

No. 16173

FRANCE
and
SENEGAL

Convention concerning personnel assistance provided by the French Republic for the operation of the public services of the Republic of Senegal (with annexes). Signed at Paris on 29 March 1974

Protocol concerning the implementation of article 17 of the above-mentioned Convention. Signed at Paris on 29 March 1974

Authentic texts: French.

Registered by France on 29 December 1977.

FRANCE
et
SÉNÉGAL

Convention relative au concours en personnel apporté par la République française au fonctionnement des services publics de la République du Sénégal (avec annexes). Signée à Paris le 29 mars 1974

Protocole d'application de l'article 17 de la Convention sus-mentionnée. Signé à Paris le 29 mars 1974

Textes authentiques : français.

Enregistrés par la France le 29 décembre 1977.

[TRANSLATION — TRADUCTION]

CONVENTION¹ CONCERNING PERSONNEL ASSISTANCE PROVIDED BY THE FRENCH REPUBLIC FOR THE OPERATION OF THE PUBLIC SERVICES OF THE REPUBLIC OF SENEGAL

The Government of the French Republic, on the one hand,
The Government of the Republic of Senegal, on the other hand,
Conscious of the bonds of friendship between the two countries;
Desiring to co-operate on the basis of equality and mutual respect and interest;
Have agreed on the following:

Article I. This Convention shall apply to all categories of personnel seconded for service with the Government of the French Republic. Personnel assistance may, however, form the subject of additional or special conventions in certain cases, such as the operation of certain services or institutions and the execution of temporary missions with specific objectives.

PART I. PROCEDURES FOR THE ASSISTANCE PROVIDED BY THE FRENCH REPUBLIC

Article II. Personnel covered by this Convention shall be seconded by the Government of the French Republic, to the extent possible, for service with the Government of the Republic of Senegal on the basis of the latter's stated requirements.

Their principal function shall be to train Senegalese personnel.

In addition, the French Republic shall assist with the basic and further training, in French institutions, of civil servants and personnel nominated by the Government of the Republic of Senegal.

Article III. The Government of the Republic of Senegal shall communicate to the Government of the French Republic the list of posts to be filled, specifying for each post the place of residence, a description of the functions and qualifications sought.

In order to fill the listed posts thereafter agreed upon by the two Governments, the competent French authorities shall second to the Republic of Senegal such personnel as the French Republic can supply from its own personnel resources.

Article IV. To that end, the Government of the French Republic shall nominate, as soon as possible, for approval by the Government of the Republic of Senegal, the name of a candidate together with the necessary data, for each post listed pursuant to article III above.

The Government of the Republic of Senegal shall have two months from the date of receipt of the nomination in which to convey its decision of acceptance or rejection.

¹ Came into force on 1 September 1976, i.e., the first day of the second month following the date of exchange of the instruments of approval, which took place at Paris on 16 July 1976, in accordance with article XXI.

Once the said period has elapsed, the Government of the French Republic shall consider that the nomination has not been accepted by the Government of the Republic of Senegal.

Article V. On receipt of the notification of acceptance of the proposed candidate by the Government of the Republic of Senegal, the competent French authority shall second the person concerned to that Government and take all the necessary measures for his transfer.

The accepted candidate shall be appointed and assigned to the post in question by decision of the competent authority of the Republic of Senegal for a period of two years from the date of arrival in the territory of that Republic. That period may, as an exceptional measure, be reduced by the Senegalese authority.

Any transfer of one of the personnel covered by this Convention contemplated by the Government of the Republic of Senegal which would result in a change in duty station or in the level or nature of the post to which he was appointed by virtue of the preceding paragraph shall be subject to consultation between the competent Senegalese authority and the French representation in Senegal.

Article VI. On expiry of the period laid down in article V, paragraph 2, the personnel shall automatically revert to the Government of the French Republic. They may, however, be retained in their posts for no more than six months by a simple exchange of letters at least one month before the expiry of the normal tour of duty.

In the event of termination of service, the Government of the French Republic shall, at the request of the Government of the Republic of Senegal, propose a new candidate to replace any of the outgoing personnel.

The secondment may be renewed at the request of the Government of Senegal.

