

No. 25778

**FRANCE
and
DJIBOUTI**

Protocol concerning the jurisdiction of the military police as concerns offences or wrongful acts committed by members of the French armed forces or their families on the territory of the Republic of Djibouti. Signed at Djibouti on 14 February 1980

Authentic text: French.

Registered by France on 16 March 1988.

**FRANCE
et
DJIBOUTI**

Protocole au sujet des compétences de la Prévôté en matière de délits ou de fautes commis par les membres des Forces Armées françaises et leurs familles sur le territoire de la République de Djibouti. Signé à Djibouti le 14 février 1980

Texte authentique : français.

Enregistré par la France le 16 mars 1988.

[TRANSLATION — TRADUCTION]

PROTOCOL¹ CONCERNING THE JURISDICTION OF THE MILITARY
POLICE AS CONCERNS OFFENCES OR WRONGFUL ACTS
COMMITTED BY MEMBERS OF THE FRENCH ARMED FORCES
OR THEIR FAMILIES ON THE TERRITORY OF THE REPUBLIC
OF DJIBOUTI BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF
DJIBOUTI

The Protocol of agreement between the French Republic and the Republic of Djibouti concerning defence matters² established in article 6 the jurisdiction of the military courts of France and Djibouti in respect of offences committed by members of the French armed forces (including those serving under technical military co-operation and their families).

In application of the provisions of that Protocol of agreement, the Government of the French Republic and the Government of the Republic of Djibouti have agreed as follows:

Article 1. FUNCTIONS OF THE MILITARY CRIMINAL INVESTIGATION DEPARTMENT

I. General provisions

The military police units at Djibouti shall have particular jurisdiction under the Criminal Investigation Department, for any offences which make the offenders subject to the jurisdiction of the French military courts:

(a) Within French military installations (cantonments, housing, etc.), the military police shall act without the assistance of the authorities of Djibouti;

(b) Outside French military installations (cantonments, buildings, housing, etc.), when the offences are committed by members of the French armed forces, the military police shall act with the assistance of the authorities of Djibouti (gendarmerie or police), particularly when a person other than a member of the French military force is involved in the matter either as a co-perpetrator or as an accessory and is thus subject to the jurisdiction of the courts of Djibouti.

(c) In the absence of the military police, in the case of an emergency and provided that the inquiry has produced evidence that the offender was on duty, the authorities of Djibouti shall be required to inform the military police immediately of any offences committed by a member of the French armed forces outside French military installations.

II. Role of the military police units in cases of crimes or flagrant offences

(a) If a crime or flagrant offence which, by virtue of the offender, falls within the jurisdiction of the courts of Djibouti is committed within a French installation, the military police units shall take all the interim measures of protection (including holding the perpetrators, co-perpetrators or accessories in police custody, protection

¹ Came into force on 14 February 1980 by signature.

² United Nations, *Treaty Series*, vol. 1430, No. I-24252.

of evidence) and shall immediately inform the gendarmerie or police of Djibouti, which shall carry out the inquiry jointly with the military police within the installations and shall alone carry out the inquiry outside the installations. The French military authorities shall be kept informed of the results of the inquiry.

(b) In the case of a crime or flagrant offence committed by a member of the French armed forces or a member of his family outside a French military installation, the police or gendarmerie of Djibouti alone shall take all the necessary interim measures of protection, including the arrest of the offender. The military authorities shall be kept informed without delay.

If the person who has committed the offence — or any co-perpetrator or accessory — is subject to the jurisdiction of the French military courts, that person shall be turned over to the French authorities within 24 hours, in addition to any travel time that may be dictated by the circumstances.

If the person who has committed the offence — or any co-perpetrator or accessory — is not subject to the jurisdiction of the French military courts, the authorities of Djibouti and France shall agree mutually on a place where the person shall be confined to restricted residence for pre-trial detention.

III. *Role of the military police units in cases other than flagrant offences or crimes*

In cases other than crimes or flagrant offences, any person subject to the jurisdiction of the French military courts may be arrested only by the military police units or, at the request of the French authorities, by the gendarmerie or police of Djibouti in accordance with the provisions of article 6 of the Protocol.

IV. *Special cases*

In the event that a member of the French armed forces is being prosecuted simultaneously for different offences which fall within the jurisdiction of the French military courts and the jurisdiction of the courts of Djibouti, that person shall first be handed over to the judicial authority having jurisdiction over the act punishable by the more serious penalty under French penal law. The authorities of Djibouti and France shall determine by common agreement the place where the accused shall be held for pre-trial detention.

