

No. 25963

FRANCE
and
DJIBOUTI

Convention concerning personnel assistance provided by the French Republic for the operation of the public services of the Republic of Djibouti (with annexes and exchange of letters). Signed at Paris on 28 April 1978

Authentic text: French.

Registered by France on 6 June 1988.

FRANCE
et
DJIBOUTI

Convention relative au concours en personnel apporté par la République française au fonctionnement des services publics de la République de Djibouti (avec annexes et échange de lettres). Signée à Paris le 28 avril 1978

Texte authentique : français.

Enregistrée par la France le 6 juin 1988.

[TRANSLATION — TRADUCTION]

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

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

Article I

The Government of the French Republic shall, as far as possible, make available to the Government of the Republic of Djibouti the technical assistants whom the latter considers necessary for the operation of its public and parastatal services. The provision of such assistance shall be independent of any assistance forming the subject of particular conventions relating either to the operation of certain services or institutions, or to the execution of temporary missions with specific objectives.

PART I

PROCEDURES FOR THE ASSISTANCE PROVIDED BY THE FRENCH REPUBLIC

Article II

The principal function of the technical assistants shall be to act as advisers to the public services of the Republic of Djibouti and to participate in the training of its 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 Djibouti.

Article III

The Government of the Republic of Djibouti shall transmit to the Government of the French Republic a list of the posts to be filled, together with an indication of the place of residence, and a description of the functions and of the qualifications sought for each post.

The two Governments shall then draw up by agreement a list of posts which may be held by personnel made available to the Republic of Djibouti by the French Republic. The agreement may be reviewed annually.

¹ Came into force on 31 October 1982, the date of the last of the notifications by which the Contracting Parties informed each other (on 5 October 1979 and 31 October 1982) of the completion of the required constitutional procedures, in accordance with article XX.

Within the limits of the staff thus agreed on, the Government of the French Republic shall make available to the Government of the Republic of Djibouti such of its personnel as it can release.

Article IV

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

The Government of the Republic of Djibouti shall have one month from the date of receipt of the above information in which to convey its decision of acceptance or rejection.

Once that time-limit has expired, or in the event of rejection, the personnel who have not been accepted shall revert to the jurisdiction of the Government of the French Republic.

The latter shall, however, as far as possible, submit new proposals, which may be accepted or rejected on the conditions set forth above.

In order to facilitate this procedure for nominating and accepting civil service personnel, the Government of the Republic of Djibouti may make any proposal or suggestion that may facilitate the submission of the names of candidates suited for a technical assistance mission because of their particular knowledge of problems specific to the Republic of Djibouti.

Article V

On receipt of the notification of acceptance of the proposed candidate by the Government of the Republic of Djibouti, 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 Djibouti for a period of two years from the date of arrival in the territory of that State. That period may, as an exceptional measure, be reduced by the authority of the Republic of Djibouti.

Any transfer of personnel covered by this Convention contemplated by the Government of the Republic of Djibouti which would result in a change in the level or nature of the post to which they have been appointed by virtue of article IV above shall be the subject of consultations between the two Governments.

Transfers may be made only after consultation of the personnel concerned. However, the refusal of the personnel in question may result in their recall.

Article VI

On expiry of the period laid down in article V, second paragraph, the personnel shall automatically revert to the Government of the French Republic. They may, however, with their consent, 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.

The secondment may be renewed at the request of the Government of the Republic of Djibouti.

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

Article VII

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

Whenever an assignment is terminated prematurely by the unilateral decision of the Government of the Republic of Djibouti, 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 applicable to them in force in the French Republic.

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

Evacuation of personnel for health reasons, sick leave involving repatriation, and convalescent leave and extended leave granted outside the territory of the Republic of Djibouti shall terminate the assignment of the staff concerned. The same shall apply when the employee 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

Personnel on secondment to the Government of the Republic of Djibouti under this Convention shall carry out their duties under the authority of that Government and shall be obliged to comply with its regulations and instructions. They shall receive from said Government assistance and protection on the same terms as Djibouti civil servants.

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

Article X

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 duties and shall also refrain from any act which might embarrass either the French Republic or the Republic of Djibouti.

Article XI

Personnel made available to the Government of the Republic of Djibouti 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 two Parties.

Where the spouse of an employee seconded to the Republic of Djibouti wishes to engage in gainful activity in the public or private sector in the territory of that State, the employee must make a prior request to that effect to the competent Djibouti authority and to the French representative, and they shall take the measures which, by mutual agreement, are in the interests of the service and will safeguard the national interests of the two Parties.

