

No. 18198

**SPAIN
and
HOLY SEE**

Agreement concerning religious assistance to the Armed Forces and concerning the military service of members of the clergy and members of religious orders (with final protocol and annexes). Signed at Vatican City on 3 January 1979

*Authentic texts: Spanish and Italian.
Registered by Spain on 20 December 1979.*

**ESPAGNE
et
SAINT-SIÈGE**

Accord relatif à l'assistance religieuse apportée aux membres des forces armées et aux conditions du service militaire des ecclésiastiques et des religieux (avec protocole final et annexes). Signé à la Cité du Vatican le 3 janvier 1979

*Textes authentiques: espagnol et italien.
Enregistré par l'Espagne le 20 décembre 1979.*

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE SPANISH STATE AND THE HOLY SEE CONCERNING RELIGIOUS ASSISTANCE TO THE ARMED FORCES AND CONCERNING THE MILITARY SERVICE OF MEMBERS OF THE CLERGY AND MEMBERS OF RELIGIOUS ORDERS

Religious assistance to Catholic members of the Armed Forces and the military service of members of the clergy and members of religious orders form a separate subject within the matters which must be regulated as part of the undertaking by the Holy See and the Spanish State to revise the Concordat of 1953.

Accordingly, both Parties have decided to bring up to date the provisions heretofore in effect, and they hereby conclude the following:

AGREEMENT

Article I. Religious and pastoral assistance to Catholic members of the Armed Forces shall continue to be provided by the Military Vicariate.

Article II. The Military Vicariate, which is a personal, not a territorial, diocese, shall be composed of:

- (A) An archbishop, the Vicar General, with his own curiae comprising:
- (1) A Pro-Vicar General for all the Armed Forces, with the authority of a Vicar General;
 - (2) A General Secretary;
 - (3) A Vice-Secretary;
 - (4) A delegate for the training of the clergy; and
 - (5) A delegate for pastoral matters;
- (B) The Vicar General shall further be assisted by:
- (1) The appropriate episcopal vicars;
 - (2) Military chaplains acting as personal pastors.

Article III. The appointment of the Military Vicar General shall take place in accordance with article I, paragraph 3), of the Agreement between the Holy See and the Spanish State of 28 July 1976,² on the basis of a proposed list of three names drawn up by mutual agreement between the Office of the Apostolic Nuncio and the Ministry of Foreign Affairs, and submitted for the approval of the Holy See.

Within a period of 15 days, the King shall submit one of the names for appointment by the Supreme Pontiff.

¹ Came into force on 4 December 1979 by the exchange of the instruments of ratification, which took place at Madrid, in accordance with the provisions of the final protocol.

² United Nations, *Treaty Series*, vol. 1030, p. 357.

Article IV. When the office of Military Vicar General becomes vacant and until such time as a new appointment is made, the functions of Vicar General shall be assumed by the Pro-Vicar General for all the Armed Forces, if there is one, and otherwise by the most senior episcopal vicar.

Article V. Members of the clergy and members of religious orders shall be subject to the general provisions of the Military Service Act:

- (1) Seminarians, postulants and novices may avail themselves of the ordinary benefits of annual deferments on the ground of their specific studies or on other grounds authorized under existing legislation, as well as of any other generally applicable benefits which may be established.
- (2) Ordained priests may be assigned functions specific to their ministry and shall be empowered to perform them by the Military Vicar General.
- (3) Priests who are not assigned the aforesaid specific functions, as well as deacons and professed members of religious orders who are not priests, shall be assigned missions which are not incompatible with their status, in accordance with canon law.
- (4) Persons who, for a period of three years in the service of the Ecclesiastical Hierarchy, devote themselves, as priests, deacons or professed members of religious orders, to apostolic activities in mission territories or as chaplains to emigrants may, as provided by the law, be deemed to be performing alternative social service substitutable for the specified obligations of military service.

Article VI. In order to ensure due pastoral assistance to the people, bishops and persons of legally equivalent status shall in all circumstances be exempt from discharging military obligations.

In the event of the mobilization of reserves, an effort shall be made to ensure adequate parochial assistance to the civilian population. To that end, the Ministry of Defence shall receive an advisory report from the Military Vicar General.

Article VII. The Holy See and the Spanish Government shall proceed by agreement to resolve any doubts or difficulties that may arise concerning the interpretation or application of any provision of this Agreement and shall, in so doing, be guided by the principles underlying this Agreement.

Article VIII. Articles XV and XXXII and the relevant Final Protocol of the Concordat of 27 August 1953¹ and, consequently, the Agreement between the Holy See and the Spanish Government concerning the jurisdiction of the Military Vicar General and religious assistance to the Armed Forces of 5 August 1950,² are hereby abrogated.

FINAL PROTOCOL

Ad article VIII:

1. Notwithstanding the abrogation prescribed in article VIII, it shall be possible for a period of three years to take advantage of the provision contained in article XII, item (1), of the Agreement of 5 August 1950.