Article VII. The Government of the French Republic and the Government of the Republic of Senegal may at any time terminate the assignment or employment provided that they notify the other Government accordingly. In such event, unless there is a compelling reason, a joint decision shall be taken on the date of departure of the person concerned.

Whenever an assignment is terminated prematurely by decision of the Government of the Republic of Senegal, all the expenses connected with the return travel shall be borne by that State.

Such termination of assignment shall not preclude the replacement of the person concerned on the conditions set forth in the foregoing articles.

Article VIII. The personnel shall have such leave as they are entitled to under the regulations in force in the French Republic.

Such leave shall not terminate the secondment unless the Government of the Republic of Senegal should deem it necessary. In such event, the French representation shall be informed at least one month before the departure of the person concerned.

The evacuation of staff for health reasons, sick leave involving repatriation, convalescent leave and extended leave granted outside the territory of the Republic of Senegal shall terminate the secondment of the staff concerned. The same shall apply when the person concerned is retired in accordance with the staff regulations governing him.

The costs of repatriation or evacuation shall then be borne by the French Republic.

PART II. MUTUAL OBLIGATIONS OF THE CONTRACTING PARTIES AND THE PERSONNEL

Article IX. The personnel seconded for service with the Government of the Republic of Senegal under this Convention shall carry out their functions under the authority of that Government and shall be bound to comply with its regulations and instructions. They shall receive from the said Government assistance and protection on the same terms as Senegalese civil servants.

The two Contracting Parties undertake not to require of them any act or manifestation not connected with their duties.

Article X. The personnel shall be bound by the obligation of confidentiality with regard to all facts or information which come to their knowledge in the performance of their functions and shall also refrain from any act which might embarrass either the French Republic or the Republic of Senegal.

Article XI. The personnel seconded for service with the Republic of Senegal may not engage in any gainful activity in its territory.

As an exceptional measure and when warranted in the general interest, this prohibition may be waived by joint decision of the Senegalese administration and the French representation.

When the spouse of one of the personnel seconded to the Republic of Senegal engages in any private gainful activity in the territory of that State, the person concerned shall make a declaration to that effect to the competent Senegalese authority and to the French representation, and they shall take appropriate measures to safeguard the interests of the service.

Article XII. The personnel shall incur civil and criminal liability for any infringement of the laws and regulations in force in Senegal.

The Government of the Republic of Senegal shall bear the cost of compensation for damage caused by French personnel in or in connexion with the performance of their duties.

At the request of the Republic of Senegal, the Government of the French Republic shall bear the cost of compensation for damage caused by such personnel in the event that the damage is the result of individual misconduct. The Government of the French Republic may then take action to secure appropriate repayment from such personnel.

Article XIII. Within the framework of the provisions of the Convention between the Government of the French Republic and the Government of the Republic of Senegal concerning the movement of persons, the Government of the Republic of Senegal guarantees that there shall be no charge for the formalities concerning the entry, departure and residence of personnel seconded to it for service on its territory in pursuance of this Convention and of their families.

Article XIV. Personnel seconded for service with the Government of the Republic of Senegal under this Convention shall not be subject to any administrative penalty on the part of that Government other than their reversion, for stated reasons, to the Government of the French Republic.

Article XV. The Government of the Republic of Senegal shall forward to the French representation annual reports on the manner in which the personnel seconded to it under this Convention have performed their duties.

PART III. APPORTIONMENT OF FINANCIAL COSTS

Article XVI. The Government of the French Republic shall bear the cost of:

- the remuneration and family allowances which personnel seconded to the Republic of Senegal may claim under French regulations;
- transportation of each of the personnel and his family from his place of residence to the point of entry in the Republic of Senegal and, subject to article VII, paragraph 2, above, at the time of repatriation, from the point of departure in the Republic of Senegal to the place determined, in so far as he is concerned, by the French regulations in force;
- the travel allowance applicable to the above journeys, subject to the same reservation;
- the contribution necessary to maintain the personnel's pension rights in accordance with the rates in force under French regulations.

Article XVII. The Government of the Republic of Senegal shall pay the Government of the French Republic a grant for each of the personnel seconded to it as a contribution to the costs of their remuneration.

Procedures for this contribution shall be specified in an implementing protocol.