However, in the event that:

The penalties for both offences are the same, or if one offence is desertion and the other, committed outside the cantonments and housing occupied by the members of the French armed forces, carries a criminal penalty, the offender or offenders — or any co-perpetrators or accessories — shall first be handed over to the authorities of Djibouti, which shall determine, in agreement with the French authorities, the place where the accused shall be held for pretrial detention.

One of the offences is desertion and the other is a wrongful act or offence, the offender or offenders — or any co-perpetrators or accessories — shall be handed over to the French military authorities.

V. *Investigation of complaints and charges brought by members of the French armed forces*

The military police units shall, without the assistance of the authorities of Djibouti, investigate within French military installations and housing any complaints and charges brought before them.

The military police units shall turn over any complaints and charges to the gendarmerie or police of Djibouti for legal action in the event that such complaints or charges do not appear to fall, *a priori*, within the jurisdiction of the French military authorities or courts. On a reciprocal basis, outside French military installations, the gendarmerie or police of Djibouti shall turn over to the military police units, for legal action, any complaints or charges, as well as any findings, which do not, *a priori*, fall within the jurisdiction of the courts of Djibouti.

For the purposes of their investigations, outside the areas in which they have jurisdiction, each authority (the military police or the gendarmerie or police of Djibouti) may request the assistance of the other.

VI. *Functions of a legal/military nature*

The military police units alone shall carry out any functions of a legal/military nature involving members of the French armed forces accused or charged by the French military courts (including cases involving extradition or transfer to France as a result of incidents which occurred prior to the arrival of the persons concerned in Djibouti).

VII. *Warrants and Summonses*

1. In the event that the French military authorities issue warrants or summonses addressed to members of the French armed forces or summonses addressed to persons who are not members of the French armed forces, the procedures of serving and ensuring compliance with such warrants or summonses shall be carried out:

- by the military police units, within French installations (cantonments, buildings, housing, etc.)
- by the gendarmerie of Djibouti, acting jointly with the French judicial authorities, in all other cases.

2. Warrants and summonses issued by the judicial authorities of Djibouti shall be served and compliance with them ensured under the following conditions:

(a) With respect to those addressed to members of the French armed forces:

- within French installations, by the military police units, acting jointly with the gendarmerie,
- outside French military installations and housing, by the gendarmerie of Djibouti, which shall inform the French military authority without delay.

(b) With respect to those addressed to persons who are not members of the French armed forces but who are within French installations, by the military police, with the assistance of the gendarmerie of Djibouti.

VIII. *Execution of rogatory commissions by the military police units*

The transmission and execution of rogatory commissions shall be carried out in accordance with the provisions relating to judicial matters agreed between the French Republic and the Republic of Djibouti.

Nevertheless, the military police units shall execute rogatory commissions issued by the French judicial military authorities under the following circumstances:

- When the rogatory commission requests the examination of a member of the French armed forces, it shall be carried out by the military police units, acting alone.
- When the rogatory commission requests the examination of another person who is not a member of the French armed forces, the rogatory commission shall be

transmitted to the competent judicial authorities of Djibouti in accordance with the provisions of the agreement on co-operation in judicial matters between the French Republic and the Republic of Djibouti.

*Article 2. TRAFFIC ACCIDENTS INVOLVING MEMBERS
OF THE FRENCH ARMED FORCES*

1. In the event that an accident involves a member of the French armed forces who is on duty (as that concept is defined in the *Règlement de Discipline Générale de l'Armée Française*) and who is driving a military or civilian vehicle:

“11. If this accident causes no physical or material injury to third parties, be they Djiboutians or foreigners, living in Djibouti, or to the State of Djibouti (damage to roads, pylons, trees, bridges, etc.), the nearest military police units shall be informed immediately by the gendarmerie or police of Djibouti, as appropriate, and shall carry out the investigation and keep the authorities of Djibouti informed.

“12. In the opposite case (in the event of physical or material injury to a third party or to the State of Djibouti), the military police, which shall be advised immediately by the gendarmerie or police of Djibouti, shall carry out the investigation jointly with the latter and shall, in all cases, issue the procedural acts.

“13. In all cases, it is the responsibility of the military police to determine definitively whether or not the driver was on duty.”

