual nationals on whom a definitive sentence was imposed before the entry into force of this Convention.

Article 9

The provisions of this Convention shall in no way affect the juridical status of the persons concerned in the matter of nationality.

Article 10

Regulations for putting this Convention into effect shall be established, by mutual agreement, by the competent authorities of the two States.

Article 11

The two States shall settle through the diplomatic channel all difficulties which may derive from the interpretation or application of this Convention and those relating to the settlement of previous individual situations mentioned in article 8.

Article 12

This Convention shall apply to the territory of the French Republic and to the territory of the Spanish State.

Article 13

Each Contracting Party shall notify the other of the completion of the constitutional procedures required to render this Convention applicable. The Convention shall enter into force on the first day of the second month following the date of the last of these notifications.

This Convention is concluded for an indefinite period and may be denounced by either Party at any time subject to one year's notice.

DONE at Madrid, on 9 April 1969, in duplicate, in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic:

R. DE BOISSESON

[SEAL]

For the Government of the Spanish State:

Fernando María CASTIELLA

[SEAL]

.....¹.

DECLARATION OF OPTION

PROVIDED FOR IN THE SECOND PARAGRAPH OF ARTICLE 2
OF THE FRANCO-SPANISH CONVENTION ON NATIONAL SERVICE

Model A

On the day of in the year one thousand nine hundred
there appeared before us²
the person named born at on
holding national identity card³ No.
who, having his habitual residence at the age of eighteen years at
..... has declared that he opts to fulfil his national service obligations under⁴
..... law in conformity with the provisions of the second para-
graph of article 2 of the Franco-Spanish Convention on National Service.

Mr. having acquainted himself with the contents of
this document, which has been read to him, and having undertaken to fulfil the
obligations of the option he has exercised, signs the document with us.

At on

5

*The person concerned*⁵

¹ Authority before which the declarations is signed.

² Consul of

³ Identity document.

⁴ French or Spanish.

⁵ Stamp and signature of the consular authority.

⁶ Signature of the person concerned.

.....¹.

CERTIFICATE OF MILITARY STATUS
 PROVIDED FOR IN ARTICLE 4 OF THE FRANCO-SPANISH
 CONVENTION ON NATIONAL SERVICE

Model B

The ¹
 certifies that the person named (surname, given names)
 born at on
 holding national identity card ² No.

- ³ { — Having his habitual residence at the age of eighteen years at

 — Having acquired dual nationality after eighteen years of age and having
 his habitual residence at

is required to fulfil his national service obligations under ⁴
 law.

- ³ { — His name has been recorded in the recruitment list with a view to his eventual
 call-up in
 — He was called up on
 — He has been exempted as physically unfit

 — He has been excused, as a

At on

5

¹ Authority which drew up the certificate.

² Identity document.

³ Delete if not applicable.

⁴ French or Spanish.

⁵ Signature and stamp of the authority which drew up the certificate.

.....¹.

CERTIFICATE OF MILITARY STATUS
PROVIDED FOR IN ARTICLE 4 OF THE FRANCO-SPANISH
CONVENTION ON NATIONAL SERVICE

Model C

The ¹
certifies that the person named
born at on
holding national identity card ² No.
who at the time of his voluntary enlistment had his habitual residence at
.....
has signed a ³ contract of voluntary enlistment
for ⁴ national service on.....

At on

5

¹ Authority which drew up the certificate.

² Identity document.

³ Duration of the contract.

⁴ French or Spanish.

⁵ Signature and stamp of the authority which drew up the certificate.

EXCHANGE OF LETTERS

I

Madrid, 9 April 1969

Sir,

The first paragraph of article 8 of the Convention concerning the National Service of Persons with Dual Nationality, which we signed today, provides that dual nationals who, before the entry into force of the Convention, fulfilled their national service obligations in one of the two States shall be deemed to have fulfilled them in the other State.

In order to obviate any difficulties in the application of this provision, I have the honour to propose that the competent authorities of the two States should take the necessary steps to ensure, so far as possible, that dual nationals who are in possession of a document certifying that they have fulfilled their legal obligations in respect of national service in one of the two States and who are prosecuted or given a non-definitive sentence in the other State for non-fulfilment of such obligations are not, for that reason, subjected to measures restricting their liberty at the time when they enter the territory of that State.

It is understood that, in considering the status of such dual nationals, account will be taken in particular of the statements made in the course of the negotiations to the effect that the Spanish national passport is issued only to Spaniards who have duly fulfilled their legal military obligations.

I should be grateful if Your Excellency would indicate whether these proposals are acceptable to the Spanish Government.

Accept, Sir, etc.

R. DE BOISSESON

His Excellency Mr. Fernando Castiella y Maiz
Minister for Foreign Affairs

II

Madrid, 9 April 1969

Sir,

I have the honour to refer to your letter of today's date, which reads as follows :

See letter I

I have the honour to inform you of my Government's agreement to the contents of your letter.

Accept, Sir, etc.

Fernando María CASTIELLA

His Excellency Baron Robert de Boisseson
Ambassador Extraordinary and Plenipotentiary of France
Madrid