Article XVIII. The Government of the Republic of Senegal shall provide each of the personnel seconded to it with suitable furnished accommodation. To that end, the two Governments shall decide to combine their efforts and to review personnel housing problems jointly. In this sphere the Government of the French Republic shall seek ways of assisting the Government of the Republic of Senegal.

The personnel seconded for service with the Government of the Republic of Senegal shall receive treatment, benefits, medication and hospital care for themselves and their families on the same basis and terms as permanent civil servants of equivalent grade of the Republic of Senegal.

The Government of the Republic of Senegal shall not grant to the personnel covered by this Convention any special remuneration in their personal capacity other than that applicable to mission expenses and outside its territory, to overtime or leave or to reimbursement of expenses for which provision is made in Senegalese regulations.

Article XIX. Payments made to the Republic of Senegal in respect of income tax by personnel seconded to it shall be computed according to the rules relating to taxable income and rates laid down by the legislation in force in Senegal, on the basis of a gross income determined in accordance with the provisions of annex I to this Convention.

The Government of the Republic of Senegal shall exempt the personnel seconded to it for a period not exceeding six months from duties and charges on their personal effects and belongings imported upon their initial installation in Senegal.

The personnel seconded to the Republic of Senegal may temporarily import one vehicle per household for their personal use. That vehicle may not be sold or given away without the authorization of the Senegalese administration.

PART IV. GENERAL PROVISIONS

Article XX. This Convention shall apply to technical co-operation personnel who are serving in Senegal at the date of its entry into force.

Article XXI. This Convention supersedes and abrogates all previous conventions on the subject between the Government of the French Republic and the Government of the Republic of Senegal. It is concluded for a period of two years and may be renewed for similar periods by tacit agreement. Notification of denunciation of the Convention shall be given through the diplomatic channel at least six months in advance.

This Convention shall enter into force on the first day of the second month following the exchange of instruments of approval, which shall take place at Paris as soon as possible.

DONE at Paris, in duplicate, in the French language, on 29 March 1974.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

ANNEX I

CONCERNING THE TAX REGIME FOR TECHNICAL ASSISTANCE PERSONNEL

Technical assistance personnel seconded by the Government of the French Republic for service with the Government of the Republic of Senegal shall be liable, in so far as income tax is concerned, only to general income tax on a net basis determined in accordance with the provisions of Senegalese tax legislation.

The Government of the French Republic shall inform the Government of the Republic of Senegal prior to 1 March each year of the gross taxable income from remuneration paid by it to such personnel during the previous year.

After exclusion of all family benefits and deduction of the mandatory contributions of the persons concerned to pension and social security funds, this gross income shall consist of:

- basic contractual remuneration for the period of their actual stay in Senegal;
- all remuneration for the leave period except for that for leave untaken after final departure from Senegal.

The gross taxable income of personnel whose remuneration is not fixed by contract shall be determined by analogy with the above rules.

DONE at Paris, on 29 March 1974.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

ANNEX I

CONCERNING TEACHING PERSONNEL

Article I. The list of requirements in respect of French teaching personnel at the primary, secondary and technical levels shall be transmitted to the Government of the French Republic before 1 February each year with a view to their being seconded in good time.

The list of requirements in respect of teaching personnel in higher education shall be drawn up each year by the Joint Committee on Higher Education.

Article II. Such personnel shall be appointed by decision of the authorities of the Republic of Senegal for a period of two school or academic years which may be renewed by tacit agreement.

Article III. For each teaching post in higher education, the Government of the French Republic shall endeavour to submit to the Government of the Republic of Senegal, for approval, a list of candidates, together with the necessary data.

Article IV. The weekly hours of work required of the teaching personnel seconded by the Government of the French Republic for service with the Government of the Republic of Senegal and the mode of applying them shall be those in force under Senegalese regulations for personnel of the equivalent category.

The Government of the French Republic shall be kept informed by the Government of the Republic of Senegal of any change in those regulations.

As a temporary measure, any changes which may be made in the weekly hours of work shall not be applied, without their consent, to teaching personnel whose contracts were drawn up prior to the date of this Agreement.

Article V. Teaching personnel seconded for service with the Republic of Senegal shall be granted the school or academic holidays established by the relevant Senegalese regulations. "Summer vacation" leave shall, however, be no less than 70 consecutive days in the case of personnel engaged in teaching duties and no less than 60 consecutive days in the case of personnel performing administrative duties.

