

No. 10079

UNITED STATES OF AMERICA
and
TURKEY

Exchange of notes constituting an agreement concerning duty certificates in implementation of article VII, paragraph 3(a)(ii) of the Agreement between the Parties to the North Atlantic Treaty regarding the status of their forces. Ankara, 24 September 1968

Authentic text: English.

Registered by the United States of America on 1 December 1969.

ÉTATS-UNIS D'AMÉRIQUE
et
TURQUIE

Échange de notes constituant un accord relatif aux certificats de service délivrés en application des dispositions contenues au paragraphe 3, a, ii, de l'article VII de la Convention entre les États parties au Traité de l'Atlantique nord sur le statut de leurs forces. Ankara, 24 septembre 1968

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 1^{er} décembre 1969.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
TURKEY CONCERNING DUTY CERTIFICATES IN
IMPLEMENTATION OF ARTICLE VII, PARAGRAPH 3(a)
(ii) OF THE AGREEMENT BETWEEN THE PARTIES TO
THE NORTH ATLANTIC TREATY REGARDING THE
STATUS OF THEIR FORCES²

The American Ambassador to the Minister of Foreign Affairs of Turkey

No. 2611

Ankara, September 24, 1968

Excellency:

I have the honor to refer to discussions between representatives of our two Governments concerning duty certificates in implementation of Article VII, paragraph 3(a) (ii) of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of Their Forces² and have the honor to propose the following:

Article 1

“In case of offenses arising out of any act or omission done in the performance of official duty, the duty certificates will, in conformity with the spirit and the letter of the Agreement between the Parties of the North Atlantic Treaty regarding the Status of their Forces and according to the practices in the other NATO countries, be issued by the authorities of the Sending State and will be put into effect by the authorities of the Government of Turkey in conformity with the spirit and the letter of the Agreement between the Parties of the North Atlantic Treaty regarding the Status of their Forces, and according to the practices in the other NATO countries.

¹ Came into force on 24 September 1968, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 199, p. 67.

Article 2

In implementation of Article 1, the following procedures shall apply:

(A) Upon being informed that the accused is entitled to benefit from the provisions of the aforesaid Agreement, the Public Prosecutor of the locality where the offense has been committed shall inquire of the TGS, through the Ministry of Justice, whether the offense arose out of any act or omission done in the performance of official duty. The TGS shall then inquire of the concerned authorities of the Sending State about this matter. (If the Sending State is the United States, the concerned authority will be the highest ranking commanding officer of United States Forces in Turkey.)

(B) If after investigation, the concerned authorities of the Sending State deem that a certificate, attesting that the alleged offense arose out of any act or omission done in the performance of official duty, should be issued in conformity with the provisions of Article I above, one copy of that certificate shall be forwarded immediately to the TGS and another to the commander of the unit to which the accused is assigned or attached.

(C) If accepted by the TGS the duty certificate will be sent through the Ministry of Justice, to the Public Prosecutor of the locality where the offense has been committed. Upon receipt of the duty certificate from the Ministry of Justice, the action against the accused shall be suspended by the competent judicial authorities, and the file of the accused shall be sent to the TGS. The TGS will then, except in cases covered by paragraphs (D) and (E) below, forward the file to the concerned authorities of the Sending State. The case against the accused will then be dismissed. The concerned authorities of the Sending State will officially inform the TGS of the outcome of the case.

(D) If not found acceptable by the TGS and withdrawn by the concerned authorities of the Sending State, the TGS will, through Ministry of Justice, so notify the Public Prosecutor of the locality where the offense has been committed. The Public Prosecutor of the said locality will, through the Ministry of Justice, inform the Turkish General Staff of the outcome of the case. The latter will in turn transmit this information to the concerned authorities of the Sending State.

(E) If the duty certificate is not found acceptable by the TGS and not withdrawn by the concerned authorities of the Sending State, the Ministry of Foreign Affairs will be informed with a view to reaching an agreement through negotiations with the diplomatic representative of the Sending State, with the participation of TGS and a military representative of the Sending State and in consultation with other concerned Turkish authorities. In the meantime the duty certificate, as well as the legal action against the accused, will be suspended without affecting the availability of the accused for trial by Turkish courts if the duty certificate is not found acceptable. The outcome of these negotiations such as the acceptance of the duty certificate or its withdrawal by the concerned military authorities of the Sending State will be communicated to the

Public Prosecutor of the locality where the offense has been committed, in the same manner as foreseen in paragraphs (C) and (D) above for appropriate action.

I have the honor to propose that, if the foregoing is acceptable to the Government of Turkey, this note and Your Excellency's reply concurring therein shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's reply. It is the understanding of my Government that the agreement concerning duty certificates contained in the aide-mémoires which were exchanged on July 28, 1956 *, will be considered terminated on that same date.

Accept, Excellency, the renewed assurances of my highest consideration.

Parker T. HART

His Excellency Ihsan Sabri Çağlayangil
Minister of Foreign Affairs
of the Republic of Turkey
Ankara

II

TÜRKİYE CUMHURİYETİ DİŞİŞLERİ BAKANLIĞI **

NOTE No: 6302/5399

Ankara, September 24, 1968

Excellency:

I have the honour to acknowledge the receipt of Your Note of September 24, 1968 which reads as follows:

[See note I]

In reply, I have the honour to inform You that my Government is in agreement with the foregoing.

Accept, Excellency, the assurances of my highest consideration.

Ihsan Sabri ÇAĞLAYANGİL
Minister of Foreign Affairs

His Excellency Parker Thompson Hart
Ambassador of the United States of America
Ankara

* Not printed.

** Republic of Turkey.
Ministry of Foreign Affairs.