Article XII

The Government of the Republic of Djibouti shall bear the cost of compensation for damage caused by personnel seconded to it under this Convention by the Government of the French Republic in or in connection with the performance of their duties. Should legal action be instituted for such damage, it shall be brought against the Government of the Republic of Djibouti in the stead of the accused French personnel.

Should the damage be the result of individual misconduct, the Government of the Republic of Djibouti may request compensation from the Government of the French Republic.

In the event of damages suffered by the French personnel in or in connection with the performance of their duties, except in the case of personal misconduct, the Government of the Republic of Djibouti shall pay equitable compensation. Requests for compensation shall be transmitted to the Republic of Djibouti on the initiative of the Government of the French Republic.

Article XIII

The Government of the Republic of Djibouti undertakes to facilitate procedures for the entry and departure of personnel seconded to it for service in its territory under this Convention, as well as for the entry and departure of their families.

Article XIV

The Government of the Republic of Djibouti 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. These reports shall be made on the performance evaluation forms provided for that purpose.

PART III

APPORTIONMENT OF FINANCIAL COSTS

Article XV

The Government of the French Republic shall bear the cost of:

- Remuneration and family allowances which an employee seconded to the Republic of Djibouti may claim under French regulations;
- Transportation of the employee and his family from his place of residence to the point of entry in the Republic of Djibouti and, subject to article VII, second paragraph, above, at the time of repatriation, from the point of departure in the Republic of Djibouti to the place determined, in so far as he is concerned, by the French regulations in force;
- Travel allowance applicable to the above journeys, subject to the same reservation;
- Contribution necessary to maintain the employee's pension rights in accordance with the rates in force under French regulations.

The portion of these remunerations corresponding to his base index pay shall be paid into an account to be opened in the Republic of Djibouti by each person concerned.

Article XVI

The Government of the Republic of Djibouti shall pay the Government of the French Republic, as its share of the costs of remuneration, a contribution for each employee seconded to it.

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

Article XVII

The Government of the Republic of Djibouti shall provide each employee seconded to it with furnished accommodation befitting his duties and the size of his family.

Procedures for providing such accommodation shall be dealt with in an exchange of letters.

The personnel on secondment to the Government of the Republic of Djibouti shall receive medical 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 Djibouti.

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

The foregoing provisions do not exclude the possible allocation of fringe benefits (water, electricity, car or telephone) for which provision is made in Djibouti regulations.

Article XVIII

Tax and customs provisions applicable to technical assistance personnel seconded to the Government of the Republic of Djibouti by the French Republic shall be dealt with in a special protocol.

PART IV

GENERAL PROVISIONS

Article XIX

This Convention shall apply to technical cooperation personnel who are serving in the Republic of Djibouti at the date of its entry into force.

Article XX

This Convention and its annexes, with the exception of annex V, are concluded for a period of five years and shall be renewed automatically for similar periods unless denounced by one of the Contracting Parties. Notification of denunciation of the Convention shall be given through the diplomatic channel at least six months in advance.

Each of the two Contracting Parties shall notify the other of the completion of the constitutional procedures required for this Convention to enter into force. It shall enter into force on the date of the last notification.

Either Contracting Party may, at any time, request the amendment of one or more of the provisions of this Convention and the initiation of negotiations for that purpose.

DONE at Paris on 28 April 1978 (in duplicate).

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY
Minister of Cooperation

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON
President of the Republic

ANNEX I CONCERNING THE IMPLEMENTATION OF ARTICLE XVI OF THE
CONVENTION CONCERNING PERSONNEL ASSISTANCE PROVIDED BY
THE FRENCH REPUBLIC TO THE REPUBLIC OF DJIBOUTI

Article I

As from 1 January 1978, pursuant to the provisions set forth in article XVI of the Convention concerning personnel assistance provided by the French Republic to the Republic of Djibouti, for each employee concerned, the Government of the Republic of Djibouti undertakes to pay, as of 1 January 1978, as its share of all the costs set forth in article XVI, first paragraph, a fixed monthly contribution in Djibouti francs equivalent to 500 French francs throughout the period of secondment, including the statutory administrative leave following the completed tour of duty. The amount of this contribution may be revised by agreement at the request of either Government.

Article II

In the case of personnel seconded to 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 an exchange of letters.

