

RECUEIL DES INSTRUMENTS JURIDIQUES ET INSTITUTIONNELS
DE FACILITATION DU TRANSPORT ET DES ÉCHANGES
EN AFRIQUE SUBSAHARIENNE

ANNEXE IV-11

**PROTOCOL RELATING TO THE FREEDOM OF MOVEMENT AND RIGHT
OF ESTABLISHMENT OF NATIONALS OF MEMBER STATES WITHIN
THE ECONOMIC COMMUNITY OF CENTRAL AFRICAN STATES**

(Libreville 1983)

ANNEX VII

PROTOCOL RELATING TO THE FREEDOM OF MOVEMENT AND RIGHT OF ESTABLISHMENT
OF NATIONALS OF MEMBER STATES WITHIN THE ECONOMIC COMMUNITY
OF CENTRAL AFRICAN STATES²³

Preamble

THE HIGH CONTRACTING PARTIES,

Considering the provisions of Articles 4 and 40 of the Treaty whereby freedom of movement and the right of establishment of nationals of Member States shall be defined in a Protocol to be annexed to the Treaty,

HEREBY AGREE AS FOLLOWS:

ARTICLE I

Terminology

In this Protocol:

- (a) "Committee" means the Committee on Trade, Customs and Immigration established by Rule 12 of Annex I to the Treaty;
- (b) "Community" means the Economic Community of Central African States established by Article 2 of the Treaty;
- (c) "Conference" means the meeting of Heads of State and Government of the Community under Article 8 of the Treaty;
- (d) "Council" means any meeting of ministers under Article 12 of the Treaty;
- (e) "Member State" means any Member State of the Community;
- (f) "national of the Member States" means any natural person regarded as a citizen of a Member State in accordance with its laws; legal persons established under the existing legislation of a Member State shall be deemed to be natural persons provided that their business address is established in such State and at least 30 per cent of their equity is held by nationals or public organizations of such State;
- (g) "Secretary-General" means the Secretary-General of the Community under Article 9 of the Treaty;
- (h) "Treaty" means the Treaty establishing the Community.

ARTICLE 2

General provisions

1. The nationals of Member States of the Community may freely enter the territory of any Member State, travel there, establish residence there and leave at any time in accordance with the provisions of this Protocol and with the corresponding Community regulations made by the Conference on the Council's proposal.
2. This Protocol shall apply to the nationals of Member States of the Community in the following categories and in accordance with the provisions of this Protocol:
 - (a) the nationals of a Member State travelling to another Member State as tourists or for personal reasons (hereinafter called "tourists");
 - (b) the nationals of a Member State travelling to another Member State on business (hereinafter referred to as "business men");
 - (c) the nationals of a Member State staying in the territory of another Member State in order to exercise remunerated activities (hereinafter called "workers");
 - (d) the nationals of a Member State who establish themselves in the territory of another Member State to carry on an unsalaried liberal or craft profession (hereinafter referred to as "freelance professionals").
3. Nationals of Member States of the Community who travel, stay or are established in the territory of another Member State shall enjoy the same rights and freedoms as the nationals of such State except for political rights and in accordance with the provisions of this Protocol.
4. Member States shall *inter alia*:
 - (a) gradually abolish during the transitional period the obstacles to and restrictions on the free movement of persons, goods and services, and on establishment within the Community;
 - (b) co-ordinate and harmonize their social and commercial laws in order to achieve the conditions needed for implementing a common policy in these fields at the end of the transitional period;
 - (c) facilitate access to non-salaried work and the freedom to practise it by recognition of certain professions.

ARTICLE 3

Movement of people

1. Nationals of Member States shall have freedom of movement within the Community provided that they hold a national identity card, a valid passport or a laissez-passer and an international health carnet.
2. Citizens of Member States travelling as tourists must prove that they can support themselves and will not take up a job during their stay. They must also furnish proof of right of abode. Subject to existing regulations in each Member State, tourists may move around and stay in the territory of a host Member State for a period not exceeding three months.
3. Notwithstanding the provisions of paragraph 1 of this Article, the free movement of business men shall be subject to the holding of a special certificate issued by the National Chamber of Commerce of each Mem-

ber State or the particular national authorities concerned.

4. The free movement of workers, subject to limitations on the grounds of public order, public safety and public health, shall include the right:

(a) to accept a job offered in a Member State and for this purpose to have freedom of movement in the territories of Member States;

(b) to stay in the territory of a Member State in order to work there in accordance with the laws, regulations and administrative arrangements governing the employment of workers who are nationals of such Member States;

(c) after having had a job, to remain in the territory of the Member State, in conditions to be determined by the Conference, with a view to finding further work or becoming established in such State.

ARTICLE 4

Right of establishment

1. The right of establishment shall include the right of access to unsalaried liberal or craft work and to practise them and the establishment and management of enterprises under the conditions defined by the various legislations and investment codes of the Member States of the Community.

2. Subject to the provisions of paragraph 3 of Article 2 of this Protocol, nationals of Member States of the Community who are established in another Member State shall have the same rights and freedoms as the nationals of the latter State except for political rights.

3. However, the rights and freedoms referred to in this Article shall not be a bar to the sovereign right of the Governments of Member States to expel nationals of another Member State. The latter State shall be immediately informed of the action taken against its national by the Government concerned, which shall do everything appropriate to safeguard the property and interests of the expelled person.

4. The nationals of Member States may practise liberal professions in the territory of another Member State subject to the conditions laid down by the national legislation of the latter State.

5. Salaried workers who are nationals of one Member State and employed in the territory of another Member State may, when they have ceased any kind of salaried activity establish themselves in such territory or practise a non-salaried activity if they comply with the conditions they had to comply with at the time of their entry into such State.

6. In order to facilitate the application of the provisions of this Article the Secretary-General shall make particular efforts *inter alia* to:

(a) study as a priority matter the activities where freedom of establishment is or will be a particularly useful contribution to the expansion of production and trade;

(b) collect in close collaboration with the national administrations concerned any useful particulars on activities or special situations within the Community.

ARTICLE 5

Transitional provisions

1. Subject to paragraph 1 of Article 2 of this Protocol, freedom of movement within the Community shall become effective four (4) years after the date of entry into force of the Treaty and the right of establishment twelve (12) years after such date.

2. Before the end of the transitional period referred to in paragraph 1 of this Article, the Secretary-General shall study what measures are needed to make effective the free movement of workers, notably with regard to:

(a) the necessary collaboration between national administrations, contacts between those offering work and those seeking it, and what must be done to avoid possible disturbance of living and working conditions in the various regions and industries of the Community;

(b) the elimination by all Member States of administrative procedures and practices which derive either from national legislations or from previous agreements between Member States and the maintenance of which would hamper the free movement of workers or would entail for them conditions different from the conditions applicable to its own nationals for the free choice of work;

(c) the preparation and harmonization of social security legislation and machinery giving the right to benefits, their maintenance and calculation for all the periods of employment considered by the national legislation and the payment of benefits to people residing in the territory of another Member State.

ARTICLE 6

Existing agreements

Agreements between Member States on the free movement of persons and the right of establishment shall continue to be applied subject to compatibility with this Protocol.

ARTICLE 7

The Committee

The Committee established by Rule 12 of Annex I to the Treaty shall be responsible for applying this Protocol.