Article VI. With a view to the normal career development of teaching personnel, the Government of the Republic of Senegal shall authorize the inspection of such personnel by educational inspectors and professional examinations for them in the manner laid down in the regulations in force in the French Republic.

The costs of such inspections shall be borne by the French Republic.

These inspections shall not replace those carried out by the Senegalese authorities on all teaching staff in Senegal.

Article VII. Procedures for the implementation of this annex shall be examined, as necessary, by a joint committee in which both Parties are equally represented.

DONE at Paris, on 29 March 1974.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

ANNEX III

CONCERNING JUDICIAL PERSONNEL SECONDED FOR SERVICE WITH THE REPUBLIC OF SENEGAL

Article I. The purpose of this annex is to determine, in accordance with the provisions of article I of the Convention concerning personnel assistance provided by the French Republic to the Republic of Senegal, the specific arrangements for co-operation between the French Republic and the Republic of Senegal with regard to judicial personnel seconded for service with the Republic of Senegal.

The provisions of the above-mentioned Convention shall be applicable to said judicial personnel in so far as this annex does not derogate from them.

Article II. The Government of the French Republic undertakes to second to the Government of the Republic of Senegal such judicial personnel as the latter Government deems it requires.

The Government of the French Republic also undertakes to assist the Government of the Republic of Senegal, on request, in the professional training of candidates for judicial functions and in the advanced training of Senegalese judicial personnel.

Article III. Judicial personnel seconded to the Republic of Senegal shall continue to be governed by the statutory provisions applicable to them, without prejudice to the provisions of this Agreement.

Judicial personnel seconded to the Government of the Republic of Senegal shall enjoy the independence, advantages, guarantees, privileges, honours and prerogatives to which members of the judicial profession of the Republic of Senegal are entitled.

The latter State shall protect judicial personnel from any threats, offensive behaviour, insults, defamation and attacks of any kind to which they may be subjected in or in connexion with the performance of their functions and shall make good any damage arising therefrom.

Judicial personnel may not be challenged in any way regarding decisions in which they participate, utterances in court or acts relating to their functions, unless such utterances, acts or decisions constitute a breach of the duties of their office or of honour, tact or dignity. In the event of such breach, the penalties provided for in the General Convention concerning personnel assistance provided by the Government of the French Republic to the Government of the Republic of Senegal shall be applied to them.

Prior to taking up their duties, they shall take an oath in the manner prescribed for members of the judicial profession of the Republic of Senegal.

Article IV. Judicial personnel seconded to the Government of the Republic of Senegal may not be given a new appointment without their prior consent. Nevertheless, when the necessities of the service so require, they may be transferred temporarily with the consent of the French representation in Senegal.

Article V. Correctional or criminal proceedings may be instituted against a judicial officer only on the recommendation of a commission composed of two judges designated by the Minister of Justice of Senegal and two judicial officers designated by the Government of the French Republic.

The commission shall meet when convened by the Minister of Justice of Senegal.

It shall elect its own chairman. If the votes are equally divided, the matter shall be referred to the French-Senegalese Ministerial Committee provided for in the Treaty of friendship and co-operation¹ between the Republic of Senegal and the French Republic. The Committee shall hold a special session at the request of the Government of the Republic of Senegal within one month.

¹ United Nations, *Treaty Series*, vol. 1061, p. No. I-16151.

The opinion of the commission shall be conveyed, if appropriate, to the competent public prosecutor's office.

Should proceedings be instituted, the Government of the French Republic shall be kept informed and the judicial officer against whom the proceedings are being taken shall be entitled to the special jurisdiction provided for in the applicable legislation of Senegal.

Article VI. The most senior of the highest-ranking judicial officers seconded to the Republic of Senegal shall, in accordance with the procedure laid down in the Convention concerning personnel assistance, draw up and transmit reports on the performance by the judicial personnel of their duties, in the manner and at the intervals prescribed in the regulations governing them in their original service.

DONE at Paris, on 29 March 1974.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

A N N E X I V

CONCERNING CERTAIN MILITARY PERSONNEL DETACHED FOR SERVICE WITH THE REPUBLIC OF SENEGAL

Article I. The purpose of this annex is to determine the special measures applicable to military personnel other than those referred to in annex I to the Agreement on co-operation in defence matters.