Article III

A statement of monies due, drawn up on the basis of personnel seconded to the Government of the Republic of Djibouti as of 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 Djibouti 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.

DONE at Paris on 28 April 1978 in duplicate.

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON

ANNEX II CONCERNING TEACHING PERSONNEL

Article I

The list of requirements in respect of French teaching personnel at the primary, secondary and technical levels shall be submitted to the Government of the French Republic before 1 February each year with a view to their being seconded in good time. The reply of the Government of France must reach the Government of the Republic of Djibouti before 15 April.

Article II

Such personnel shall be appointed by decision of the authorities of the Republic of Djibouti, in accordance with a jointly agreed list of positions, for a period of two school years which may be renewed automatically.

Article III

The number of service hours required per week of the teaching personnel seconded to the Government of the Republic of Djibouti by the Government of the French Republic and the rules to be followed in scheduling them shall be those in force under Djibouti regulations for personnel of the equivalent category.

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

Article IV

Teaching personnel on secondment with the Republic of Djibouti shall be granted the school holidays established by the relevant Djibouti regulations. However, annual leave shall not exceed 75 consecutive days in the case of personnel performing administrative duties.

Article V

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

The cost of such inspection shall be borne by the French Republic.

These inspections shall not replace those carried out by the Djibouti authorities on all teaching staff in the Republic of Djibouti.

Article VI

Procedures for the implementation of this annex shall be examined, as necessary, by the French-Djibouti Cooperation Committee.

DONE at Paris on 28 April 1978 in duplicate.

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY
Minister for Cooperation

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON
President of the Republic

ANNEX III CONCERNING JUDICIAL PERSONNEL ON SECONDMENT TO THE REPUBLIC OF DJIBOUTI

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 Djibouti, the specific arrangements for cooperation between the French Republic and the Republic of Djibouti with regard to judicial personnel on secondment to the Republic of Djibouti.

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

Article II

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

Article III

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

The latter 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 connection 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 Djibouti 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 Djibouti.

Article IV

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

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 Djibouti and two judicial officers designated by the Government of the French Republic.

The commission thus appointed shall meet when convened by the Minister of Justice of the Republic of Djibouti. Its opinion shall be conveyed, if appropriate, to the competent public prosecutor's office.

It shall elect its own chairman. If the votes are equally divided, the matter shall be referred to the French-Djibouti Cooperation Committee provided for in the Treaty of Friendship and Cooperation between the Republic of Djibouti and the French Republic. The Cooperation Commission shall hold a special session at the request of the Government of the Republic of Djibouti within one month. Its opinion 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 the Republic of Djibouti.

Article VI

The most senior of the highest-ranking judicial officers seconded to the Republic of Djibouti 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 28 April 1978 in duplicate.

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY
Minister of Cooperation

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON
President of the Republic

ANNEX IV CONCERNING CERTAIN MILITARY PERSONNEL DETACHED
FOR SERVICE WITH THE REPUBLIC OF DJIBOUTI

Article I

The purpose of this annex is to determine the special measures applicable to military personnel other than those referred to in the Agreement on Cooperation in Military 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

Military personnel seconded to the Republic of Djibouti 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.

At the request of the Republic of Djibouti, 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 Djibouti shall retain the rights and continue to be subject to the obligations of their service 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 shall be subordinate to the military attaché of the French Embassy.

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 on secondment to the Government of the Republic of Djibouti 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. The Government of the Republic of Djibouti shall receive advance notice of the arrival of such inspection missions.

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 Djibouti codes of medical ethics.

DONE at Paris on 28 April 1978 in duplicate.

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY
Minister of Cooperation

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON
President of the Republic

ANNEX V CONCERNING THE TAX REGIME FOR TECHNICAL
ASSISTANCE PERSONNEL

Article I

Remuneration received by French technical assistance personnel shall be subject only to the tax on wages and salaries provided for under the general solidarity tax on income, in accordance with the rules laid down in resolution 74/8/L of the Chamber of Deputies of the French Territory of the Afars and the Issas of 23 December 1974 and the tax schedule established by Decree 77 CI/FIN of 30 June 1977 of the Government of the Republic of Djibouti.

Article II

The rates set by that Decree shall be applied to a tax base equal to eighty per cent (80%) of total monthly pay, excluding specific payments and family allowances and supplements, less legal deductions for retirement and social security.

Article III

For the period of leave outside Djibouti, the tax base shall be equal to leave pay plus residence allowance, excluding any family supplement bounty or allowance and the aforementioned deductions.