2. In the event that an accident involves a member of the French armed forces not on duty:

In all cases in which a member of the French armed forces is using a vehicle for his personal needs, he shall be responsible for any accidents he may cause. The investigation shall be carried out by the gendarmerie or police of Djibouti, and the military police units shall be involved in the investigation only in the event that the member of the French armed forces is killed or injured or in the event that the victims are members of the French armed forces.

3. The legal representatives of the victim or victims — parents, spouses, or heirs — shall be kept informed of the legal action taken by the police or the judiciary.

Article 3. ACCIDENTS OR INCIDENTS INVOLVING FRENCH MILITARY AIRCRAFT

Case One:

If an accident or incident takes place within the limits of a military airfield or a body of water made available for the use of the French armed forces:

“The military police units shall file an accident report and immediately advise the gendarmerie or police of Djibouti. If, however, any Djiboutian military personnel or civilians were on board the aircraft, the gendarmerie or police of Djibouti shall participate in the investigation.”

Case Two:

If an accident or incident takes place outside the limits of the airfields or bodies of water made available for the use of the French armed forces:

“The gendarmerie or police of Djibouti shall file an accident report, provide assistance and take the necessary provisional interim measures of protection. The gendarmerie or police shall without delay inform the military police, which shall carry out the investigation jointly with the gendarmerie or police and shall in all cases, issue the procedural acts.”

Article 4. THE GENERAL MILITARY POLICE

I. The military police units shall contribute to the maintenance of order and the security of the French armed forces.

II. Acting alone, or in close co-operation with the gendarmerie or police of Djibouti, the military police units shall endeavour to prevent any act by members of the French armed forces which might cause harm to the population of Djibouti.

III. The military police units jointly with the gendarmerie or police of Djibouti shall file a report specifying any damage to housing or lands under cultivation caused by members of the French armed forces during their military exercises.

IV. They shall inform the gendarmerie or police of Djibouti, on condition of reciprocity, following an investigation within the French military installations, of any actions in violation of the legislation of Djibouti which it may discover. Any investigation outside French military installations shall be carried out by the gendarmerie or the police of Djibouti.

V. In the event of a serious incident or disaster (fire, tidal wave, derailment, earthquake, etc.), the military police units shall co-operate with the gendarmerie or police of Djibouti at the request of the authorities of Djibouti.

VI. The specialized agencies, the gendarmerie and the police of Djibouti shall, at the request of the military police, provide assistance to the latter in the maintenance of the security of the military establishments of the French armed forces (protection against theft, looting, embezzlement, etc.).

Article 5. MONITORING THE ATTITUDE AND CONDUCT OF THE FRENCH MILITARY

I. The military police units shall, on a continuing basis, monitor the attitude and conduct of the members of the French armed forces outside their installation. The units shall on such occasions also verify the status of the persons concerned.

II. If necessary, the monitoring and verification functions shall be carried out by joint patrols, comprising, on the Djibouti side, members of the police, the gendarmerie or the army and, on the French side, members of the military police.

The French and Djiboutian members of such patrols shall co-operate in providing mutual aid and assistance in the monitoring of their own nationals.

III. The gendarmerie or the police of Djibouti may at any time arrest a member of the French armed forces who is disturbing the peace. The gendarmerie or police shall immediately inform the military police, to which the person concerned shall be handed over if he is liable solely to disciplinary action.

IV. In the case of legal proceedings initiated by the authorities of Djibouti, the procedure to be followed shall be that provided for in article 6 of the Military Protocol between France and Djibouti, signed on 27 June 1977.¹

Article 6. SUPERVISION OF FRENCH MILITARY VEHICLES

I. Outside French military installations, the military police units shall also be responsible for ensuring that the members of the French armed forces comply with the traffic regulations in force in Djibouti and with the orders issued by the French command with respect to military traffic regulations.

¹ United Nations, *Treaty Series*, vol. 1430, No. I-24252.

II. In the event of large French troop movements by land (exercises), the military police units, assisted by the units of the French armed forces responsible for traffic regulation, shall co-operate with the gendarmerie and police of Djibouti in ensuring compliance with traffic and convoy regulations and in the filing of accident reports.

Monitoring compliance with the traffic regulations shall in that case be the responsibility of the authorities of Djibouti which shall be notified in good time.

DONE at Djibouti on 14 February 1980, in two original copies.

For the Government
of the French Republic:

[Signed]

IVAN BASTOUIL
Ambassador of France
to the Republic of Djibouti

For the Government
of the Republic of Djibouti:

[Signed]

MOUMIN BAHDON FARAH
Minister for Foreign Affairs
and Co-operation