The provisions of the General Convention shall be applicable to such personnel in so far as this annex does not derogate from them.

Article II. The military personnel seconded to the Republic of Senegal to serve in posts under its authority shall have the status of detached personnel for the normal tour of duty plus embarkation leave, annual leave, and outward and return travel time, that is to say, for two years as a rule.

To the extent allowed by the availability of replacement personnel, the period of detachment may be extended for a second tour of duty.

Article III. Military personnel detached for service with the Government of the Republic of Senegal shall retain the rights and continue to be subject to the obligations of their staff regulations, as defined by the legislation and regulations in force in the French Republic, particularly as regards promotion, performance reports, discipline, wearing of uniform, right to medical treatment and hospitalization under the military medical service, pension contributions and pension rights.

In all these matters, the military personnel are subordinate to the military counsellor of the French Embassy.

The latter may delegate all or part of his functions to the senior military officer detached for service with the Republic of Senegal.

Article IV. In making appointments to posts within the framework of the General Convention, account shall be taken of the statutory rules relating to rank so that none of the

detached military personnel has under his command military personnel of higher rank or senior to him in the same rank.

Article V. Personnel of the military medical service seconded for service with the Government of the Republic of Senegal shall continue to be subject to inspection by the general officers of the armed forces medical service in so far as the obligations relating to their status as officers are concerned.

Article VI. For the purposes of the application of article X of the Convention concerning personnel assistance to personnel in the military medical service, the two Governments shall undertake to enforce the provisions of the French and Senegalese codes of medical ethics.

DONE at Paris, on 29 March 1974.

For the Government
of the French Republic:

[Signed]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[Signed]

ASSANE SECK
Minister for Foreign Affairs

PROTOCOL¹ CONCERNING THE IMPLEMENTATION OF ARTICLE 17 OF THE CONVENTION CONCERNING PERSONNEL ASSISTANCE PROVIDED BY THE FRENCH REPUBLIC TO THE REPUBLIC OF SENEGAL²

The Government of the French Republic and the Government of the Republic of Senegal have jointly decided on the following provisions:

Article I. Pursuant to the provisions set forth in article 17 of the Convention concerning personnel assistance provided by the French Republic to the Republic of Senegal, the Government of the Republic of Senegal undertakes to pay, as from the date of the entry into force of the Convention, as a contribution to all the costs set forth in article 17, paragraph 1, a fixed monthly grant of fifty-five thousand (55,000) CFA francs, equivalent to one thousand one hundred (1,100) French francs, for each of the personnel concerned, throughout the period of secondment, including the statutory administrative leave following the completed tour of duty. The amount of this grant may be revised by joint agreement at the request of either Government.

Article II. In the case of personnel seconded for service with certain parastatal industrial and commercial bodies having budgetary autonomy, provision may be made for a special contribution the amount of which shall be determined by means of an exchange of letters.

Article III. The fixed monthly grant provided in article I shall not be paid in respect of higher education personnel for whom the French Ministry of National Education is responsible.

Article IV. A statement of monies due, drawn up on the basis of personnel seconded to the Government of Senegal as at 1 January, including those on statutory leave, shall be issued by the Government of the French Republic and shall cover the period from 1 January to 30 November.

The amount specified in that statement shall be paid by the Government of the Republic of Senegal before 1 December.

The statement of monies due issued for the month of December shall reflect any adjustments to take into account the actual number of personnel between 1 January and 30 November.

Payment in respect of the statement of monies due for the month of December shall be made before 31 March of the following year.

¹ Came into force on 1 September 1976, the date of entry into force of the Convention, in accordance with article V of the Protocol.

² See p. 141 of this volume.

Article V. This Protocol shall enter into force on the same date as the Convention concerning personnel assistance provided by the French Republic to the Republic of Senegal.

DONE at Paris, on 29 March 1974, in duplicate, in the French language.

For the Government
of the French Republic:

[*Signed*]

JEAN DE LIPKOWSKI
Secretary of State
to the Minister for Foreign Affairs

For the Government
of the Republic of Senegal:

[*Signed*]

ASSANE SECK
Minister for Foreign Affairs