¹ Registered with the Secretariat of the United Nations on 27 March 1981 under No. I-19671.

² Registered with the Secretariat of the United Nations on 27 March 1981 under No. I-19670.

2. Priests and deacons ordained before the date of the entry into force of this Agreement and persons who have made their profession in a religious order prior to that date shall, regardless of their age, retain the right to exemption from military service in peacetime, in accordance with article XII of the abrogated Agreement referred to above.

3. Persons who, on the date of the entry into force of this Agreement, are pursuing ecclesiastical studies in preparation for the priesthood or for profession in a religious order may request a second-class deferment of induction into military service, provided that they wish to avail themselves of such benefit and that they are of the proper age to do so.

This Agreement, the texts of which in the Spanish and Italian languages are equally authentic, shall enter into force upon the exchange of the instruments of ratification.

DONE in duplicate.

Vatican City, 3 January 1979

[Signed]

MARCELINO OREJA AGUIRRE
Minister for Foreign Affairs

[Signed]

Cardenal GIOVANNI VILLOT
Secretary of State
Prefect of the Council
for Public Affairs of the Church

ANNEX I

Article I. Military chaplains shall exercise their ministry under the jurisdiction of the Military Vicar General.

Article II. The jurisdiction of the Military Vicar General and of the chaplains shall be personal. Regardless of the particular military situation, it shall extend to all military in the land, sea and air forces, and the cadets of the military academies and schools, to their wives, children and family members living with them, and to all the faithful of both sexes, whether lay or religious, who render regular service in any position or who ordinarily reside in barracks or in premises under military jurisdiction. The jurisdiction of the Military Vicar General shall also extend to minor orphans, to retired persons and to widows or members of the Armed Forces as long as they retain that status.

Article III. Military chaplains shall have parochial authority over the persons referred to in the preceding article.

Where a marriage is solemnized by a military chaplain, he must observe the provisions of canon law.

Article IV. 1. The jurisdiction of the Military Vicar General shall be cumulative with that of the diocesan ordinaries.

2. At all localities or installations reserved for the Armed Forces or temporarily occupied by them, the Military Vicar General and the chaplains shall make primary and principal use of the said jurisdiction. In the event of the non-existence or absence of the Vicar General or chaplains, the diocesan ordinaries and the local parish priests shall make subsidiary use of their jurisdiction, but always in their own right.

The exercise of such cumulative jurisdiction shall be regulated by appropriate agreements between the diocesan hierarchy and that of the Military Vicar General. The latter shall keep the competent military authorities informed.

3. Outside the places indicated above and with regard to the persons referred to in article 2 of this annex, the diocesan ordinaries and, if so requested, the local parish priests shall freely exercise their jurisdiction.

Article V. 1. Where it becomes necessary for military chaplains, in the exercise of their specific ministry, to officiate elsewhere than at the churches, establishments, camps and other places regularly set aside for the Armed Forces, they must apply in advance to the diocesan ordinaries or to the local parish priests or rectors in order to obtain the appropriate permission.

2. Such permission shall not be required for the celebration of open-air religious services for members of the Armed Forces who are away from their usual stations on the occasion of campaigns, manœuvres, marches, parades or other service activities.

Article VI. The Military Vicar General shall, when he deems it advisable for religious and pastoral care, reach agreement with the diocesan bishops and major religious superiors for the appointment of an adequate number of priests and members of religious orders who will, without relinquishing the offices they hold in their dioceses or institutions, assist the military chaplains. Such priests and members of religious orders shall exercise their ministries as instructed by the Military Vicar General, from whom they shall receive *ad nutum* powers, and their remuneration shall be in the form of a bonus or a ministerial stipend.

ANNEX II

Article I. 1. Military chaplains shall be inducted pursuant to regulations adopted by the Holy See in agreement with the Government.

In order to assume the office of Episcopal Vicar, it shall be necessary:

- (a) To hold a *licenciatura* or equivalent advanced degree in those ecclesiastical or secular disciplines which the Military Vicar General considers to be useful for religious and pastoral assistance to the Armed Forces;
- (b) To have been declared canonically suitable, according to such norms as are established by the Military Vicar General.

2. The ecclesiastical appointment of chaplains shall be made by the Military Vicar General.

The assignment to a unit or establishment shall be made by the Ministry of Defence on the recommendation of the Military Vicar General.

Article II. Chaplains, in their capacity as priests and *ratione loci*, shall also be subject to the discipline and supervision of the diocesan ordinaries, who may in urgent cases take the appropriate canonical measures, being required in such cases to report the said measures to the Military Vicar General immediately.

Article III. The diocesan ordinaries, aware of the need to ensure adequate spiritual assistance to all who serve in the Armed Forces, shall consider it a part of their pastoral duty to provide the Military Vicar General with a sufficient number of zealous and well-prepared priests who will properly carry out their important and sensitive mission.