Article IV

When the disbursing agency is unable to make monthly deductions, this tax shall be paid quarterly by the persons concerned in accordance with the conditions laid down in article 27 of Resolution 74/8/L of 23 December 1974.

Article V

Personnel on secondment at the date of signature of this Convention shall continue to be subject to the old tax provisions as long as their scheme of remuneration remains unchanged. They may, however, be required to make quarterly payments in accordance with the conditions defined in the preceding paragraph.

Article VI

The provisions of this annex shall be valid for a three-year period and shall be automatically renewed for similar periods.

Should either Party wish to amend this annex, it shall give notification at least three months prior to the expiration of such a period.

DONE at Paris on 28 April 1978 in duplicate.

For the Government
of the French Republic:

[Signed]

ROBERT GALLEY
Minister of Cooperation

For the Government
of the Republic of Djibouti:

[Signed]

HASSAN GOULED APTIDON
President of the Republic

EXCHANGES OF LETTERS

I a

Sir,

The Convention concerning Personnel Assistance Provided by the French Republic for the Operation of the Public Services of the Republic of Djibouti stipulates, in article XVII, that the Government of the Republic of Djibouti shall provide each employee seconded to it with furnished accommodation befitting his duties and the size of his family.

In order to facilitate the provision of said accommodation, the Government of the French Republic proposes the following provisions: to the extent that the provision of such accommodation entails the transfer to the budget of the Republic of Djibouti of costs not previously borne by it, these additional costs shall be the subject of financial assistance from the French Republic.

The amount of such assistance shall be determined annually by the French-Djibouti Cooperation Committee.

If these provisions meet with the approval of the Government of the Republic of Djibouti, this letter and your reply shall constitute an Agreement between our two Governments. The Agreement shall enter into force on the same day as the Convention concerning Personnel Assistance Provided by the French Republic for the Operation of the Public Services of the Republic of Djibouti and shall remain in force for as long as the Convention.

Accept, Sir, etc.

Done at Paris on 28 April 1978.

[Signed]

ROBERT GALLEY

His Excellency Mr. Hassan Gouled Aptidon
President of the Republic of Djibouti

II a

Sir,

On 26 April 1978, you sent me a letter which reads as follows:

[See letter I a]

I have the honour to inform you that the Government of the Republic of Djibouti is in agreement with the proposals contained in this letter.

Accept, Sir, etc.

Done at Paris on 28 April 1978.

[Signed]

HASSAN GOULED APTIDON

His Excellency Mr. Robert Galley
Minister of Cooperation of the French Republic

I b

Sir,

The Provisional Protocol concerning the conditions for the stationing of French forces in the territory of the Republic of Djibouti, signed 27 June 1977,¹ stipulates, in article 7, that French military personnel shall be subject to the tax regime defined in the Convention concerning technical cooperation personnel.

The conditions for the taxation of technical cooperation personnel are contained in annex V of the Convention concerning Personnel Assistance Provided by the French Republic for the Operation of the Public Services of the Republic of Djibouti, signed today.

The Government of the French Republic hereby proposes to the Government of the Republic of Djibouti that 1 January 1978 should be made the date of application of the schedule established by Decree 77/CI/FIN of 30 June 1977 for the taxation of military personnel, whether for members of the French armed forces or for technical military assistance personnel.

Until that time, the schedule established in Resolution 74/8/L of 23 December 1974 shall apply.

If these provisions meet with the approval of the Government of the Republic of Djibouti, this letter and your reply shall constitute an Agreement between our two Governments. The Agreement shall enter into force on the same day as the Convention concerning Personnel Assistance Provided by the French Republic for the Operation of the Public Services of the Republic of Djibouti and shall remain in force for as long as the Convention.

Accept, Sir, etc.

Done at Paris on 28 April 1978.

[Signed]

ROBERT GALLEY

His Excellency Mr. Hassan Gouled Aptidon
President of the Republic of Djibouti

¹ United Nations, *Treaty Series*, vol. 1430, p. 99.

II b

Sir,

The letter which you sent to me today, 28 April 1978, reads as follows:

[*See letter I b*]

I have the honour to inform you that the Government of the Republic of Djibouti is in agreement with the proposals contained in this letter.

Accept, Sir, etc.

Done at Paris on 28 April 1978.

[*Signed*]

HASSAN GOULED APTIDON

His Excellency Mr. Robert Galley
Minister of Cooperation of the French Republic
